

**E-Filing of Income Tax and Sales Tax in
Pakistan
Is There A Call For Reform In Applicable Law And
Procedure?**



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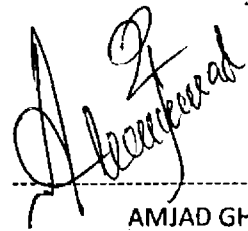
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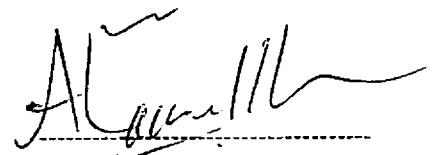
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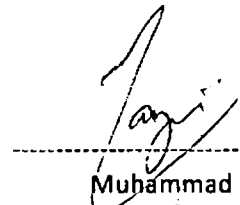
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CHAPTER I

HISTORY OF E-FILING

1.1 E-filing Defined:

“E-filing is the filing of information in paper form as opposed to paper form.”¹

For the purpose of this dissertation e-filing, however can be defined as “the transmission of tax information directly to the tax office/administration by using the electronic mode or internet”.²E-filing of tax returns can be made, around the world, by using the following to options.

- 1) Self preparation of the return online and then onward submitting the return by using the personal computer and tax preparation software,
- 2) Preparing and submitting tax returns online by using a tax professional’s computer and software made for tax preparation.

E-filing can be done from anywhere by the tax payer, from home, office, library, from a website volunteering for the purpose, from a tax professional’s office, work place and / or a financial institution.

1.2 History of E-filing:

The world’s first E-filing program was introduced in 1986 by the United States Internal Revenue Service (IRS).

¹ E-Filing: What is it? What are its Implications? By: William A.Fenwick<www.fenwick.com/attorneys/4.2.1.asp?aid=321>
Robert D. Brownstone www.fenwick.com/attorneys/4.2.1.asp?aid=281 visited on 31.10.2010

² . E-Filing and E-Payments – The Way Forward Denise Edwards-Dowe CARTAC Tax Adviser, pg 6

For launching this project the IRS worked closely and in collaboration with IT Professionals/Software Developers and Tax professionals at the same time so as to ensure successful launching of the program.

The program was initially launched on 'test bases and only in three cities of the United States in the first 'test year'. The e-filing services in this test launch were offered with restrictions on the types of tax payers and also on the types of returns that could be filed electronically. For example, the taxpayers were allowed to file returns with 'nil balance' only.

After introduction of e-filing in the in 1986, the trend gradually gained popularity and more and more taxpayers started to e-file their tax returns electronically. The project proved to be very successful in the test year and the IRS gradually started to expand to other states and cities. Therefore, after the successful first test year, the service was offered in four more cities in the following year. It further expanded to include 14 more states by the year 1988. As a result, by the year 1990, the IRS started e-filing of 'balance due returns', in 1992 started 'tele filing' and 'e-payments' in 1996.

Table 1 provides an overview of the rate of e-filing in the United States since its introduction till 2006.³

Year	File returns	Total returns	% E-filed
1986	0.025	102.1	0.02
1990	4.2	112.8	3.7
1994	13.5	114.9	11.7
1998	24.6	123.8	19.9

³ E-Filing and E-Payments – The Way Forward Denise Edwards-Dowe CARTAC Tax Adviser, pg 7

2002	46.9	131.7	35.5
2005	68.5	134.0	51.1
2006	73.3	136.1	53.8

The purpose for starting this pilot project was to increase and improve efficiency of processing the tax returns. Also, the IRS wanted to cut its costs of processing paper based returns by introducing this service. For, paper based processing the IRS had to hire thousands of persons to sift through the piles of tax returns and then to enter all the data, manually, in computers. Because of this e-filing service much of this human labor was eliminated. The agency claimed in 2001, that processing of an e-return costs it only 74 cents as compared to \$1.50 in past for processing of the traditional paper return.

It is worth mentioning that the tax payers did not file their returns directly to the IRS, instead the returns were transmitted to an IRS authorized private agent which transmitted those returns to the IRS regional tax office. The agent usually used to be an established tax firm providing the aforementioned service. From this came the concept of 'e- intermediaries' or 'e-return intermediaries'. These intermediaries charged fee for their services which used to be anywhere from "\$25 to \$75".⁴

Taxpayers also had certain attraction in the e-filing service. One was the promise of a refund in as few as two weeks. To make the deal more attractive and sweet for tax payers, a few firms sometimes offered, for another fee, 'return anticipation loans. This was actually a check issued to the tax payer as soon as the return was sent to the Capital. To make the process more safe and

⁴ <http://ecommerce.hostip.info/pages/392/Electronic-Income-Tax-Filing/History/> visited on 15th November 2010

secure, the taxpayers were required to affix their signatures on the paper form of the electronically submitted return and then to mail it to the IRS Separately.

The idea behind using the services of e-intermediaries at that time was partly that the necessities and modems required for e-submission was very expensive at that time and were unaffordable for common people. Therefore, being intermediaries not involved, the service could not be prove to be this successful among common taxpayers. It's interesting to note here that in the initial few years of the project the IRS itself did not have the technical capability to transmit filed returns from their regional offices to the Head Office in Washington. They, therefore, had to copy those returns on magnetic devices like CDs and then used to mail them to the IRS head office.

With the project gaining popularity amongst the public, the IRS, in 1993 approved software for the 1040PC. It was a tax form that was meant to be filled on PC and then printed and mailed to the IRS. This also proved to be very helpful in cutting costs for the IRS because of its higher accuracy level as compared to the older methods.

As mentioned earlier that intermediaries were used in the process, a demand started to arise by some congressional members that tax payers should not be bound to file through intermediaries by paying them, instead they should be allowed to file through home. The original project, however still survived amongst all this and with gradual improvement in the system, in 1998, about 500,000 taxpayers filed their returns from home, which rose to 2.5 million in the following year. Year 2001, was marked with another improvement and the IRS issued a five- digit code to each tax payer to replace its paper signature form.

The E-filing project of the IRS has been taken very seriously by the US government and as per IRS Restructuring and Reform Act 1998; it has been made mandatory for the IRS to submit an annual report to the Congress on the progress of IRS e-filing project.

After the success of IRS e-filing program in the United States, other countries around the world also got their inspiration and introduced e-filing programs. "These countries include Canada, France, Spain, Australia and many Latin American Countries, who started e-filing and e-payment programs for their tax payers.

Table 2 indicates the Use of E-Filing for PIT Returns (Based on data gathered in 2004)."⁵

Country	Date of Introduction	% of Returns E-filed in Last Full Year
Australia	1990	80
Canada	1992	48
Spain	1999	9
France	2001	4

"Table 3 shows e-filing Performance in some Latin American Countries in 2006".⁶

Country	Introduction of E-filing	Percent E-filed
Brazil	1997	98.41
Argentina	2002	82.86
Chile	1999	58.22
Guatemala	2001	29.23

The UK's first fully electronic tax return filing system for corporations was started in March 2004. Also, The Inland Revenue UK made mandatory for the employers, in 2004/2005, with a

⁵ E-Filing and E-Payments – The Way Forward Denise Edwards-Dowe CARTAC Tax Adviser, pg 7

⁶ E-Filing and E-Payments – The Way Forward Denise Edwards-Dowe CARTAC Tax Adviser, pg 7

staff of 250 or more persons to electronically file their tax returns. They also provided with penalties for the non complying employers.

In India, the first project of tax return e-filing was started in June, 2002. The project was started initially in few cities of India and that too for specified Employers. Contrary to the UK, India made employers eligible to e-file, having 50 or more employees in the establishment. The employers were allowed to transcribe the data of returns of their employees on a media readable on computer. The whole process was done by using an authorized software named 'Bulk return Preparation Software' (BRPS).

In Singapore, the e-filing of tax returns was also welcomed by the tax payers. In year 2001, about 36% of the total tax payers filed their taxes electronically. The Inland Revenue Agency of Singapore also introduced certain scheme like 'Help a Friend E-File'. Also, to attract tax payers to the service the IRAS is conducting luck draws and giving away cash prizes to the e-filers as well.

1.3 Benefits of E-Filing:

A tax administration's main objective, all around the world, particularly in developing countries is to increase revenue collection. To achieve the goal, it tries to improve its customer services. E-filing is also an example of improved service provided by the tax administration to tax payers so as to encourage them to file their returns in a way which is convenient and secure.

Filing of tax returns electronically may have a lot of benefits for the taxpayers but the package is attractive for the tax administration as well. Tax authorities used function with limited budgets therefore e-filing has proved to be very beneficial for them as it has served to cut costs of tax return processing. The old manual method was very laborious and tax authorities had to spend a lot of money for hiring people to sift through piles of paper returns and then to manually transmit

all the data in computers. Therefore, tax administrations felt inclined to explore the potential benefits of electronic filing and payment systems.

There are a number of benefits e-filing offers but the most widely quoted are as follows:

Efficiency: Almost all the e-filers agree on the point that the service saved their time and money.

Convenience: it is another most frequently quoted benefit of e-filing. E-filers find it convenient to prepare tax returns using their PC or through an e-intermediary, as compared to paper based tax returns.

Accuracy: returns are filed almost error free. Also in case of errors, has become easy for the tax payers to correct errors in their returns. In this way error notices from tax administrations have been eliminated which were caused by data entry errors.

Productivity: E-filing has shown more productivity then the traditional methods most presumably because paper work costs have been cut down and filing of return electronically is quicker than filing on paper.

Quick Confirmation and Acknowledgement: tax payers are certain of delivery of their returns and get quick confirmation from the tax office as well.

Service 'Round the Clock': tax returns can be filed by the tax payers at any time of the day, which is certainly much convenient than filing in the routine 9-5 office timings.

Capacity to keep a hard copy: one of the major benefits of e-filing is that u can keep an electronic copy of your filed document/return in your PC, which can be printed as well.

Security: Once considered as a drawback of e-filing is now considered as its added advantage.

The process of registration, enrollment, issuance of codes and numbers to tax payers is complex and pass through various steps of verification. Also the e-filing service providers put a lot of safe guards in place to keep system from hacking. Therefore, there is minimal chance of hacking in.

the process. Getting unauthorized access to tax payer's personal information has become almost impossible with latest security measures in place.

E-filer friendly software: Authorities have introduced systems which are e-filer friendly and provide maximum facilitation to the e-filer. There is software which serves as a step by step guide for e-filing. Therefore, any individual with basic knowledge of computer operation and web browsing can easily e-file now.

Modern and Progressive: Most e-filers, especially tax professionals are of the view that e-filing makes their services appear more progressive and sophisticated before their clients. Also, younger generation prefers to e-file as they feel completely comfortable in using computers.

1.4 Trends in E-filing:

Global trends in e-filing are to make the process more and simpler for the tax payers. The software providers are heading towards the unification of tax numbers. The individuals would be given, for example, one number for filing his income tax and sales tax returns.

“Expected changes on the corporate e-filing horizon include more state mandated e-filing. You’ll see the IRS requiring more e-file able forms every year, especially for the most difficult and sophisticated returns.”⁷

Also the states are inclined to make more and more and even complex processes e-file able. This inclination is because of the benefits e-filing offers to the authorities and to the e-filers both.

1.5 Legal Frame Work Related to Electronic Transactions:

E-filing is an electronic transaction between the authority providing the service and the e-filer. With the rapidly increasing rate of online cyber space activity around the world with every passing day, need had been felt to give legal recognition to the magnetic form of information.

⁷ History and Trends in E-filing: A Survey of CPA Practitioners by Andresen, Tracey, Fox

A study titled "How Much Information"⁸, published in 2000, showed that printed or paper based documents of all kinds contain only 0.003% of the total information produced in the world. By an estimate, the world produces 1-2 Exabyte's of information every year. It can be easily presumed from the above that the magnetic or electronic mode is the largest for storing information in the world. This made the experts concerned about the legal value and validity of the documents produced and transactions made they felt the need for legislation in this area.

1.5.1 Model Laws on Electronic Transactions:

To give legal value to the electronic transactions laws are framed around the world. The most valuable work in this regard has been done by the United Nations Commission on International Trade Law. It is the main legal organization of the UN specializing in reforms in relation to commercial laws. It is working to formulate harmonized rules and laws, dealing with commercial transactions, which are acceptable around the world as well. Another major function of the UNCITRAL is to prepare guides, legal and legislative, and also to provide technical assistance in projects relating to law reforms. Therefore, in the area of Electronic Transactions we see major works done by the experts of UNCITRAL.

UNCITRAL's Recommendations on Legal Value of Computer Records, 1985: The UNCITRAL experts prepared a report highlighting the legal value of computer based records. Recommendations based on that report were forwarded by the UNCITRAL in 1985. In these recommendations the said UN body urged the member states to review their rules and regulations which affect and deal with the use of computer based records as evidence in

⁸ 11 Peter Lyman and Hal R. Varian, "How Much Information? 2000" (UC Berkeley School of Information Management & Systems, 2000) <<http://www.sims.berkeley.edu/research/projects/how-much-info/>>. Cf. Peter Lyman and Hal R. Varian, *How Much Information? 2003* (UC Berkeley School of Information Management & Systems, 2003), available at <<http://www.sims.berkeley.edu/research/projects/how-much-info-2003/index.htm>> (99.99% of information being generated is in non-printed form) visited on 15th November 2010.

litigation. Another important recommendation was in relation to trade related documents. It was recommended that such like documents must be verified and/or authenticated with hand signatures or by any other authentication method which should be paper based. Another recommendation was that the documents which need to be submitted to the government should be manually signed and should be in writing. It is pertinent to mention here that the UN General Assembly endorsed all these recommendations through its Resolution No 40/71.

The UNCITRAL Model Law on Electronic Commerce, 1996: This is another important law in the list of model laws adopted by the UNCITRAL. The law formulates rules in relation to Electronic Commerce. The main feature of this law is its trend and inclination to facilitate the use of latest technology, new and modern modes of communication and that of storage of information. The law sets a new trend and provides for establishment of practical equivalents of paper based concepts such as 'signature' and 'writing' etc. The need was felt for such like model law because the world is moving towards the use of electronic means of communication, storage of information in electronic form and electronic transactions, rapidly. By an estimate world produces 1 to 2 Exabyte of information per year, and the information saved in paper form is only a fraction of the actual information produced. Therefore magnetic form of storage of information is the largest medium in the modern world which is growing constantly and rapidly. Therefore the experts naturally wondered for the legal validity of these documents and that of electronic transactions.

Thus the main aim for the Model Law was to provide rules which can serve as a more secure legal environment for e-commerce and to remove legal obstacles in this regard. The Model law gained international acceptance because its main aim was to facilitate rather than to regulate. It raised legal certainty and gave legal validity to electronic documents and by this facilitated the

use of electronic communication,. This also facilitated international harmonization of local legal environments. This Model Law of UNCITRAL was followed by its Model Law on Electronic Signatures, adopted in 2001.

Regulatory authorities and legislatures around the world took the rapid advancement of the world towards modern means of communication and transactions etc very seriously and showed keen interest in developing their laws to cater the needs of the modern era and to take full benefit and advantage of these emerging modern technologies. For doing so a number of divergent legislative approaches were adopted. The study and review of this legislative activity unveils the following three basic approaches.

- Minimalist Approach
- Prescriptive Approach
- Two Tier Approach

Minimalist Approach

An approach adopted by common law countries such as Canada, United Kingdom, United States, New Zealand and Australia etc. the approach mainly focuses on facilitating the use of electronic signatures in general and is not in very much favour of use of any specific technology or protocol, hence called minimalist approach.

Prescriptive Approach

This approach was mainly appreciated and adopted by civil law countries such as Argentina, Italy and Germany but some common law countries such as India and Malaysia also opted for this approach.

The main features of this approach are that the laws and regulations formulated under it impose and provide certain financial and operational requirements for certification authorities. Also it

favors adoption of asymmetric cryptography for creating a 'digital signature'. The laws framed under this approach put certain obligations and duties on key holders. The laws also clearly define situations and circumstances under which reliance can be made on an electronic signature and is justifiable.

Two-tier Approach

On their path to analyze and adopt legislative approaches, it was realized by some countries that it is not necessary to adopt any of the abovementioned approaches exclusively. It was realized by these countries that a 'two-tier' approach can also be adopted in which vital features of both approaches can be synthesized and incorporated hence showing a consolidated approach. This consolidated approach mostly found support in European Union. The laws framed under this approach prescribed standards for operation of PKIs. Also these laws took a broader and flexible view for defining an electronic signature which is considered valid for legal purposes.⁹

"This consolidated approach generally takes the form of enacting laws that prescribe standards for operation of PKIs, and concomitantly take a broad view of what constitutes a valid electronic signature for legal purposes. The electronic signatures are generally given minimum legal effect, while the 'secure electronic are entitled to an additional presumption of integrity, a presumption that the signature is that of a person to whom it is associated, and a presumption that the user affixed the signature with the intent of signing or approving the document."¹⁰

1.5.2 Electronic Transactions Ordinance, 2002 and E-Filing in Pakistan:

Keeping in view international trends towards the legislation in the field of information technology, electronic commerce and transactions, the Government of Pakistan also adopted its

⁹ Cyber Laws in Pakistan: A paper presented by Justice Khalil ur Rehman Khan in the Supreme Court of Pakistan

¹⁰ Legal Environment of E-commerce in Pakistan by Taymour Aly Khan, pg 5

IT Policy in 2002. The policy has been adopted keeping in view UNICITRAL model laws, relevant legislations of civil and common law countries, best practice guidelines etc. The above mentioned three approaches towards the legislation were also considered and 'two tier approach' was considered appropriate to be followed. Another important factor reviewed in framing the policy was the different implementation schemes of electronic authentication. The President of Pakistan, on September 11, 2002, promulgated the Electronic Transactions Ordinance 2002. According to the system in vogue in Pakistan, all the filings and transactions, with few exceptions, were used to be authenticated with manual signatures on paper. Any only such type of authenticated documents had evidentiary value. Therefore the ETO, 2002 provided legal backing and validity to the parallel system of electronic form of transactions, digital signatures and record. The most important features of this piece of legislation are as follows.

- Its conformity and being harmonious with International Best Practice and it recognizes across border jurisdictional requirements.
 - It envisages for the creation of an Accreditation Council, which provides for a voluntary, accreditation contrary to the old NOC culture of mandatory licensing. The Council comprises of five members, which are to be appointed by the Federal Government for a period of three. The appointment is renewable for another term.
 - The Council grants as well as renews accreditation.
 - Other roles and responsibilities of the Council are to monitor and ensure compliance of the Ordinance, to establish and manage a repository, to carry out research studies in cryptography services and also to make recommendations.
-

The Ordinance recognizes party autonomy and that of a contract and its most important feature is that the regulation it provides is legislation based rather than passed on discretion of a person/regulator.

- Another vital feature of the legislation is that it provides 'technology neutral definitions' instead of 'technology specific' ones.

The purpose for the promulgation of this Ordinance was to move the country towards a more efficient, economic and safe way of information, transactions and correspondence, which is in conformity with the requirements of modern era and was meant to improve governance and public service as a whole. The Ordinance proved to be a facilitator rather than to provide unnecessary procedures and requirements for certification etc. Under the Ordinance, the Certification Service Providers neither have to obtain license to engage in their business nor is there any requirement for mandatory approval of Digital Signatures. This is in conformity with the standard international practice. A Digital Signature is recognized in the eyes of law as long as it is in conformity with the definition provided in the legislation.

After promulgation of the ETO, NIFT started its services and brought Digital Signature Infrastructure to Pakistan by signing agreements with VeriSign USA. The legislation proved to be a revolution, disproving all fears related to its implementation. Slowly and gradually, businesses as well as the Government recognized the solution and started implementing it. The National Institutional Facilitation Technologies (NIFT), an automated check-clearing house, was operating in 14 cities in August 2006, and it processed 60m checks per year in 2005/06. NIFT is a public-private company owned 51% by banks.

Everything which was considered to be impossible because of budget constraints became possible, at nominal costs, just by enabling a single piece of modern era legislation. As discussed

earlier, the purpose of the Government while adopting its IT Policy in 2002 was to help organizations especially public sector organizations in increasing their efficiency so that they may be able to make their services more effective and enhance their responsiveness towards public at large. The policy focused on developing infrastructure of Government Organizations, so as to enable them to facilitate general public to benefit from their services easily. E-filing system developed for FBR, which is the focus of our discussion in this dissertation, for filing of Income Tax, Sales Tax and Federal Excise Tax, is also one of the early and major projects.

The concept was introduced by amending provisions in the laws related to Income Tax, Sales Tax and Federal Excise Tax. The Federal Board of Revenue started its joint venture with National Institutional Facilitation Technologies (Pvt) Ltd (NIFT) and started e-filing in 2005. In December 2005 the Central Board of Revenue, the tax authority, started allowing electronic filing of sales tax and federal excise returns by registered private and public companies. However, real e-filing started in 2007, which has been implemented in phases by the FBR to incorporate majority of taxpayers in the scheme.

CHAPTER 2

E-FILING: THE LAW AND THE LEGAL VALIDITY

In this chapter First we will elaborate the procedure of filing statutory returns and other documents under the various sections of Income Tax, Sales Tax and Federal Excise Law then we will study the specific provisions specially incorporated to give legal protections for filing the returns electronically. Finally we will discuss these provisions in context of domestic legal environment and find out similarities, distinctions and areas of integration and improvements.

2.1) Income Tax Laws and Rules:

2.1.1 General Provisions:

Section 114 of the Income Tax Ordinance makes it mandatory for certain persons/organizations/corporations to file Income Tax Returns for a Tax year on a prescribed form having duly signed by him or his representative. The Sub-Section (2) of the above section further stipulates that return must be accompanied by necessary annexure, statements, or documents. Sub Section 6 provide for the mistakes, omissions or wrong statements which are curable within the five years from the end of financial year in which original return was filed. Sub-Section 7 deals with presumptions that Returns filed shall be treated genuine.¹¹

Section 115 deals with statement required to be filed by employees. Under Sub-Section 4A the employees have also been provided a chance to rectify mistakes as provided to taxpayers under Section 114 (6).¹²

¹¹ Section 114 of the Income Tax Ordinance 2001

¹² Section 115 of the Income Tax Ordinance 2001

The Section 115 (4B) and Section 116 deals with filing wealth statements for the persons having last declared income is more than 50,000/= or falling in final Tax Regime and have paid Tax amounting to 20,000/= or more.¹³

Section 117 deals with the people who discontinued their business, they need to give specific notices as well as the Income Returns on prescribed forms.¹⁴

Section 118 deals with method of filing Tax Returns and prescribed timeline within which Returns must reached to the Taxation Authorities. The Returns receiving after that shall attract the provisions of late filing.¹⁵

Section 119 deals with the exceptional cases of those Taxpayers who are unable to file Tax Returns with in prescribed time. Under the above Section they can file applications to the commissioner who may extend the time of filing the statutory returns discussed above.¹⁶

Section 120 (3) deals with the rectification of income tax returns. The section provides that that the Commissioner Inciome tax, while assessing the return filed by the tax payer, if finds out that the return is not complete, he is authorized to issue notice to the tax payer. In the notice the Commissioner informs the tax payer about the deficiencies in the return and directs him to provide the requisite information, documents, particulars etc on a date clearly specified in the notice.¹⁷

Section 120A prescribes the special incentive given by FBR from time to time to voluntarily file the Tax Returns to disclose the concealed Income by Tax payer. Such incentive schemes are provided to the Tax payers to bring their wealth in the economy without fear of prosecution.¹⁸

¹³ Section 116 of the Income Tax Ordinance 2001

¹⁴ Section 117 of the Income Tax Ordinance 2001

¹⁵ Section 118 of the Income Tax Ordinance 2001

¹⁶ Section 119 of the Income Tax Ordinance 2001

¹⁷ Section 120 of the Income Tax Ordinance 2001

¹⁸ Section 120 A of the Income Tax Ordinance 2001

Section 165 deals with the filing of the statements by withholding Agents. These withholding Agents collect the Tax under Division II of chapter XI by deducting Tax from a payment under Division III of this part or chapter XII. After withholding the Tax these agents furnishes statements to FBR in a particular way by disclosing information required in the Returns.¹⁹

Like ordinary Tax payers these withholding Agents can also file applications for extension of time which can be granted by the Commissioner under Section 165 (4) of the Ordinance.

2.1.2 Provisions Related To Electronic Filing:

In Section 19B the terminology used for electronic filing like “addressee”, “automated”, “electronic” etc has been defined. Electronic Transaction Ordinance, 2002(ETO) being the source law for digital transactions has been referred for the definition of these terms. Further, descriptive definition of “electronic record” and “electronic resource” has been provided in Section 19C and 19D.²⁰

The filing of electronic returns is given legal validity by inserting subsection 2A in Section 114 of Income Tax Ordinance 2001 in Finance Act 2005. The section provides that a return of Income shall be deemed to be a (valid) return as for the purposes of sub section (1) of section 114 of the Ordinance even if it is filed electronically or online i.e. on the web or by using any magnetic or other computer readable media. All this shall be specified by the Board and the Board may, by notifying in the official Gazette, make rules to determine eligibility of the data of such returns and other matters relating to the electronic filing of returns, statements or documents. The same data is transmitted electronically, under the digital signatures, to the Income Tax department.²¹

¹⁹ Section 165 of the Income Tax Ordinance 2001

²⁰ Section 19 B of the Income Tax Ordinance 2001

²¹ Section 114 (2A) of the Income Tax Ordinance 2001

Section 114 (2A) can be aptly termed as enabling/source provision which was incorporated in a fiscal statute to give legal validity and recognition to the electronic submission of tax returns.

Section 115 while dealing with the salaried class makes it mandatory that where the income for a tax year exceeds five hundred thousand rupees or more the return must be filed electronically providing. The section provides that such electronic filing of return by the tax payer must be in the prescribed form. The return must be accompanied by the proof of deduction of tax or payment of tax and a wealth statement as is provided and required by Section 116.²²

Section 165 deals with the filing of statements by withholding agents and empowers the Board by providing that it may make rules with regard to electronic furnishing of statements under this Section. It provides:

- Mandatory electronic filing
- Determining of eligibility of the data provided by such statements.²³

The Board was further empowered in the Finance Act 2008 by incorporation of a new provision in the Income Tax Ordinance i.e. Section 237 A. By this section the Board was empowered to require any person replace manual business process with electronic or automated business process. The person may be asked by the board to get its paper based substituted with computer based or electronic record and for doing so may allow its information system and electronic resource to be used. Sub-section 2 of this Section gives legal sanctity, validity and strength to such electronic record and its derivatives.²⁴

Under the command of above mentioned legal provisions rules were framed for Income Tax Ordinance 2001. The main purpose of these rules were to facilitate e-filers in technical respects, like elaborating and defining technicalities of e-filing such as defining the role of digital

²² Section 115 of the Income Tax Ordinance 2001

²³ Section 165 of the Income Tax Ordinance 2001

²⁴ Section 237A of the Income Tax Ordinance 2001

signature, and that of e-intermediaries and also to specify modes, methods and procedures related to legal communication.

As for example Rule 73 (2) (c) specifies that any application, document or other statement that is required to be submitted to the commissioner shall be submitted/furnished on computer, among other manners, or by electronic transmission. This all shall be done by using the specific software and that too in accordance with the specified format, also complying with other requirements which are specified by the Board from time to time including safety valve, security, verification and other such like considerations. It is further specified in Sub Rule (3) of Rule 73 that any return, certificate, statement, application and/or other documents furnished by a person that also includes the digital signature of that person or that person's e-intermediaries must be signed by that person. Sub rule (4) of the same Rule provides for the penal provisions so as to safeguard the electronic filers of returns from the chances of deception and fraud. It is provided in the said sub rule that if a document has been filed electronically with the signatures of a person who has not been authorized to do so i.e. to file such document electronically, the act shall constitute an offence that shall be, on conviction, punishable with imprisonment, not exceeding one year or fine or both.²⁵

Rule 74 provides for the legal acknowledgement and acceptance documents, that are communicated through electronic means of communication, at a certain stage or point of time. The Rule also provides for the mechanism for such communication as well. The Federal Board of Revenue made has made it mandatory for the companies, aircrafts owners & nonresident ship to electronically file their Returns and Statements. This has been ensured by incorporation of sub rule 2A and 2B vide SRO 708 (1) 2007 dated 14-07-2007 and SRO 695 (1)/2008 dated 26-06-2008

²⁵ Rule 73 of the Income Tax Rules 2001

2.2 Sales Tax Laws and Rules:

Filing of returns, under the Sales Tax law is dealt by Section 26 of Sales Tax Act 1990. The section acknowledges the filing of a return electronically and on line i.e. on web or on any other computer readable or magnetic media to be a valid return for the purposes of sub section (1) of Section 26. It is, however, specified by the Board as to which mode or media is acceptable for such filing of returns. The section further provides that the Board shall make the rules to determine the data furnished in such returns and that of electronic intermediaries who are responsible to digitize such data and transmission of the same, under digital system, electronically. All such rules made by the Board shall be duly notified and published in the official gazette.²⁶

It has been made mandatory, by the Sales Tax Rules 2006, to every registered person to electronically file his return or, as the case may be, statement in the manner which is duly specified, through a general order, by the Board. It has also been specified that the payment of Sales Tax shall be made by taxpayers or electronic filers for this purpose, by filing return electronically in designated branches of National Bank of Pakistan (or in other banks as specified by the Board). That is to be done by filling specific challan form through electronic payment system specifically engineered for this purpose.

By exercising the powers conferred under Sub Section (6) of Section (4) of Sales Tax Act 1990 and sub-rule (10) of Rule 18 of Sales Tax rules 2006, the Federal Board of Revenue has adopted the 'user guide' for filing Sales Tax Return as general mandatory legal procedure for electronic filing of return.

According to the procedure prescribed in the said user guide, a user ID, secure password and PIN code shall be given/assigned to each user of the computerized system i.e a registered person

²⁶ Section 26 of the Sales Tax Act 1990

or an e-intermediary, who enrolls and registers himself with the Board, fulfilling all pre requisites, for electronic filing of returns . For the purpose the person has to visit FBR's web portal where he shall then be required to fill in a particular form containing the particulars already available in the FBR's system. The name of authorized person shall be duly mentioned on the said form. That form shall then be printed and signed by the competent person. FBR has established tax facilitation centers for tax payers and e-filers. The authorized person is required to visit the tax facilitation centre of his respective collectorate along with the form that was printed and signed by the authorized person, and with his original computerized National Identity Card. The in charge of the facilitation centre, who shall be an officer not below the rank of Assistant Collector, shall thereupon verify the particulars on the form, presented before him, with those available in the system. The officer in-charge, after being satisfied in respect to particulars, shall approve the allocation of user ID to the person, which shall then be sent to the provided address.

2.3 Federal Excise Laws and Rules

Vide S.R.O No: 1185 (1)/2005 the Federal Board of Revenue while exercising powers conferred by Sub-Section 6 of Section 4 of the Federal Excise Act 2005 made Federal Excise Return Rules, 2005, which specifically provided necessary sanctions for electronic filing of Excise Return. Under the Rule it was provided that large tax payers registered in large tax payers units in Karachi, Lahore, and all the public limited companies shall file their excise returns through e-filing. It was also declared mandatory that categories of the registered persons declared above shall obtained digital certificate from NIFT and shall install it in their computer system.

2.4 E-Filing and Conventional Legal Regime

The electronic filing was milestone which was successfully achieved primarily by Federal Board of Revenue, at least up to the extent of successful delivery and execution at technical end. As the electronic filing of a document is a new phenomenon, therefore, comparing it with the traditional manual filing of the document and analyzing its evidentiary value in the courts of law may lead us to develop a more secure legal environment for filing such statutory returns electronically. Further, as an after math of this study a more improved version of law and procedures may be achieved having certainty, consistency, and predictability which are the hallmarks of an efficient and vibrant legal system.

Manual/traditional filing of tax return was based on documents which were personally signed by the tax payers or their lawful authorities whereas in electronic filing the paper based document was substituted by electronic document or digital document.

Manual filing/traditional filing → traditional document → personal signature

Electronic filing → Electronic document → digital signature

The two fundamental legal questions arise by this shift from manual paper based filing to advance electronic filing.

- i) Ownership of the document
- ii) Integrity/authenticity of the contents of the documents.

The first question was of paramount importance as the assessment of tax imposing financial liability on the tax payer is based on the documents submitted by tax payer/registered persons to taxation authority. The basic qualification the law has set for the document is to be in writing and duly signed by the person who is sought to be held bound in order for that transaction to be

enforceable so, the biggest barrier in electronic filing was the element of writing/content on the paper and signing by it or affixing thumb.

In view of above, first and foremost course adopted by the FBR to give legal sanctioned to the electronic record and digital signatures. Therefore, law were amended and specific rules were framed and when rules making was not possible owing to technical procedure/processes the same processes were given legal sanctity/protection like filing of sales tax return.

“As for the requirement of signature was concerned, FBR benefited from the International efforts for promoting the electronic commerce, and adopted the concept of electronic signature. On the international level the United Nations Commission on International Trade Law (UNCITRAL) adopted a model law on electronic commerce in 1996 aiming at removing legal obstacles to the use of electronic and digital signature. In the model law, it is expressly provided that where a law requires the signature of person, that requirement is met in relation to a data message if a method is used to identify that person and to indicate that persons approval of the information contained in the data message; and that method was as reliable as was appropriate for the purpose for which the data message was generated or communicated in the light of all circumstances, including any relevant agreement. The model law, therefore, does not only deal with digital signature but covers all forms of electronic signature.”²⁷

In line with the international legal development on the subject Electronic Transaction Ordinance 2002 was introduced in Pakistan which is the basic enabling legislation to conduct electronic transaction. Much in the above legal amendments and rule making for the purpose of filing of electronic returns and other document, ETO, 2002 acted as source law, therefore, it is pertinent to discuss the back ground of this law.

²⁷ Legal Environment of E-Commerce in Pakistan by Taymour Aly Khan

For the validity of electronic transaction in most of the world legislation was carried out by the National Government. Very logically the Government attempted to fit electronic environment within the four corners of their familiar domestic jurisprudence. The reasons were that it was the most appropriate way to provide legal solutions to the problems related to the use of information technology on the basis of traditional legal instrument and concepts.

As the basic norms, concepts and cannons of law dealing with the traditional concepts of document were treated through historical developments and become the time tested instrument for dispensation of justice.

Therefore, mere advancement in technology can not alter the concepts of justice. Therefore, in most of the cases laws for electronic were built by adopting functional equivalent approach to rule making analyzing the role correctly played by a particular legal role in the non digital commercial world, identifying have the same function could be achieved in electronic transaction, any lending the existing rule by analogy to cyber space while having a look on the various legislation an electronic transaction.

In the light of above background, now, we will discuss the legislation/rule making of e-filing in context of already established principles of law operating in the domestic jurisprudence.

The first and for most barrier which the electronically stored information will face in normal course of litigation/ court practice was best discussed in a decade old discussion from United States District Court for Southern District of Texas addressing admissibility of information discovered on the internet.

“While some look to the internet as an innovative vehicle for communication, the court continues to warily and wearily view it largely as one large catalyst for rumor, innuendo, and misinformation. So as to not mince words, a court reiterates that this so

called web provides no way of verifying the authenticity of the alleged contention that plaintiff wishes to rely upon in his response to defendant's motion. there is no way plaintiff can overcome the presumption that the information he discovered on the internet is inherently untrustworthy. Anyone can put anything on the internet. No website is monitored for accuracy and nothing contained therein is under oath or even subject to independent verification absent underlying documentation. Moreover, the court holds no illusions that hackers can adulterate the content on any website from any location at any time. For these reasons, any evidence procured of the internet is adequate for almost nothing, even under the most liberal interpretation of the hearsay exception rules..."²⁸

However, as rightly said Chief United States Magistrate Judge Grimm of United States District Courts for the District of Maryland acknowledged in *Lorraine Vs Markel Insurance Company*, "it can be expected that the electronic evidence will constitute much, if not most, of evidence used in future motion practice or a trial."²⁹

With the advancement of Electronic commerce the courts changed their traditional stance and became more pragmatic while admitting the Electronically Stored Information (ESI) as evidence.

*" this is unfortunate, because considering the significant cost associated with discovery of ESI, it makes little sense to go to all the bother and expense to get electronic information only to have it excluded from evidence or rejected from consideration during summary judgment because the proponent cannot lay a sufficient foundation to get it admitted."*³⁰

²⁸ St. Clear Vs Jhonny Oyster and Shrimp, Inc, 76 F. Supp. 2d 773,774-75 cited at The Admissibility of Electronic Evidence Under The Federal Rules of Evidence by Jonathan D. Friedan & Leigh M. Murray

²⁹ Lorraine Vs Markel Insurance Company, 241 F.R.D at 585 cited at The Admissibility of Electronic Evidence Under The Federal Rules of Evidence by Jonathan D. Friedan & Leigh M. Murray

³⁰ Ibid.

In view of cited divergence on the point of admissibility of electronic filing and its relevance in the domestic litigation, especially when the question of revenue is involved and the time is the essence of litigation, admissibility of electronic evidence and its level of authenticity may become paramount considerations for the future of e filing and the laws on the subject.

Before adverting to analyze the evidentiary value of electronic record it is important to understand that admission of electronic evidence is nothing out of this world or magical. When we start to analyze the admissibility of electronic evidence, the best treatment we can give it is to consider it as originating in a traditional way/mode from something such as a non electronic source etc and with that a careful and well thought out application of traditional evidentiary principle almost always prove correct and lead to the right results.³¹

Therefore, now the need of the time is to bring laws in harmony and to integrate the legal provisions on electronic filing with the conventional and time tested laws dealing with the rights and obligation of subjects. However, when we review the laws and rules on electronic filing we find a contrary trend appearing. For example, we see a penal clause incorporated in the Income Tax Rule 73 (4). The clause provides that a person who furnishes return, certificate, statements application or other document by electronic transmission by including the electronic signature of another person unauthorized has deemed to have committed an offence, which upon conviction, is punishable with imprisonment not exceeding one year or with fine or both.³²

It is however pertinent to mention here that though a step has been taken by incorporating penal clause in the statute in relation to electronic filing, the same has been incorporated in isolation and without considering the great financial implications and greater risks of fraud

³¹ Sarah Van Deuse Philips, the documentalist, legal consideration for electronic evidence, Past, Relevance and Authenticity world press (April 26, 2001 \http.crlgm.wordprocess.com/2010/04/ visited on 25th November 2010

³² Rule 73(4) of Income Tax Rules, 2002

associated with electronic filing. It would have been far better if the provision was somehow integrated with the main Penal Code of Pakistan. This is advisable because the provision is silent about the procedural aspects in relation to the offence as to who shall take cognizance if the offence is committed and how it will be covered in the ordinary jurisdiction of the court etc. Since Pakistan Penal code is an established law with well defined and settled procedures for such like crimes and also has all qualities of a good law such as predictability, consistency, certainty and well established and defined procedures. Such offences are covered by all means by Section 463 and Section 464 of the Pakistan Penal Code, 1860.

Section 464 (1) of the PPC, 1860 provides that a person is said to make a false document:

“Fist--- who dishonestly or fraudulently makes sign, seals or executes a document or part of document, or make any mark denoting the execution of a document with the intention of causing it to be believed that such document or part of document was made, signed, sealed or executed by or by the authority of a person by whom or by whose authority he knows that it was not made signed, sealed or executed or at time at which he knows that it was not made, signed, sealed or executed.”³³

Section 465 provides the punishment for the offence of forgery to be an imprisonment for two years or fine or both and the relevant schedule has declared this offence to be non bail able. Therefore, it is believed that the benefit intended by rule 73(4) of the Income Tax Ordinance can be far better achieved vide Section 463 and 464 of Pakistan Penal Code.

The only hesitation which seems to be present in the back of minds of the law makers on the subject of electronic filing, which restrained them from above integration, is the definition of word “document”. As till now the jurists here in this country hesitate from formally equalizing, the conventional legal meaning of the word “document” with “Electronic Document”. Study of

³³ Section 463 and 464 of the Pakistan Penal Code

modern jurisprudence shows that in technical terms there is no difference between the two i.e. "electronic document" and the conventional meanings of "document".

In Pakistan Penal Code the word document has been defined as:-

The word 'documents' describes any matter expressed or described upon any substance by means of letter, figures, or marks or by more than one of those means, intended to be used as evidence of the matter.

The word matter has been defined in the Chamber 20th Century Dictionary as "with which we become acquainted by our bodily sense"

The word document as by means any matter expressed or described upon a substance by means of letters, figures or marks or by more than one of these means, intended to be used for the purpose of recording that matter.³⁴

Law Lexicon the famous Encyclopedia of the law while defining the various versions of "documents" included the "electronic record" in the legal definition of the word "document" by virtue of following modern legislative instrument.³⁵

"document" include an "electronic record" as defined in Clause (t) of Sub-Section (1) of Section 2 of the Information Technology Act 2000 [Income Tax Act (43 of 1961),S 2 (22AA)].

"Computers files and information they contain were "documents" which were discoverable, under RSC, ord. 24, R7 (2) (c.v pbb, (1995) 2 CL 448).

Information stored by a computer is a "document" with the meaning of court order relating to discourse (Alliance and Lexister Bundling Society Gharemani, (1992) 32 RVR 198).

"The means of recording did not deprive information from its character as a "document" and it was immaterial that the information required to be processed by means of a transaction,

³⁴ Article 2(b) of Qanoon e Shahadat Order, 1984

³⁵ Law Lexicon, the Encyclopedia of Law, Volume I, pg 1462-1463

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decoding or electronic retrieval so that information stored on a “memo master” or electronic notepad amounted to a “document” for the purpose of S.23 (3) (Rollo V HM Advocate (1996) SCCR 874 [Misuse of Drug Act 1971 (c.38), S.23.]”

“A written instrument or any other object carrying information such a photograph, tape recording or computer disc could be both “document” for the purpose of this Section and property for the purpose of S.33(1).³⁶

The authorities cited above clearly shows that in legally established societies the jurisprudence is developing so as to blur the demarcated lines of electronic and conventional communication. The purpose is to bring the technological advancement under the established principles of law to easily integrate them in domestic legal paradigm. On the admissibility of electronic evidence 51 page opinion of judge Grimms in case Lorraine V Markel American Insurance Company is a comprehensive guide on the subject and is famous as Lorraine Model (See Generally Lorraine, 241, FR.D534). The model suggested that the proponent of electronic evidence should keep the following traditional principal of evidence in mind while arguing the admissibility of electronic document or record.

1. Relevancy:
2. Authenticity
3. Hearsay Concerns
4. Public Document

The Evidence Act, 1872, repealed did not specifically contemplated admissibility of evidence becoming available because of modern devices and techniques.³⁷

³⁶ Huddleston V control Risks information service, (1987) 2 ALL ER 1035] [Supreme Court Act 1981, (6c, 54) S.33 (2)]

³⁷ Arif Hashwani Vs Sadruddin Hashwani , PLD 2007 Kar.448 and PLJ 2007 Kar.305.

However, with the passage of time, when the use of modern devices increased and scientific developments made it possible to definitely substantiate some facts, then a need emerged to incorporate specific provisions allowing to produce evidence, which became available due to above developments. Therefore Article 64 was incorporated in Qanoon e Shahadat Order 1984, which allows the use of any evidence available through modern devices and techniques. NLR 2006 Cr.495 (Sh.AJ&K)

The Supreme Court of Pakistan has repeatedly held that computer based record and other electronic and digital documents are admissible piece of evidence under Article 164 of Qanoon e Shahadat Order, 1984

1. Relevancy

Let us discuss the above principles in the light of Qanoon-e-Shahdat Order 1984. Article 18 to 29 deals with the relevancy of the facts for the purpose of their admissibility in the judicial proceedings. The relevancy of the evidence has been declared mandatory in Article 18 of the order which states that evidence will be admissible only if it is relevant where as from Section 19 to 25 provides various situations which makes the fact relevant. As we have already explained that the principle drawn for ordinary document can be safely equated with electronic document. Therefore, documents forming the part of the record held relevant and were declared admissible for the purpose of evidence.³⁸

Article 19 enunciate the “principle of Resgestae” which has been broadly defined as matter incidental to the main fact and explanatory of it including acts and words which are so closely connected therewith so as to constitute a part of the transaction and without

³⁸ 2004 YLR 1941

knowledge of which the main fact might not be properly understood.³⁹ The same principle is applicable in electronic transaction and data processes relating with the main fact may taken as relevant facts.

Similarly under Article 21 motive, preparations, and previous or subsequent conduct in electronic transactions becomes relevant and admissible facts.

Likewise under Article 22 facts necessary to explain or introduce relevant like identity, time, place and relations all becomes relevant in the proceeding in matters related to the electronic transactions and data as in the ordinary and conventional circumstances.

2. Authenticity

The Honorable Supreme Court of Pakistan declared that admissibility and credibility of evidence are two different matters and on should not be mixed up with other.⁴⁰

For authenticity of electronic evidence the principle are of same as that of traditional evidence like:-

- i. The evidence may be authenticated by the proponent of evidence through testimony i.e. the testimony on the fact that the evidence is what it is claimed to be. The witness, in case of electronic evidence, is required to prove specifically about the factual position/status of the process by which electronically stored information has been created and/or acquired, preserved and maintained without alteration or change, and the process by which it is created/produced if the result of the system or process that does so.⁴¹

³⁹ Law of Evidence by Shoukat Mehmood seventh edition 2009

⁴⁰ 1991 SCMR 2126

⁴¹ (Lorraine Vs Marktel Am.ins.co, 241 F.R.D 534, 545 (D.Md.2007).

- ii. The electronic communication gains respect and authentication if the person forwarding the communication can somehow secure the admission of the author or sender of that communication for his drafting or sending of that communication.⁴²
 - iii. It is a fact well accepted and established now in modern electronic and digital era that where a witness testifies that an electronic mail or text message has originated from a known e-mail address and/or screen name ,court often finds that the said e-mail or text message must have been an authentic electronic communication from purported centre. ⁴³
 - iv. Presumption of truth is safely attached where identification can be obtained from various indica available in the electronic communication. For example, the email-address mike.smith@edu.gov indicates that that the address most likely belongs to Mike Smith who presumably works for the Department of Education.⁴⁴
- By Article 59 of the Qanoon-e-Shahdat Order 1984 an evidence can be made or considered authentic by taking an expert opinion on it. Although originally this article was incorporated with intention to authenticate handwritings or (manual) signatures etc. But now, as the definition of signatures etc has broaden in relation to the modern technology, it has also been recently used to authenticate electronic communication. For example authenticating a communication by its appearance, contents and/or substance, or by its other distinctive characters like metadata or hash value etc.

⁴² Talada Vs City of Martinez, 656F.Supp.2D 1147,1158 (N.D.Cal.2009)

⁴³ People Vs Pierre, 838 N.Y.S. 2D 546,548,549 (N.Y.App.Div.2007)

⁴⁴ United States Vs Safavian 435 F.Supp.2D. 36,40(D.D.C 2006).

In electronic communication hash value may constitute a distinguishing trait pattern permitting authentication (See serial 279, GA, App. at 847).

Whereas Metadata is information describing the history, tracking or management of an electronic document (William Vs Sprint united agent.co.230,F.R.D,640,646 (D.Khan 2005)

3. *Hearsay Concerns*

Under Qanoon e Shahadat Order, 1984 the proponent of evidence must address hearsay concerns associated with electronic evidence. It must be looked into carefully that if the electronic information is hearsay then exclusion or exception to the hearsay rule is possible or not.

4. *Public documents*

Under Article 85 to 89 a sanctity and credibility has been attached with public document and records. There is no distinction in the Article between paper based record and electronic record. Therefore, in the process E-filing the data contains in the warehouse of FBR have had the status of public document/record and the declarations by the officer lawful in charge of such data is sufficient to prove its authenticity and credibility. Therefore, it was lawfully held that the record of the income tax case must be regulated as the record of the acts of the income tax officer in making his assessment and therefore any document properly on the record is just as much as public document as the final order of assessment. Hence a profit and loss statement showing the details of net income filed by an assessee in support of his return furnished under Income Tax Ordinance are public document with reference to Article 85.⁴⁵

⁴⁵ Katikineni Venkata Gopala vs Chitluri Venkataramayya AIR 1940 Mad.768 (FB)

In above citation no distinction was drawn between the income tax record manually maintained or electronic form. Similarly official publication, trade incorporation duly registered contains a level of credibility

CHAPTER III

ELECTRONIC RETURNS, PAYMENTS AND REFUNDS: THE SYSTEM AND THE PROCEDURE

Federal taxes are major source of tax revenue in Pakistan. Federal taxes include sales tax, income tax, federal excise duty and customs duty. However, for the purposes of this study we mainly focus on the two i.e. Income Tax and Sales Tax.

Out of the total revenue collection by FBR, Income tax comprises a substantial part of it i.e. about 35%-40%.

Following are classified as incomes under the Income Tax law.

- i) Salary (wages including fringe benefits etc)
- ii) Income from Business
- iii) Income from Property
- iv) Capital Gains
- v) Other Sources

Income from agricultural land is exempt from the Income Tax and this exemption includes rent from the agricultural land as well.

Out of total direct tax revenue, 40% of it is constituted by withholding taxes. Withholding tax is in fact advance tax payment, collected at source, withheld by the person paying for services or purchases. The government of Pakistan has authorized all Chartered Accountants and Cost and Management Accountants working in organizations, across the country, to act as Withholding Agents. Withholding tax is an effective mechanism and a very important, efficient and timely source of revenue.

The Sales Tax was first levied at the time of partition in the provinces of Sindh and Punjab as a provincial tax. It was made part of Federal duties in 1948 and later on by the enactment of Sales Tax Act 1951.

Initially the manufacturers having license had to pay no Sales Tax if they sale or purchase goods with licensed manufacturers. However, these manufacturers and wholesalers had to pay so if the transaction was with unlicensed traders. This was to encourage manufacturers and wholesalers to obtain license. Same was the case with imports. Sales Tax was levied in imports but there was exemption in ST for licensed manufacturers on imports. Later on government started to impose Sales Tax on products and goods, which are locally manufactured as well as which are imported, at the time of their sale and/or import. Initially the sales tax was levied on excisable goods only but with an amendment in 1981 in Sales Tax Act 1951, the Federation started to collect taxes on non-excisable goods as well. Sales Tax Act 1990 replaced its 1951 version with effect from September 1990.

Sales Tax is chargeable on following sectors/stages:

- a. Manufacturing
- b. Import
- c. Distribution
- d. Wholesale and Retail stage
- e. Services

The option of electronic filing of returns is available to all forms of taxes however, keeping in view the complexity of income tax and sales tax, we shall look into detail the matters related to electronic filing of these two.

The filing of Sales Tax Return and Income Tax Returns along with wealth statement and reconciliation wealth statement is mandatory to be filed electronically. Under law each Sales Tax Registered Person (STRP) is required to file his ST Return by the 15th of each month for the sales made in the last month. It is mandatory on all STRPs file returns electronically and in such cases where the payment is to be made by the 15th of a month the return can be submitted on FBR's e-portal by the 18th of that month.

New Draft for the Income Tax Returns for the year 2010 has been issued by the Federal Board of revenue. The new returns came with certain amendments and additions, with tax authority seeking more details from the taxpayers for example about their personal expenditures as well as on the sale and purchase of assets which they have made during the last year. Also, FBR has come up with new features in the return form for individuals and AOPs. The AOPs or persons who have been involved in more than one business have now to show break up and details of all their businesses in the return. However, electronic filing of income tax return is mandatory for only those individuals and AOPs who have annual income of worth Rs 500000/- or more.

3.1 Introducing the Idea of E-filing in Pakistan:

The methodology used for developing the automated system of Electronic Filing of Taxes involved following steps.

3.1.1 Business Process Re-Engineering

“BPR is the redesign of business processes for substantial improvement. Said simply, it is the redesign of the way work is performed. A process is any series or combination of tasks or activities which produce a result. The result could be a machined part, a drawing, or a requisition for materials.”⁴⁶

⁴⁶ [http://rockfordconsulting.com/business-process-reengineering\(BPR\).htm](http://rockfordconsulting.com/business-process-reengineering(BPR).htm) visited on 12th January 2011

There are certain principles which are taken into consideration for Business Process Re-engineering:

1. To aim at organizing the processes around their outcomes, not around tasks.
2. To integrate the work relating to information processing into the 'real work' which in fact produces the information.
3. To identify what kind of process would be required and then to prioritize them accordingly.
4. Treating dispersed resources i.e. dispersed geographically as though they are centralized.
5. Instead of only results and outcomes, actually integrating linking parallel activities in the workflow.
6. By putting the decision point where the work is actually performed, and hence building control into the process.
7. Capturing information once and at the source.

There are BPR teams in the Federal Board of Revenue which are constantly working to improve the efficiency of the projects of FBR. With E-filing of returns for Income-Tax, Sales Tax and Excise duty to be introduced, need was felt to engineer effective and efficient systems and procedures for effectively automating the processing of these returns. This was done by ensuring elimination of discretion and also by substantial reduction of human interaction in the e-filing processes.

3.1.2 Redesigning of the forms

It took a whole lot of labor and professional expertise to design Forms for the E-filing process such as of enrolments and registration, of returns and statements etc. Initially the return forms for e-filing were without computational help. But from the year 2009 onwards FBR has introduced

Income Tax Return forms for individuals and AOPs with computational help. However, at present complete return form of income tax return is displayed for all types of taxpayers such as individuals/AOPs/salaried persons. It is observed that in most of the cases the taxpayer has to declare very few columns of the return where as only a small percentage of taxpayers uses all or majority of columns. It will, therefore, be a further facility to the taxpayers if the e-form displayed for the taxpayer is tailored according to the profile category of the taxpayer.

3.1.3 Software Development and Testing

Software Development and Testing is a complete concept and a complete methodology to follow and adopt. As the software for e-filing was developed and efbr portal was started by professional software developers, the ability and capability of the program was checked to determine that it meets the requirement and can generate required results. Software testing is an art and widely depends on the professional capability of the software developers and testers. The testing depends on the complexity of the software program as it always remains difficult to test software of medium or high complexity. However the software have been tested by professional software testers for two major areas of testing i.e. for Correctness and for Reliability. Errors were removed and the program was successfully launched for operation.

3.1.4 Tax Payer Education

To encourage more and more taxpayers to e-file emphasis was on taxpayer education. For the purpose The Federal Board of Revenue conducts taxpayer's education seminars and workshops on regular basis in Tax Chambers, Tax Bars etc. Also regular seminars are arranged whenever a new feature is introduced. As for example upon making it mandatory for all sales tax and federal excise tax registered person to file their returns electronically, the FBR planned and conducted a series of seminars/workshops on mandatory e-filing of returns by the corporations for educating

the taxpayers and consultants about electronic filing . Whenever seminars are arranged by the FBR, the schedules are duly advertised in newspapers. Also, upon requests of requests localized seminars are arranged.

Tax Officers' Capacity Building Programs: Lack of knowledge and motivation of the Tax officers and staff about the new ideas also creates a great hindrance in successful implementation of any system. Therefore, FBR has also addressed the issue and 'capacity building programs' for tax officers have been introduced and RTOs are involved in the process.

3.1.5 Support and Guidance

For successful implementation of the e-filing system FBR has paid much attention and taken broad range measures on the tax payer support and guidance programs and project. It has set up kiosks, facilitation centers and work stations country wide, to streamline e-filing of tax returns and that of withholding statements by the taxpayers, at Large Taxpayer Units (LTUs), Tax Facilitation Centers (TFCs) and Regional Tax Offices (RTOs).

The purpose of setting up these work stations are to create awareness among the taxpayers, to promote voluntary compliance and also to facilitate individuals as well as AOPs who seek and prefer to file their tax returns in electronic form. The work stations have been established with a minimum provision of two computers with internet connectivity. Also, trained professional and technical staff has been deputed by the FBR to facilitate taxpayers at these work stations. Another important feature is that the computers shall be available for self service as well.

By the measures of like nature FBR has provided sustained support to its taxpayers. As the transformation has been difficult for all the stake holders from the manual to the electronic mode. These workshops and seminars very effectively guide tax payers who find difficulty in filing their returns, annual or monthly withholding statements and other documents such as

copies of audited accounts etc which are required under the law to be filed/attached along with the returns/statements.

FBR has recently planned the concept of 'mobile tax facilitation centers' whereby a fully equipped van with all the facilitation features will access all the prominent markets and business areas.

The FBR has not overlooked the need of the taxpayers who are using its system to file electronically. Therefore to facilitate them and to provide them assistance telephonically a contact centre has been established at Hall # 504, 5th Floor, Evacuee Trust Complex, F-5/1 Islamabad, which operates round the clock (24 Hrs). help line for the purpose is (051) 111-772-772. The facilitation and help is extended to the taxpayers, not only through telephone but through e-mail as well. The emails are received at an e-mail address i.e. esupport@pral.com.pk.

Since we have majority of taxpayers not very comfortable with the use of modern technology because of lack of education or resources and/or face other problems such as power shortages, the Federal Board of Revenue has also established self service Kiosks and operator assisted help desks in its Regional Tax Offices for facilitation of these tax payers. A fully equipped data centre, with high speed internet and latest computer equipment and human resource, has also been established by the FBR. The data centre is automatically expanded on need basis with an adequate hard ware, soft ware and resource supply to handle the rapidly increasing electronic filing.

Main features on which the contact centre operates are as follows:

- Calls are recorded for quality control
- There are quality supervisors who call back to the taxpayers in certain cases if required.

- **Complaint Escalation Process:** since all complaints cannot be addressed by the Facilitation Officers therefore filtered complaints are forwarded to the supervisors for appropriate disposal of the complaint.
- For constant up gradation and development of the system there is fully fledged software development team.

3.2 Implementation Phases of E-filing:

Though e-filing was introduced by FBR in year 2005 but the real e-filing started in the year 2007.

In the 1st phase of e-filing only companies were covered under the scheme.

In 2nd phase Sales Tax registered persons were included in the scheme for e-filing of sales tax returns. The e-filing of sales tax returns became mandatory with effect from 1st July, 2008. The decision generated a tremendous response from the business community as it provided them a hassle free solution of filing their declarations/returns. Opportunity to do something sitting in the comfort of your home or office, which was initially done waiting in long queues outside tax offices and banks, was a great temptation in itself. For achieving the purpose members of FBR visited the tax offices in Karachi, Faisalabad etc and also offices of Textile Export Association, tax bodies and different RTOs. Business communities were also asked by the FBR facilitation team to provide lists of those individuals /businessmen who were facing problems in the process of e-enrollment and preparation of returns electronically.

In 3rd phase Income tax withholding statements were included in the scheme. In a press release, on 25th August 2009, FBR announced launching of portal for e-filing of Income Tax Returns.

In 4th phase Income Tax's scope was enhanced and AOPs (Association of persons, individuals with salary of 500, 00/- and above and then persons who claim refund could also e-file.

3.3 Who Can E-File:

Electronic filing can be done in two ways:

- 1 Self filer
- 2 Through E-Intermediary

Electronic filing option is available for following types of individuals/entities.

1. Association of Persons (AOP)

An Association of person, as provided by law, is any artificial or juridical personality, a Hindu undivided family, or a body of persons formed under the law.

2. Company

A legal entity formed and registered under the Companies Ordinance 1984, for carrying out business for profit.

3. Individual

An Individual, under law, is a person who is either resident of Pakistan or can be a non-resident person provided the criteria under law are fulfilled. The Federal Board of Revenue has made it clear that e filing is mandatory for only those individuals and AOPs who have declared income of 500000/- or more per anum.

3.4 E-Filing Process:⁴⁷

You have to log on to www.efbr.gov.pk. For logging on you need to enter your User ID & Password. The Companies or AOPs are required to add particulars of their Directors or Share Holders particulars in Enrollment's profile Management Module.

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Sales tax general order no. 04/2007. Procedure for electronic filing of sales tax and federal excise return through cbr's computerized system (e.cbr.gov.pk visited on 22 January 2011)
Guide Lines to E-file Income Tax Returns 2008

The persons willing to file returns electronically have the option either to file themselves or to file through an E-Intermediary. Whoever enrolls himself on the portal mentioned above, as individual self filer or as E-Intermediary, is allocated with a secure password, User Id and Pin code. The codes are communicated to the applicant on his provided email, postal address and cell number, one on each, hence verifying authenticity of all.

For the purposes of Sales Tax registration, a person who is not already registered has to follow the following procedure. He first has to visit FBR's portal for e-enrollment and then to fill out forms and particulars required there and already available in the system. The name of Authorized person will also be mentioned on the form which the user get printed and signed by the competent person. The person is then required to visit the Facilitation Center of concerned collectorate along with the form he got printed and his original CNIC. The competent officer at the Facilitation Center, not below the rank of assistant Collector shall then verify the particulars mentioned in the form with those which are available in the computerized system and upon satisfaction shall approve User ID, Password etc to be allocated to the person.

The persons who have already registered on the portal and have previously filed electronically are contacted on their respective email addresses and are asked to follow an electronic link for activation of their account.

Upon getting activation from the person all the information concerning his User ID, Password and Pin code is sent to his email address. The codes and IDs are sent in default mode and the user has the option to change them for security of his account and information.

E-filing is completed as per following steps.

3.4.1 E-Enrollment

To begin with any type of e-filing of returns and statements E-enrollment is a must step. Initially, the taxpayers, individuals, companies, AOPs had to enroll them through manual process. But now the enrollment can be done electronically.

For enrolling himself on FBR portal an individual needs to enter following particulars

- National Tax Number (NTN)
- Computerized National Identity Card Number (CNIC) as printed on the NTN certificate.
- Secret Digits given in Graphic form on e-enrollment page

For Companies desirous to e-enroll, following information shall be required

- Company's National Tax Number
- Company's Registration Numbers
- Company's Director's NTN

User ID and password shall be issued on completion of the e-enrollment process

3.4.2 Preparation of Declaration:

The return is filled as per instructions. The taxpayer should only fill those columns that are applicable to him. This is so because a single form is available for all kinds of taxpayers like individuals and AOPs. Therefore, only a few columns are relevant to each category. For example, filling out of 'bank field' is only optional and is required only when there is a claim for refund.

After filling all the required columns the return is saved. The saving option can be used any time while preparing the return to avoid loss of data. It is important to mention here that 'save' option is available only before verifying the return. Once the return is verified it can only be submitted and cannot be saved.

3.4.3 Verification:

After the return is duly filled and saved by the tax payer, there comes the step of verification. A return can be verified and un-verified. The taxpayer has to save it first in order to verify it. After verification the filer has two options i.e. either to submit the return or to un-verify it. Also if the taxpayers opt to un-verify the return then he has to save it again before submission. A return cannot be edited or updated in verified mode. For editing it needs to be unverified first.

3.4.4 Payment:

Once a return is verified there comes an option of 'e-payment' if there is anything net payable as per calculation on your return. For payment of taxes following options are available i.e.

- To pay tax at bank counter through facilitation officer
- To prepare the tax payment slips electronically to pay at the bank counter
- E-Payments: preparing and making the payment electronically

However an e-payment can be created by clicking on the e payment button available on the page.

Once the taxpayer pays the amount a CPR (Cash Payment Receipt) number is issued to him.

Once the CPR number has been issued it is entered into the main return form by clicking on the button provided for entering the CPR number. The amount which is paid against that CPR is also entered in the form.

There are two modes of making the payment against the return.

- a) Manual Payment: The Net Tax Payable amount is paid in the bank, against your Income Tax Return Challan printer from the system. The bank shall issue a CPR number which shall be entered, later on, in the return. The option of payment challan is used by that taxpayer whose bank in which he intends to pay his tax is not online with the FBR's computerized. This option is to be utilized by persons who want to deposit tax amount in

a branch of National Bank which is not online with FBR. Therefore the payment shall be made manually and thereafter the CPR number shall be entered in the system. However for the banks which are online with FBR's system the procedure mention below for e payment shall be adopted.

- b) E-Payment: this option can be availed if you have some Net Tax Payable as per calculation and assessment of your return. If so the button of "e-Payment" shall be enabled. On following the instructions in the system to create e-payment, the computer shall generate an Payment Slip ID (PSID). That Payment Slip should be printed out and payment should be made in the bank against it. Upon completion of the payment procedure the bank shall issue a Cash Payment Receipt (CPR) number. The bank then clears the payment in its system liked to the e filing system. The 'enter CPR' button in the system for that particular return shall remain disabled until the bank clears the payment. Upon getting clearance from the bank, the system shall enable 'enter CPR' number and the e-filer shall then enter the required number to complete the process.

3.4.5 Submission

After completing the above mentioned steps comes the step of submission of return. Once the taxpayer enters the CPR number issued by his bank he is asked by the system to submit the return. Upon submitting the return the system generates a certificate for of return submission. The certificate can be printed and can also be saved in PC.

The person e-filing his sales tax returns can fill up a "Null Return" for a period where there has been no business activity. After clicking the "null return" button the return can be directly submitted and issued certificate can be printed. However only a verified returns, whether null or not, can be submitted.

3.4.6 Revision

Once submitted the return cannot be edited and for changing anything in the return the e-filer has to use the option of 'Revise' and to work on a revised return. After a return is revised, same steps as for saving, verifying and submission are repeated.

Rectification of Sales tax Return: the system provides for auto revision of the return if the revision is for increase in the assessment. For other changes approval of contractor is required. The application to the collector can be sent online.

Rectification of Income Tax Return: Auto revision of Income tax return can only be done if the person has not applied for the refund. If the taxpayer has already applied for the refund, he shall have to obtain NOC from the RTO that he has not yet taken the refund. This procedure has been laid down because of certain irregularities that occurred due to the non streamlined procedure of electronic filing of returns and manual application process of refund claim. As the rectification is done online and refund claim is processed manually, taxpayers used to take refunds and then revise their returns showing lesser entitled refund which happened to be a great irregularity. Therefore, now the RTO first confirms the Authority that no refund has yet been taken and only then the system allows for the revision/rectification of the return.

3.4.7 Print Facility

The system also gives the options of printing the return to the taxpayer. When a person chooses to print the return, the return automatically opens in 'Pdf' format. Therefore, one has to have Adobe Reader installed in his PC. The acknowledgement given by the system of 'submission of return' can be printed as well.

3.4.8 E-Folder

A specialized folder is reserved for each taxpayer for storing his declarations in electronic form which is accessible for both taxpayer and tax officer.

With the E-Folder in hand, there is no requirement of repeated notices from tax office for documentation as every document is maintained with the tax officer.

3.4.9 E-intimations/E-notices

Another very important feature of FBR's e-filing program is that of e-notices or e-intimations. The system generates automatic notices for the e-filers who had to e-file their sales tax or federal excise tax returns and had not filed so. It has been reported in the March 2011 issue of the Business Recorder that the Federal Board of Revenue had issued around 20,000 e-notices to the non filers of ST and FET returns, who were bound to file so through the FBR's Web Portal.

The non-filers are warned of legal action under the law through these notices since e-filing has been made mandatory by the FBR for filing of Sales Tax, Income Tax and Federal Excise Duty. The e-intimation system automatically generates notices to e-filers so as to help and improve timely compliance of mandatory e-filing requirement.

3.5 Tax Payments:

If defined in its most general form, the term electronic payment constitutes any payment which is made or executed by using any mode of electronic and modern communication/technology and that includes any payment by citizens or business concerns to banks, other businesses, or public services. It is evident from the definition above that all electronic payments shall be meant to be executed by the payer being a consumer or a business concern, himself, without any involvement/intervention from any other person (natural person).

Further, the electronic payment is meant to be made from distance, without involving cash and without requiring physical presence of the payer. Taking advantage of this liberal definition of electronic payments, researchers also include transfer of information regarding accounts of parties involved in electronic transactions as well as the electronic modes of distribution channels by which electronic transaction is being executed.

3.5.1 Automated Tax Payment Systems by the Federal Board Of Revenue:

On introduction of e-payments the first project the Federal Board of Revenue started was 'Collection Automation Project (CAP)' launched in 2005. The initial tax payment mode was of Challan based tax payment receipt which was replaced by the CAP. The original payments made at the National Bank Of Pakistan were with four part Challan Form. The form was signed and stamped for verification of the payment by the bank and then it was returned to the taxpayer for future reference. This data provided in the Challan was then entered in data base at FBR's Data Processing Centre. The system replaced four part Challan Form with one part form named as Tax payment Input Form (TPIF). The information in the TPIF was transmitted electronically from the bank's tax counter to the FBR's database. After due verification of information provided by the taxpayer in the TPIF from the data available with FBR, a Computerized Payment Receipt (CPR) was issued to the taxpayer as acknowledgement to his tax payment.

The system was further improved when the electronic portal of FBR was designed and launched. Through the portal, the taxpayers were facilitated to fill out their TPIF electronically by using internet even from their Personal Computer. The taxpayer was provided with a number for reference after due verification of the information provided, as he was asked to visit his bank's tax collection counter. The officials of the bank at its tax collection counter then processed the payment by using the reference number of the taxpayer and he was then issued the Computerized

Payment Receipt for his tax payment. The project remained successful as it offered many pluses over the old system. The step of manual data entry got eliminated from the process as the data was entered by the taxpayer himself plus it also posed minimum chances of error because of the same reason. The system therefore, ensured efficient, error free and fast processing of the tax payments. The system was further integrated by streamlining the information with the bank's electronic transactions interface for its customers. This helped taxpayers to pay their accounts without visiting the bank.

A new project i.e. CAP-2 has been introduced and two branches of State Bank of Pakistan i.e. of Islamabad and Lahore have been brought into its ambit. CAP-2 is basically a newer/latest version of CAP that was launched by FBR in 2005. In CAP-2, the idea of Precursor transaction has been introduced. It is a system which is an electronic payment recording system, which shall record precursor electronic payments taking place at e-fbr portal before payment at SBP or NBP. Presently, most of the transactions (More than 80%) made at National Bank of Pakistan are through precursor transactions. However, State bank of Pakistan is far Behind NBP with only 25% of its transactions being precursor transactions. There is a plan of including SBP's Karachi Branch in the ambit, which will result into making 85% of its transactions through precursor transaction.

3.5.2 Electronic Payment and Refund System (EPARS):

A new project of FBR, which is ready to be launched, is 'Electronic Payment and Refund System' (EPARS). The Federal Board of Revenue, State Bank of Pakistan and commercial banks are on board with the project and successfully tested EPARS for implementation and user acceptance. With EPARS in field, the taxpayers shall be able to pay their taxes directly from their bank accounts into the Government treasury and manual process shall be completely

eliminated. Also the taxpayers claiming the refund shall get their refund directly credited in their bank accounts. The taxpayers using EPARS shall have no manual interaction with FBR for payment or refund of their taxes.

For implementation of the system the stakeholders have conducted 'User Acceptance Test' and are satisfied with its free of error test results. The Federal Board of Revenue is in the process undergoing agreements with the commercial banks for implementation of EPARS. Also, the FBR has forwarded proposals to the Ministry of Finance, after thorough and exhaustive working, for amendments in the Treasury Rules. For the implementation and operation of EPARS, FBR, SBP and commercial banks are interlinked through Tax Clearing House (TCH).

The State bank of Pakistan shall play the role of regulator and shall issue procedures for member banks to follow in letter and spirit. Only those banks shall be able to participate in EPARS, who fulfill the criteria laid down by the SBP. Security of system has also been duly considered since very high value financial transactions shall be made through it. EPARS shall be kept isolated, from the public area of Taxpayer facilitation Portal plus all communications shall be made through secured web services only.

Procedure for E-Payment under EPARS:

- The taxpayer shall give Debit Authority (DA), once only to his bank which is a member of EPARS. The Authority shall be given to authorize the bank to debit a certain account for the purpose of e-payments.
- The bank shall duly verify the Debit Authority and shall issue the taxpayer a Tax Card Number (TCN) and Debit Authority Activation Code (DAAC).
- The TCN and DAAC shall then be communicated electronically to the FBR System via secured links established by Tax Clearing House.

- The DA shall then be activated by the taxpayer using his Tax Card Number and Debit Authority Activation Code.
- After activation the taxpayer shall be able to issue Electronic Debit Advice (EDA) using the FBR portal.
- The Tax Clearing House shall transmit the EDA from FBR Portal to the bank.
- The information shall be transferred through EPARS to the bank in which the taxpayer holds the account.
- The payment shall be debited from the taxpayers account, after due banking procedures like authentication and balance inquiry, and fund shall be transferred to SBP under EPARS and an Electronic Credit Message (ECM) shall be sent to TCH.
- The SBP shall issue the Computerized Payment Receipt which shall be transmitted to the FBR.
- The FBR shall transmit that CPR to the taxpayer as acknowledgement of his tax payment.

Procedure for E-Refund under EPARS:

- An Electronic Debit Advice shall be issued by the FBR. The Government's account shall be debited under that EDA and funds shall be transferred to the account of concerned commercial bank.
- Upon receiving confirmation message from the SBP, electronically, of successful debit of account, the FBR shall issue Electronic Refund Advice to the commercial bank under EPARS.
- The commercial bank shall credit the taxpayer's account with the refund amount.
- A Refund Confirmation Message shall then be send to the FBR upon successful completion of the refund credit process.

CHAPTER IV

E- INTERMEDIARIES: THE ROLE AND THE RESPONSIBILITIES

By general usage of the term, an Intermediary is basically an organization where services are transferred to be passed on to the clients/customers/public. Literally, the term Intermediary, tends to be used to refer to third party structures that operate in an electronic environment and helps in dissemination of information into societies, facilitating the exchanges with in electronic services.⁴⁸ The concept is difficult to define with however we rely on the definition provided in a study published in 2009 about the role of Intermediaries in Facilitating E-Government Diffusion in Saudi Arabia. An Intermediary has been defined as “*any public or private organization facilitating the coordination between public services providers and their users (Janssen and Kilenvink, 2009, p.38)*”⁴⁹

4.1 E-Intermediary Defined:

An E-Return Intermediary or simply an E-Intermediary (EI) is a person or entity authorized to do online/electronic filing on behalf of its clients.

4.2 The Role Played by an E-Intermediary

The role of a third party or an intermediary is not a new idea in real life. Services given by a post office, for example, is that of an Intermediary, which help citizens to access public services indirectly, from anywhere in the country. Therefore, the role of an Intermediary has always been

⁴⁸ Janssen and Kilenvink, 2009; Howells, 2008; Sarker et al., 1909., cited at Faris Al-Sobhi: The Role of Intermediaries In Facilitating E-Government Diffusion in Saudi Arabia, 2009., pg.8.

⁴⁹ cited at Faris Al-Sobhi: The Role of Intermediaries In Facilitating E-Government Diffusion in Saudi Arabia, 2009., pg.8

of facilitator and of a party which increases convenience with its services for both parties to a transaction.

With the progress in information technology and the constant growing trend of e-governance and around the world, the analysts always feared that a number of invisible but significant changes will occur which include 'disintermediation' or in other words elimination of the role of traditional intermediaries. For the purpose of this study we are not concerned with the impact of e-governance on traditional intermediaries. However, the trend has definitely introduced a new concept of 'Electronic Intermediaries'. The concept, though new, perhaps finds a new role to be played by the traditional intermediaries. A role which can only be played with the level of trust public/clients have in them. A role which emerged for them in the context of electronic markets and cannot be eliminated very easily by direct interactions through internet.

E-intermediaries basically play a role of facilitator in implementing e-services provided by the governments to their public. They enhance the trust of public in e-services by reducing the risk of failure of transactions, by ensuring the satisfactory completion of transactions between the parties and by keeping parties update with the transaction processes. An e-intermediary like a traditional intermediary, provide authentication and security in the transaction.

E-intermediaries' role is also significant because they facilitate the reliable transfer of information for clients with lack of required infrastructure. This is in fact an invisible or hidden role of an e-intermediary to help clients use new systems and technologies.

Therefore, for the purpose of this study we are definitely of the view that E-Intermediaries play a positive role in implementing e-services of Government organizations. They help in increasing the availability of services to the public. This is more true for the citizens located in areas where there is difficulty in providing e-services because of 'digital divide'. Digital divide is a term

which refers to the lack of e-literacy in a particular area or amongst a particular group of people. It can be classified as public's ability to use the internet and modern technology. And, also, another vital factor is the age, education and income of the citizen. E-intermediaries play a vital role in bridging this gap which has proved to be the most significant barrier in adopting e-services by the citizens.

4.3 E-Intermediaries in Pakistan

Since large number of companies/AoPs/business individuals seek professional services of tax consultants in various tax matters including the filing of returns. Therefore Federal Board of Revenue has introduced a special feature of Electronic Intermediaries usually termed as E-Intermediaries.

Under Section (9A) of the Sales Tax Act 1990 "e-intermediary" means a person appointed as e-intermediary under section 52A for filing of electronic returns and such other documents as may be prescribed by the Board from time to time, on behalf of a person registered under section 14;

4.3.1 Eligible Persons/Entities:

The Sales Tax Act 1990 has been amended through Finance Act, 2006. Now the tax payers, who do not have expertise, are allowed to file their tax returns electronically through an EI.

Following Entities, having sufficient IT infrastructure and professional experience in the field of taxation are eligible to register as an E-Intermediary.⁵⁰

- A firm or sole proprietorship approved to practice by the Institute of Chartered Accountant of Pakistan or Institute of Cost and Management Accountants of Pakistan; or
- A person appointed as authorized representative under Chapter IX of the

⁵⁰ Rule 150J of the Sales Tax Rules 1990

Sales Tax Rules, 2006,

- A person or firm approved to practice as Income Tax Practitioner under the Income Tax Ordinance, 1979;
- A person approved as EI for the purpose of Income Tax
- Any other person approved by the Board.

4.3.2 Pre-requisites:

The person/entity desirous to apply for the appointment as an EI must fulfill the following pre-requisites.

Office: An EI must have one office with a minimum area of 200 sqft, in its name or title.

Hardware: Sufficient infrastructure should be there such as a minimum of four (4) computers with a CPU of 500 MHz or above, RAM 256 MB, minimum two scanners of good or at least reasonable quality, approved license internet connectivity

Software: Windows Professional/XP/98/2000, a reliable Anti Virus like Macfee/Symentec, Internet Explorer 6 or above,

4.3.3 Appointment of an E-Intermediary:

E-intermediaries to be appointed under section 52A of the Sales Tax Act 1990:

The Federal Board of Revenue by a notification in the official Gazette, appoint a person to file return and other documents electronically, as may be prescribed from time to time, on behalf of a person registered under section 14 of the sales Tax Act, 1990. Or a person registered under section 14 may also authorize an e-intermediary to electronically file return or any other documents on his behalf. The return or other documents filed by an e-intermediary on behalf of a taxpayer shall be deemed to have been filed by that taxpayer.

Appointment of E-Intermediary under the Income Tax Rule 73, Sub Rule 6:

The e-intermediary gets the authority letter in the manner specified below, from the taxpayer and produces it before the concerned income tax authority whenever required.

AUTHORITY LETTER

I/We _____ s/o _____ resident/of,

Having registered office at _____,

CNIC/No _____

Company registration number _____,

solemnly declare that a signed copy of the return/certificate/statement/document/annexure/etc have been provided to my/our e-intermediary

Mr/Ms. _____

(Name & Address)

who is a Chartered Accountant / Cost and Management Accountant / a legal practitioner entitled to practice in any civil Court in Pakistan/ a member of the Association of Chartered Certified Accountants, UK/ ITP registered with Tax Bar Affiliated with All Pakistan Tax Bar Association of Pakistan. I/we further authorize the said e-intermediary to transmit my/our return/certificate/statement/document/annexure/etc to the designated officer of [Federal Board of Revenue].

(Signatures)

Name: _____

Address: _____

4.3.4 Procedure for Registration:

Under the Sales Tax Rules 2006 , an EI can be appointed by the following procedure. A person who wants to be appointed as an EI applies to the e-declaration Administrator. The application must be in a format prescribed in form STR-20.

The application is send electronically by visiting the FBR portal. The e-declaration Administrator after due verification, such as of applicants knowledge, skill, possession of required infrastructure and professional experience, send its recommendations to the Board for appointment of the applicant as an EI. The E-declaration Administrator shall also verify whether the applicant has never been involved in a tax scam or fraud. The Board may appoint the applicant as an EI after considering the recommendations of the e-declaration Administrator and issue him his unique user identifier. It should be noted here that the Board has discretion to refuse to entertain the application for which reasons should be recorded and conveyed in writing. If the applicant has applied online for appointment as an EI, after post verification and approval procedure, the system shall authorize the person to start working as an EI. A form shall be generated by the system for the applicant to be printed, signed, stamped and attested from ICAP/ Supreme Court Bar Association/ICAP or from any Bar Council of any court in Pakistan. This form is then sent to Pakistan Revenue Automation (pvt) Ltd on its Data Entry and E-enrollment centre located in Hall 506, 5th Floor, ETC, F-5/1, and Islamabad.

4.3.5 Responsibilities of an E-Intermediary:

- An EI is responsible to “digitize the data of e-declaration, duly signed by the registered person and electronically submit the same to the computerized system”⁵¹

⁵¹ Rule 150M of the Sales tax Rules 2006

- As a return, statement, certificate, application or other document furnished by a person that includes the digital signature of the taxpayer or the taxpayer's EI shall be taken to be signed by that person therefore the EI ensures that the taxpayer is an eligible person and quoted correct information regarding his NTN number etc.
- Ensures before finally submitting the returns that all the tax calculations and assessments are correct and in accordance with the documents attached with the return.
- An E-Intermediary is required by law to retain a printed copy of the return which he has filed electronically. The printed copy must be duly signed by the taxpayer or his authorized representative. The copy is retained "for a period of five years following the date of such declaration."⁵² Where the EI retains a duly signed copy of the return, it is presumed that he has transmitted the return in good faith and provisions of section 52A(5) shall not apply on him.
- An EI is also responsible for the security and confidentiality of the 'unique user identifier' allotted to him. If any declaration has been made by using his UUI, it would be presumed under the law that the declarations have been made by the E-Intermediary.
- He is also responsible to maintain confidentiality of the information entrusted upon him by his clients.
- It is responsibility of the EI to ensure accuracy of the data.
- The EI is also responsible to make sure that the returns of his clients have been filed and declarations have been made within due date.
- The EI is also responsible to retain receipts for the returns filed through him.

⁵² Rule 150N(2) of the Sales Tax Rules 2006.

4.3.6 Misconduct by an E-Intermediary and Cancellation of Appointment (Section 52A of the Sales Tax Act, 1990)

It is categorically defined that where something is done by the e-intermediary, something which the law clearly requires the registered person to do so, and if such e-intermediary is duly authorized by that registered person it shall be deemed/considered that such act has been done with the knowledge and consent of that registered person, unless contrary is proved by the registered person. Therefore, in the instance of any legal proceedings, the registered person shall be held liable for the acts of his e-intermediary.

However, the law further provides that if an e-intermediary, who has been authorized by a registered person under sub-section (2) to act on his behalf, knowingly or wilfully submits a false or incorrect information or document or declaration with the intention for certain motives or benefits such as to avoid payment of tax which has become due or any part of it or to claim a tax credit or a refund for which the registered person is not entitled, such e-intermediary shall be jointly as well as severally responsible for recovery of the amount of tax short paid or the amount refunded in excess as a result of such incorrect or false information or document or declaration. And such liability of e-intermediary shall be without prejudice to any other action that may be taken against him under the relevant provisions of the law.

Also the law has empowered the Board to formulate rules in relation to the conduct and business transactions of e-intermediaries, including rules related to their appointment, cancellation of appointment, their suspension being an e-intermediary etc. All this is required to be done by the Board by formally notifying in the official Gazette.

Various amendments have been made in the Sales Tax Rules 2006 through SROs keeping in view the difficulties faced by the registered persons in e-filing their returns. For example,

SRO840 of 2008 provides that where an e-intermediary, who has filed a return on behalf of his client/registered person, has retained a printed copy of the return electronically transmitted by him duly signed by the representative of the registered person, he shall be deemed to have transmitted the return in good faith and the provisions relating to fiscal and other liability of e-intermediary under sub-section (5) of section 52A of the Sales Tax Act, 1990, shall not be applicable.

4.4 What needs to be improved?

1) When an E-Intermediary adds a taxpayer in his client list, the taxpayer on the other hand is required to confirm his intention to authorize the E-Intermediary for working on his behalf. However, a quite frequently received complaint in the Complaint Management System (CMS) of PRAL is that EIs enlist taxpayers in their client who actually have not authorized them to work as E-Intermediary on their behalf. For the purpose of rectifying this problem a written request for detachment from the EI is required from the tax payer in which the taxpayer provides his CNIC number and NTN number.

Also if due to any reason a taxpayer is not satisfied with the services of his E-Intermediary, he can ask for detachment from the E Intermediary's list. For both of the above situations, the taxpayer either has to ask FBR for forced detachment and a manual application is submitted, or he has to request the EI to remove him from his client list so that his new EI should be able to add him in his client list.

It has been observed that the taxpayers sometimes face problems in getting them detached from the EIs. It is, therefore, proposed that an online process of application for detachment from the E-Intermediary should also be introduced.

2) It has also been observed that no Standard Operating Procedure has been laid down by FBR for the various processes related to E-Intermediaries. There has been no system of verification of the 'Authorized Person' who corresponds with the e-filing service providers for minute matters such as seeking or changing information related to clients and tax payers. The routine day to day processes sometimes convert into bigger issues.

A recently received complaint⁵³ in the office of the Honorable Federal Tax Ombudsman highlights a similar matter. Facts of the case are as below.

Senior Tax Manager of the Complainant firm, Ms Deloitte, asked Respondents, Federal Board of Revenue and PRAL, an IT Company and subsidiary of FBR, for the resending of User IDs, Pin Codes and Passwords of five out of seven partners of the firm. The request was sent from the Complainant's 'domain name' to the e-mail address of an official of the Respondent Company. As the request was for resending of password and pin code, therefore, the requesting person was asked to send written request on his firm's 'letter head'. After receiving the valid written request, it was processed and the required information was sent to the e-mail address from which the initial request was received.

The Complainant i.e. the five partners of Ms Deloitte, were of the view that their personal information regarding pin code etc was sent to an unauthorized person of their firm by the respondents which shows malafide and hence the complaint. It was admitted, however, by the Complainant, while the course of proceedings, that there is an internal rift and litigation going on between the partners of the firm and information sought was by an unauthorized person.

The respondents, on the other hand were of the view that first, they had no intimation whatsoever about the rift among the partners of Ms. Deloitte and secondly, whatever they

⁵³ Federal Tax Ombudsman , Complaint No.15/Isd/IT(06)/118/200

have done is strictly in good faith and as per their prescribed SOP. The Respondents presumed the request to be valid because it was received from Deloitte's own "domain Name" and subsequently on Deloitte's own "letter head". The five partners of Deloitte were registered on FBR portal in their individual capacity as well as E-Intermediaries. The information sent was not regarding their personal taxpayer information instead it was information of the EIs. The Respondents also pointed out that they have no mechanism whatsoever of verifying whether firm's domain name and letter head was used authorized. It has also been submitted that there is no concept of authorized person rather is of authorization in their procedures, requirements, facilitation services and ordinary requests of taxpayers are often entertained even on phone call. However, as the present matter was of relatively serious nature, therefore written request was sought, which was presumed to be valid and in good faith

It has been observed during the course of proceedings that no formal notified Standard Operating Procedure set out by FBR is available and what is normally considered appropriate by the department is considered as SOP in general sense.

- 3) It is recommended departmental requirements must be given backing of law and proper SOPs should be made by the Government. It also advisable that PRAL and FBR should tighten their procedures especially for verification of various requests. Though keeping procedures very tight is not possible for facilitation services however due diligence must be taken while passing on taxpayer's information. It is also proposed that verification of E-Intermediaries and their Digital Signatures should be get separately by the NIFT so as to minimize risks related to their services. There are some procedural requirements due to which the E-Intermediaries also have to face certain problems. At present the EIs have to remain 'logged'

on' at www.efbr.gov.pk for preparing, verifying and submitting the returns. Under the prevailing circumstances of the country, where the load shedding of electricity has become a routine feature, the EIs face a lot of difficulty in keeping them live throughout the day for serving their clients. To resolve this difficulty the FBR has launched an offline version of e-filing of Income Tax returns with the name of 'Tax Madadgar'.

- 4) It has been observed that that the Law is not exhaustive in providing eligibility criteria for the E-Intermediaries. The law gives sole discretion to the Board (i.e. Federal Board of Revenue) to appoint any person as an EI. It is recommended that this provision should be deleted and instead specific provisions may be inserted in which specific persons and entities should be listed to be eligible for appointment as an E-Intermediary. For example, along with a firm of Chartered Accountants, individual Chartered Accountants with specific experience and income should be allowed to act as E-Intermediaries. Also, a firm of Advocates or individual Advocates with specific experience in the matters of Direct Taxes should also be allowed to work as an E-Intermediary. If we take example of our neighboring country India, the law allows registered companies or statutory bodies with more than 100 employees and banks with five years financial service and with net worth of 5 crore rupees to act as E-Return Intermediaries.

With expanding the scope of eligible entities we can gather more and more tax payers in the e-filing pool and help increase our tax collection as a whole.

4.5 E-Intermediary Monitoring Program:⁵⁴

As we have discussed in detail about the procedure of appointment, role and responsibilities of e-intermediaries under the law, it is evident that the law does not provide for a sufficient check and monitoring mechanism for the E-Intermediaries.

⁵⁴ http://www.irstaxattorney.com/irs-audits/21/4211_%20Monitoring_IRS_e-file_Program.html visited at 13th February 2011

It would be a great step towards a more efficient and result oriented e-filing program and if the government starts a 'Monitoring Program' for the E-Intermediaries on the footings of the IRS's Electronic Return Originator Monitoring Program.

Following should be the salient feature of the program.

- The purpose of Electronic Intermediary Monitoring Program (EIMP) should be to verify compliance of Tax Laws, Rules and Regulations.
- Quality of returns/forms submitted, in time compliance of due date should be monitored under the program
- Specialized teams should check the involvement of E-Intermediaries in a criminal activity (if any).
- Monitoring program should be based on follow up with taxpayers and their complaints about the E-Intermediaries.
- Monitoring teams should be authorized, under the EIMP to take appropriate measures against the E-intermediaries for their misconduct.
- Actions against E-Intermediaries should include, warning, proposed and actual suspension etc.
- The RTO should be asked to assist monitoring teams performing their duties.
- Promotion of free and open communication and that of good will between the E-Intermediaries and the Federal Board of Revenue should be made an important part of the program.
- Regular training programs of E-Intermediaries should be conducted so as to ensure their full compliance with the revenue laws and regulations. Also they should be equipped and trained through awareness programs to detect fraud.

- Under the EIMP there should be mandatory as well as voluntary visits to the E-Intermediaries by the teams of FBR. Mandatory visits should be in cases if there is a vital non-compliance by the E-Intermediary or if there is a complaint from a taxpayer of such a nature which requires immediate action. These mandatory visits should be unannounced.
- These visits should be to provide support and guidance to the E-Intermediaries in performing their functions. Also appointments can be made for educating E-intermediaries for any new features related to tax laws and procedures.
- It should be ensured by the tax authority i.e. FBR that the monitoring teams should comprise of professional and courteous persons.
- The suspended E-Intermediary should be allowed to enroll and start working again as an E-Intermediary after completing his suspension period.
- The Board should prescribe special and detailed procedures regarding the actions taken against the E-Intermediaries for their misconduct and non-compliance to the laws.

CHAPTER V

RECOMMENDATIONS AND CONCLUSION

It has always remained a task for governments all over the world to tax people. Nobody willingly parts from his wealth no matter how he has earned it. Therefore making people share their wealth with society is tact in itself. This unwillingness of people to pay taxes is true even for those countries where tax to GDP ratio is far greater than that of Pakistan.

It is therefore, very difficult for an underdeveloped country to evolve with a tax culture and a tax authority having its writ over public. There are a number of factors which help developing such culture such as purpose, writ, equitability, awareness and support, effective legislation to name a few.

The Federal Board of Revenue, being tax authority of a small country having a very narrow tax base, has taken great steps for developing tax culture in Pakistan and has come up with dramatic reforms in tax scene of Pakistan. The most major step is stage wise conversion of all tax filing from manual to electronic form, a step which has been appreciated and supported even by tax payers. Automated desk auditing and processing analysis is part of the package. E-filing system has been further improved by the introduction of the system of e-payments and e-refunds. With EPARS ready for launch after successful test, Pakistan shall come at par with the most developed tax systems in the world.

Having said so, there however always remains a need for improvement and reforms and same is true for the system of tax e-filing in Pakistan. Various interviews have been conducted by the writer of this dissertation to find out if there is a need for reforms in the system. The answer came out to be positive. Main interviewees happen to be the officials of Pakistan Revenue

Automation (PVT) Ltd such as its General Manager (Software Development), Manager Automation, Manger DEC (Data Entry Centre). All these persons explained the process of e-filing in detail. They also highlighted the grey areas in the system and the problems faced by the taxpayers, e-intermediaries as well as by the facilitation officers. PRAL is also maintaining a quite competent Complaint Management System (CMS) and problems of taxpayers are recorded and addressed through it.

We shall discuss all the issues discovered in this study in the preceding paragraphs in detail.

1. Currently, e-payment challans are being used for submission of tax including the tax deducted at source. On the other hand, the withholding agents have to monthly file tax statements which create a duplication of work. It is therefore recommended that the challan cum statement should be introduced with few addition and amendments in the information mentioned in challan.
2. As per applicable law, we are bound to file, monthly, quarterly and annual return of withholding tax as well as sales tax. The filing involved hefty amount of paper work and. Therefore the tax authorities got convinced that the process should be simplified. On receiving all annual returns of Pakistan it is the Data Entry Operators used to manually entre all particulars of manual returns in the system. This punching operation was followed 24/7. Therefore the GOP took the initiative to introduce e filing by which every taxpayer prepares his tax return and declarations on his own PC and then submits to the prescribed software of the tax authority.
3. Template files were prepared. Two options were available to punch each and every entry and second are to attach file as per provided template. The template system is convenient as

compared to the earlier punching system but it poses certain problem to the users as well.

The system does not accept any little bit differed sheet you use to attach with the system.

4. One of the most pursued proposals forwarded by PRAL to the Federal Board of Revenue is to make it obligatory on all Sales Tax filers to obtain 'digital signatures' from an independent entity such as NIFT. As has already been mentioned in the earlier chapters, filing of Sales Tax Returns has been mandatory on all Sales Tax Registered Persons. The successful implementation of the proposal would offer two direct benefits. First, security and second, repudiation.

By obtaining a digital signature, maximum security shall be provided to the data filed by these persons. Digital signature, being a complete security solution helps in electronically verifying not only taxpayer's identity but of all parties to the transaction. Also, once digitally signed by the taxpayer it would become impossible for the taxpayer to deny the data provided by him. This is so because it would be verifiable from another independent entity. However, we should also keep into consideration the practical difficulties in imposing a new condition. Though PRAL is technically ready to impose the new condition however it has proposed to implement so in phases. Phase wise implementation approach is a prudent approach because there are 80,000/- registered sales tax e-filers. Digital signature is already a mandatory requirement for e-payments therefore it won't be a technical innovation for the service providers. The phase wise plan of PRAL suggests that in first phase of implementing this condition, top 1500 filers, by value of the tax filed in last six months, should be asked to do so. Thereafter, considering the outcome of the first phase, it may be extended further and slowly and gradually, over the time 100% filers may be included in the pool. The expansion plan can be, however, ramped up or down by the FBR depending on the situation on ground.

The proposal is convenient in implementation for one other reason and that is the already in field agreements between NIFT and FBR. NIFT is charging very reasonable price i.e. Rs650/- per digital certificate per year. However, detailed and précised agreements are proposed to be signed between the parties to lay down their precise responsibilities in the matter.⁵⁵

5. Another, most frequent complaint raised to FBR is regarding the difficulty faced by the taxpayers in getting their National Tax Number (NTN). The taxpayers can apply for getting NTN through manual application as well as online. It is claimed that the application shall be processed and NTN shall be within 48 hours of the receipt of application. However ground reality is very different. The taxpayers have to wait for months to get their NTN numbers. As it is mandatory for all taxpayers to have NTN to get registered for sales tax etc. therefore the delay in the process halts them to start their business at first place and secondly to file their returns electronically. This is posing immense loss to the national exchequer as well. The reason behind the mess is volumes of applications to be processed plus lack of coordination between FBR's offices such as LTUs and RTOs. It is therefore proposed that the process may be simplified and coordination between FBR's field offices may be improved through effective business process re-engineering. Also enhanced and improved infrastructure and manpower may be deputed to cater the needs of such large numbers of taxpayers.⁵⁶
6. Though we have been all praise for the FBR's efforts in bringing Pakistan's e-filing system to great heights. However, people of Pakistan, being citizens of an underdeveloped country by all means, cannot keep pace with the requirement of mandatory e-filing. People in general and business men and tax professionals in particular are raising their voice against this

⁵⁵ The Business Recorder, 19th April 2011

⁵⁶ The Express Tribune, October 22nd, 2010

obligation of electronic filing of returns. The miseries of the taxpayers are quite imaginable keeping in view the present condition of the country. Most of our business men and traders are illiterate. Also, we gravely lack in modern and capable infrastructure, lack of advanced software and hard ware solutions, lack of education in general and computer literacy and technical education in particular, and lack of awareness to fully benefit from the facility offered. Therefore, it is strongly proposed that the electronic filing of returns and electronic payments should be kept optional. The Federal Board of Revenue must defer the requirement of mandatory e-filing. Instead people should be encouraged towards e-filing gradually and with effective and extensive awareness campaigns. Computer culture must be promoted in the country with web services available to public at very affordable rates. Slow and gradual implementation of the system would generate more positive results rather than forcing it on the taxpayers.

7. Withholding agents are also facing difficulty in keeping up with the statutory requirements regarding filing of withholding tax statements. Ever broadening withholding tax base is one of the main culprits. The expansion of withholding tax base along with the complicated laws, rules and regulations has increased the compliance cost to a great extent. These problems are not limited to the taxpayers only and department regulating has also been effected. Income Tax Ordinance provides a specific time frame to fulfill statutory requirements. With electronic filing being made obligatory for most of the withholding agents, they are facing hardships in complying with statutory requirements. The system has created hassle, duplication of work and increase in compliance cost especially for smaller organizations which lack in adequate education and infrastructure. The time compliance also adds to the hassle they have to face in this regard.

8. Taxpayers also have issues with the tax deposit procedure. There are problems like non-documentation of multiple challans as well as that of list of payees. Model tax payment and refund system such as EPARS should be launched on priority basis. This will make the process of tax collection more efficient and error free. Also it will contribute in improving FBR's credibility in the eyes of taxpayers.
9. Virtual one window operation may be introduced. Though the same is claimed by the FBR but in reality it is not practiced. Taxpayers have to provide same particulars for obtaining NTN as well as STRN (Sales Tax Registration Number). The process therefore may be clubbed to make it speedy and efficient. The process of Sales Tax registration may be simplified with CNIC, NTN with bank certificate be considered adequate information for registration.
10. In order to extend this e-filing facility to all the taxpayers and to make it more acceptable to them, it is proposed that in addition to the 'English version' of e-filing there should be Urdu version as well.
11. At present complete return form of income tax return is displayed for all types of taxpayers, such as individuals/AOPs/Salaried persons. It is observed that in most of the cases the taxpayer has to declare very few columns of the return where as only a small percentage of taxpayers uses all or majority of columns. It will, therefore, be a further facility to the taxpayers if the e-form displayed for the taxpayer is tailored according to the profile category of the taxpayer.
12. Similar type of working can be done on sales tax and federal excise returns, especially when the Government of Pakistan is considering the implementation of VAT up to the retail stage.

13. Currently, if there arises any problem or discrepancy in the e-filing or e-payments process, e-notices are issued but there is no system of e-replies for the same. Therefore, it shall be a major facilitation for the taxpayers if a system of e-replies be introduced.
14. Currently the taxpayers either call at the contact center or send emails for communicating their problems and seeking guidance. It will be more helpful for the taxpayers as well as for the facilitation officers if such complaints are lodged through a structured and professionally engineered complaint system.
15. Formats may be improved specially for statements of withholding taxes and trained and well versed staff and monitoring officers may be deputed for taxpayers' facilitation so that the staff may not raise unnecessary objections on the statements filed.
16. It has been observed that the requirement of FBR to get collector's approval for revision of ST Return is creating immense difficulties for the taxpayers. The problem has increased many folds because the process of obtaining/ giving NOC in this regard is not streamlined with the main FBR Web Portal. The applications for NOC's and collector's approval are kept pending for weeks which result in delays in refund process. This is important because under section 26(3) of the Sales Tax Act, 1990, the taxpayers only have 120 days to file a revised return with the approval of the Commissioner. Therefore, for facilitating taxpayers FBR should introduce a module in its e-portal for online/electronic approval of the Commissioner in this regard.
17. It is strongly advised that penal sections incorporated in the fiscal statutes must not be incorporated and implemented in isolation. They must be integrated and brought in harmony with the main penal statutes enforceable in Pakistan so as to benefit from their detail and

depth with respect to their time tested procedural provisions etc as well as with their qualities of certainty, predictability and consistency.

18. International practices may be followed for tax payer education and training. Such as volunteers in every community may be trained for tax return preparation for electronic filing. Similarly tax counseling program for elderly i.e. persons above the age of 60 should also be introduced to make them comfortable with information technology and e-filing system. The volunteers for such may be provided incentives such as re-imbusement of expenses incurred by them in this regard.

Similarly, law and accounting students may be trained at college and university level for all procedure and processes related to e-registration, e-filing and e-payments.

Conclusion:

There is a need for reform in both substantial as well as procedural law. The study revealed that though the FBR has gone miles in the area of introducing e-filing in Pakistan but still as a nation we are not ready for its mandatory version. Reason being that we seriously lack in factors such as a dedicated and committed infrastructure, trained human resource and masses literate and comfortable enough with modern technology. Therefore, Optional e-filing would be a better option for Pakistani taxpayers in present circumstances.

Further, the e-filing provisions are silent on various aspects of filing such as filing of tax returns along with annexure. The procedure of amendments, rectifications and revise returns while filing electronically.

Also, instead of creating a novel legal frame work for regulating the electronic filing, an effort is required to integrate and streamline it with the conventional legal system.

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LIST OF ABBREVIATIONS

1. AOP: Association of Persons
2. CNIC: Computerized National Identity Card
3. CPR: Cash Payment Receipt
4. EI: Electronic Intermediary
5. EPARS: Electronic Payment and Refund System
6. ESI: Electronically Stored Information
7. FBR: Federal Board of Revenue
8. FTO: Federal Tax Ombudsman
9. GDP: Gross Domestic Product
10. GoP: Government of Pakistan
11. IMF: International Monetary Fund
12. IRS: United States' Internal Revenue Service
13. ITR: Income Tax return
14. LTU: Large Taxpayer Unit
15. NBP: National Bank of Pakistan
16. NIFT: National Institutional Facilitation Technologies (Pvt) Limited
17. NOC: No Objection Certificate
18. NTN: National Tax Number
19. PRAL: Pakistan Revenue Automation (Pvt) Limited
20. RTO: Regional Tax Office
21. SBP: State Bank of Pakistan

- 22. SOP: Standard Operating Procedure
- 23. SRO: Statutory Regulatory Order
- 24. STRN: Sales Tax Registration Number
- 25. STRP: Sales Tax Registered Persons
- 26. TFC: Tax Facilitation Centre
- 27. TPIF: Tax Payment Input Form
- 28. UNCITRAL: United Nation's Commission on International Trade Law
- 29. VAT: Value Added Tax

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