GOVERNMENT OF PAKISTAN
Revenue Division
(Federal Board of Revenue)
*****

Islamabad, the 7th December, 2016.

NOTIFICATION
(Income Tax)

S.R.O. 1145(I)/2016.- In exercise of the powers conferred by sub-section (1) of section 237 of the Income Tax Ordinance, 2001 (XLIX of 2001), the Federal Board of Revenue is pleased to direct that the following further amendments shall be made in the Income Tax Rules, 2002, the same having been previously published vide Notification No. S.R.O.1066(I)/2016, dated the 18th November, 2016 as required by sub-section (3) of the said section, namely:-

In the aforesaid Rules,-

(1) in rule 13H, in sub-rule (1), after the word "securities", the words and commas "held for a period upto six months, and above six months to one year, after the end of each tax year" shall be omitted;

(2) in rule 13J, after the word "exchange", the expression ", members of PMEX, unit holders in mutual funds" shall be inserted;

(3) in rule 13L, in sub-rule (1), in clause (f), after the word "options", the words "and future commodity contracts traded at PMEX" shall be added;

(4) in rule 13M,-

(a) after the word "namely", for the colon and hyphen at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that these statements shall not be applicable in the case of investors falling under Eighth Schedule to the Ordinance read with rule 13N."; and

(b) for Part-II, Part-III, Part-IV and Part-V, the following shall be respectively substituted, namely:-

"Part – II

Summary of Capital Gain on Securities as per Division VII of Part I of First Schedule

Sales					Purchases					Holding period *	Filer/ Non Filer	Applicable Rate as per Division VII	Capital Gain (Loss)	CGT payable
(1)					(2)					(3)	(4)	(5)	(6)	(7)
Date of Sale	Particulars of Securities	No. of Securities	Sale price per security	Sale Proceeds	Date of Purchase	Particulars of Securities	No. of Securities	Purchase price per security	Total Purchase Price					

* Applicable in case the security is acquired after 1 July 2012

Investor's Name ....

Brokerage Account No....................................

Signature...

Date...

Part – III

Affidavit

I .... S/O .... CNIC No......................... resident of ....holding brokerage account No. .... with the brokerage firm............and holding CDC sub account No....................with Central Depositary Company do hereby solemnly affirm that particulars of my account given in Part I and the particulars of securities transactions conducted during the tax period given in

Part – II of the summary of securities transactions are true and correct and in accordance with the ledger statements and CDC statements of my account for the above mentioned tax period.

I further affirm that nothing has been concealed or incorrectly stated regarding my account. I know that in case any particulars of my account and share transactions conducted during the above mentioned tax period and given under rule 13M of the Income Tax Rules, 2002 as mentioned above are found to be false being not in conformity with ledger statements and CDC statements of my account, I am liable to be penalized in accordance with rule 13K of the Income Tax Rules, 2002.

Deponent (investor's name)
Signature.......................
Date:...........................";

(5) in rule 13N,-

(a) for sub-rule (3), the following shall be substituted, namely:-

"(3) In computing capital gains, NCCPL shall take into account transactions and their values as reported to or provided to or extracted from the systems or procedures in place with NCCPL, stock exchange and the Central Depository Company of Pakistan Limited, the clearing members in case of Foreign Institutional Investors, PMEX in case of future commodity contracts and Asset Management Companies in case of open ended mutual funds:

Provided that, where any discrepancy or error is pointed out or found in recording the date of acquisition of security, NCCPL may, with prior approval of the Commissioner Inland Revenue, rectify such date based on the relevant information provided by CDC as obtained from concerned issuer or its share registrar or clearing members in case of Foreign Institutional Investors and accordingly re-compute the capital gain tax liability in the financial year in which such security has been disposed of.;

(3A) Notwithstanding the sub-rule (1), Asset Management Companies and PMEX shall continue to determine, compute and collect Capital gains tax on open ended mutual funds and future commodity contracts respectively, and shall deposit the same with NCCPL within ten working days of the month end.

(3B) NCCPL shall verify the liability of the investor calculated by Asset Management Companies and PMEX as above, and will compute the net capital gains tax liability or refund for each investor to be collected from or refunded to the Asset Management Companies or PMEX. Provided that where cumulative refund per investor for the year to date does not exceed Rs 1,000 per investor, it will be carried forward for adjustment in next month(s), however, any refunds, irrespective of amount, shall be refunded at the year end:

Provided that the information to be reported to or provided to NCCPL as above shall be required to be in a manner and time deemed necessary for NCCPL to discharge its obligation under the law and provisions of Rule 3 and 3A of Eight Schedule to the Ordinance shall be applicable in this respect.";

(b) in sub-rule (5),-

(i) in the second proviso after the words "derivative contract,", the commas and words ", except traded on PMEX," shall be inserted; and

(ii) for the full stop at the end of second proviso, a colon shall be substituted and thereafter the following new proviso shall be added, namely:-

"Provided further that the FIFO shall be applied on aggregate inventory held by an investor at UIN level:";

(c) after sub-rule (5), the following new sub-rules shall be inserted; namely:-

"(5A). For the purposes of computation and collection of capital gains tax in this rule applicable rate shall be taken from Division VII of Part I of the First Schedule based on whether the investor is filer or non-filer as per ATL at the time of transaction.

(5B) For the purpose of computation of capital gains tax liability on stock fund the applicable rate of tax as per third proviso of the Division VII of Part I of the First Schedule shall be taken on month on month basis.";

(d) in sub-rule (8), for the full stop at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that the above deductions shall not be applicable in case of units of open ended mutual funds and future contracts entered into by the members of PMEX.";

(e) in sub-rule (11), after the words "clearing member,", the words "PMEX and Asset Management Companies" shall be inserted;

(f) in sub-rule (14), after the word "investor", the expression ", account of unit holder of open ended mutual fund with Asset Management Companies and account of member of PMEX as the case may be" shall be inserted and thereafter for the full stop at the end, a colon shall be substituted and after that the following new provisos shall be added, namely:-

"Provided that accounts of unit holders of open ended mutual funds with Asset Management Companies and account of member of

PMEX, if closed without obtaining clearance certificate from NCCPL, Asset Management Company or PMEX shall remain responsible to ensure that any outstanding liability in respect of Capital Gain Tax which has arisen or may arise, has been collected from respective investor and deposited with NCCPL:

Provided further that in case Asset Management Company or PMEX is unable to recover such tax from investor, these non-payments should be reported on monthly basis to NCCPL for onward reporting to Board in terms of rule 6(3) of the Eight Schedule to the Ordinance.";

(g) in sub-rule (21), after the word "on", the expression "capital gains by Asset Management Companies and PMEX " shall be inserted;

(h) in sub-rule (23), in clause (dd), for the word "electronic", the word "listed" shall be substituted and thereafter semicolon at the end a colon shall be substituted and the following new proviso shall be added; namely:-

"Provided that cost of acquisition of securities in case of securities acquired during book building process and initial public offer (IPO) period shall be the applicable IPO price."; and

(i) after sub-rule (27), the following new sub-rule shall be added; namely:-

"(28) A new UIN shall not be assigned to unit holders of open ended mutual funds and members of PMEX if they already have been assigned a UIN by NCCPL.";

(6) in rule 13O, for Part-I and Part-II, the following shall be respectively substituted; namely:-

"Part-I

Format of annual certificate of capital gains to be issued by NCCPL to taxpayer

under rule 1(4) of the Eighth Schedule to the Ordinance
[See rule 13N(15)]

Original/Duplicate Date of issue________

Sr.No

1. Name of taxpayer ______________________________
2. UIN ______________________________
3. CNIC/NTN ______________________________
4. Period July 1, 20 _____ to June 30, 20_____
5. Amount of net capital gains on securities
6. Amount of tax liability on capital gains. Rupees__________________
7. Amount of tax liability on capital gains collected and deposited by NCCPL Rupees__________________

This is to further certify that the tax collected has been deposited in the Federal Government Account.

Name of authorized person ____

Signature ______________________

Part-II

Format of quarterly Statement to be filed by NCCPL to the Board
under rule 1(5) of the Eighth Schedule to the Ordinance
[See rule 13N(16)]

NTN No.____________________ Address____________________

Telephone ____________________ Fax ______ Email ______________

S.No.	*Name*	*UIN*	*Net amount of capital gains as at quarter ended*	*Provisional amount of capital gains tax liability as at quarter ended _____*

I, __________________ holder of CNIC No. __________________ in my capacity as Principal Officer / Representative of NCCPL do hereby solemnly declare that to the best of my knowledge and belief the information given in this statement is correct and complete and in accordance with the applicable provisions of the Income Tax Ordinance, 2001 and Income Tax Rules, 2002.

Date ____________ (dd/mm/yyyy)
Signature ______________________"; and

(7) in rule 13P,-

(a) in clause (a),-

(i) in sub-clause (iii), after the word "example", the expression "(below rates are hypothetical and used solely for understanding purposes, therefore, rate as per Division VII of Part I of First Schedule will be applicable in case of actual transactions)"; shall be inserted; and

(b) in clause (g), for sub-clauses (i) and (ii), the following new sub-clauses shall be substituted, namely:-

"(i) Details of the transaction

An investor holding securities in his one account transfers such securities to another. In case where securities are transferred from singly owned account to another singly owned account that may be maintained with same or different participant or from a joint account to another joint account with same combination of joint holders this will be treated as portfolio transfer as no change has occurred in overall portfolio of the investor. However, in case of transfer of securities from a singly owned or joint account to an account where ownership structure is different, such transfers shall be treated as disposal.

(ii) **Tax treatment**

In case of portfolio transfer where ownership of securities does not change, no capital gain tax shall be computed. In such a case the date and cost of acquisition of the securities shall not be changed owing to such portfolio transfer.

In all other cases, including transfer by investor from one fund in an Asset Management Company to another fund maintained by same or another Asset Management Company , such transfer shall be treated as disposal and shall be taxed accordingly.";

(c) in clause (h), in sub- clause (iii), after the word "lender", at the end, the expression "(below rates are hypothetical and used solely for understanding purposes, therefore, rate as per Division VII of Part I of First Schedule will be applicable in case of actual transactions)" shall be added;

(d) in clause (i), in sub-clause (ii), for the word "shares", the word "securities" shall be substituted;

(e) in clause (k), in sub-clause (i), after the word "System", at the end, the words "or similar code in Asset Management companies and PMEX system" shall be inserted;

(f) in clause (l), in sub-clause (ii), for the word "shares", the word "securities" shall be substituted;

(g) in clause (m), in sub-clause (iii), after the word "follows", the words "(below rates are hypothetical and used solely for understanding purposes, therefore, rate as per Division VII of Part I of First Schedule will be applicable in case of actual transactions)" shall be inserted;

(h) in clause (p), in sub-clauses (i) and (ii), for the word "shares", wherever occurring, the word "securities" shall be substituted;

(i) in clause (q), in sub-clause (iii), after the word "example", the words "(below rates are hypothetical and used solely for understanding purposes, therefore, rate as per Division VII of Part I of First Schedule will be applicable in case of actual transactions)" shall be inserted;

(j) in clause (s), in sub-clause (ii), after full stop at the end, the following shall be added; namely:-

"Similar treatment shall be applicable in case of merger of funds consequent of an order of court or SECP." ;

(k) in clause (t), in sub-clause (ii), after full stop at the end, the following shall be added; namely:-

"Similar treatment shall be applicable in case of demerger of funds consequent of an order of court or SECP." :

(l) In clause (u), in sub-clauses (i) and (ii), for the words "shares" and "shareholders" wherever occurring, the word "securities" and "investors" shall be substituted respectively;

(m) In clause (y), after the word "examples", the expression "(below rates are hypothetical and used solely for understanding purposes, therefore, rate as per Division VII of Part I of First Schedule will be applicable in case of actual transactions)" shall be inserted; and

(n) after clause (zb), the following new clauses shall be added, namely:-

"**(zc) Setoff of losses in case of investors having securities of multiple categories: Details of transaction:**

An investor holds various securities i.e. shares of company listed in Pakistan Stock Exchange [PSX], units of open ended mutual funds and future commodity contracts traded at PMEX exchange. The investor has arrived at capital gain in case of certain securities while also incurred capital loss on other securities that is eligible for setoff with capital gain arrived at during the period on other securities.

(i) Tax Treatment:

Effective from 1 July 2016, units of open ended mutual funds and future commodity contracts are brought in the ambit of Eighth Schedule under NCCPL. Accordingly the investors will be entitled to have the capital loss adjusted against the capital gain in terms of Rule 13N(6) while NCCPL will calculate capital gain tax liability of net capital gain position i.e. after adjustment of capital losses for the year in terms of Rule 13N(10).

(ii) Example:

The examples in respect of above are given below (below rates are hypothetical and used solely for understanding purposes, therefore, rate as per Division VII of Part I of First Schedule will be applicable in case of actual transactions):

Example 1:

Client Name:	**Ahmed Ali**
UIN:	**3520211111119**
Financial Year:	**July 2016 to June 2017**
Month:	**September 2016**

Description	Tax Obligation AMC-FUND-1		Tax Obligation PMEX		Tax Obligation PSX		Net Tax Obligation	
	Gain/ (Loss)	Tax	Gain/ (Loss)	Tax	Gain/ (Loss)	Tax	Gain/ (Loss)	Tax
Tax Position computed by NCCPL	100,000	10,000	200,000	20,000	(150,000)	0	150,000	15,000
Loss Allocation	(50,000)		(100,000)		150,000	0		
Net Tax	50,000	5,000	100,000	10,000	0	0	150,000	15,000

Tax Collection Demand		**5,000**		**10,000**				

In the above example, after adjustment of capital loss proportionally (In proportion of capital gains) during the month, NCCPL shall demand Rs 5,000 from AMC-1 and Rs 10,000 from PMEX.

Example 2:

Client Name: **Ahmed Ali**
UIN: **3520211111119**
Financial Year: **July 2016 to June 2017**
Month: **February 2017**

Balance as of December 31, 2016		CGT Computation PSX- February 2017		CGT Computation-PMEX- January 2017		Net CGT as of February 2017	
Gain/ (Loss)	CGT collection from PMEX	Gain/ (Loss)	CGT	Gain/(Loss)	CGT	Gain/(Loss)	CGT
100,000	10,000	50,000	5,000	(70,000)	NIL	80,000	8,000

In the above example, it is assumed that CGT of Rs. 10,000 has been collected by NCCPL from PMEX till December, 31 2016. Now, in the month of February, the investor has capital gains arising on disposal of listed securities at PSX and resulting tax liability on such gains Rs 5,000. However, due to net loss of Rs. (70,000) as reported by PMEX for respective investor, NCCPL will determine net capital gain of Rs. 80,000 (100,000+50,000-70,000) as at February 28, 2017 with net tax liability of Rs. 8,000. But as NCCPL has already collected Rs 10,000 from PMEX as at December 31, 2016 therefore, NCCPL will refund Rs. 2,000 (10,000-8000) to the PMEX.

(zd) Future Commodity contracts entered into by the member of PMEX:

(i) **Details of transaction:**

A member of PMEX has entered into future commodity contracts which are traded at PMEX. These can either be settled in cash or through actual settlement. Capital gains tax would have to be worked out in accordance with applicable legal framework.

(ii) **Tax Treatment:**

Effective from 1 July 2016, future commodity contracts entered into by the member of PMEX are brought in the ambit of Eighth Schedule under NCCPL. Accordingly NCCPL will calculate and determine capitals gain tax liability on these contracts in terms of Rule 13N.

(iii) **Examples:**

The examples in respect of above are as under (below rates are hypothetical and used solely for understanding purposes, therefore, rate as per Division VII of Part I of First Schedule will be applicable in case of actual transactions):

Example 1. *Cash settled future commodity contracts:*

Capital Gain Loss and CGT Working

Date	Transaction	No of contracts	Contract Price $	Day end Price ($)	Exchange Rate (USD to PKR)	Gain/ (Loss) in USD	Gain/ (Loss) in PKR	CGT @ 5%
		A		B	C			
7/1/2016	Purchase	1	14.5	15	105	0.50	52.50	2.63
7/2/2016				15.5	105.5	0.50	52.75	2.64
7/3/2016				14.9	105.3	(0.60)	(63.18)	(3.16)
7/4/2016	Sale	1	16	16.5	- 105.3	1.10	115.83	5.79
Total						**1.50**	**157.90**	**7.90**

Example 2. *Delivery settled future commodity contract- Contract sold before settlement date without physical delivery:*

Investor	Date	Transaction	Contract Name	Quantity	Price Rs
A	1-Jul-16	Purchase	TOLA GOLD MON	1	50,100
A	4-Jul-16	Sale	GOLD GOLD MON	1	52,500
Gain on sale					2,400
Applicable tax rate					5%
Capital gain					120

Example 3. *Delivery settled future commodity contract- Settled at settlement dates:*

Investor	Trade Date	Settlement Date	Transaction	Contract Name	Quantity	Price PKR
A	1-Jul-16	8-Jul-16	Purchase	TOLA GOLD FRI	1	50,100
A	4-Jul-16	11-Jul-16	Purchase	TOLA GOLD MON	1	51,000
A	11-Jul-16	13-Jul-16	Sale	TOLA GOLD WED	1 Tola	52,500

Commodity Name	Units	Inventory Date	Inventory Value
Tola Gold	1 Tola	8-Jul-16	50,100
Tola Gold	1 Tola	11-Jul-16	51,000
Average value			50,550

Monday Contract is settled on next Monday and Tuesday contract on next Tuesday. Upon settlement, funds and inventory is moved.

<u>Capital Gain Loss Computation</u>

Sale Quantity	1 Tola
Selling Price	52,500
Sale Value	52,500
Less : Cost	50,100
Capital Gain / (Loss)	2,400

Tax rate applicable	5%
Tax to be collected	120

Example 4. *Delivery settled future commodity contract- Settled at settlement dates:*

Opening Inventory at June 30, 2016

Commodity Name	Units	Inventory Date	Purchase Price	Inventory Value
Tola Gold	5 tola	5-Jan-16	52,000	260,000
Tola Gold	10 tola	12-Mar-16	51,500	515,000

Purchase after June 30, 2016

Commodity Name	Units	Inventory Date	Purchase Price	Inventory Value
Tola Gold	1 Tola	8-Jul-16	50,100	50,100
Tola Gold	1 Tola	11-Jul-16	51,000	51,000

Total Inventory for sale

Commodity Name	Units	Inventory Date	Purchase Price	Inventory Value
Tola Gold	5 tola	5-Jan-16	52,000	260,000
Tola Gold	10 tola	12-Mar-16	51,500	515,000
Tola Gold	1 Tola	8-Jul-16	50,100	50,100
Tola Gold	1 Tola	11-Jul-16	51,000	51,000
	17			876,100

In this case, capital gain loss in the above mentioned example 3, on 13-Jul-2016 shall be computed as under :

<u>Capital Gain Loss Computation</u>

Sale Quantity	1 Tola
Selling Price	52,500
Sales Value	52,500
Less : Cost	52,000
Capital Gain / (Loss)	500

Tax rate applicable	5%
Tax to be collected	**25**

Example 5. *Deposit of commodity and sale thereof:*

		Contract Day end Price
1-July-2016	Monday	50,150

In this case deemed value of 10 tola gold deposited on July 1, 2016 shall be as under :

Commodity Name	**Units**	**Inventory Date**	**Deemed Purchase Price**	**Inventory Value**
Tola Gold	10 Tola	1-Jul-16	50,150	501,500

<u>Capital Gain Loss Computation</u>

Sale Quantity	4 Tola
Selling Price	52,500
Sale Value	210,000
Less : Cost	200,600
Capital Gain / (Loss)	9,400
Tax rate applicable	5%
Tax to be collected	**470**

Example 6. *Physical commodity deposited but withdrawn later:*

An investor deposits 10 tola gold on July 1, 2016 in the vault and withdraws 5 Tola after 4 days.

The withdrawal would be considered as a tax neutral event. No capital gains tax implications would arise. The remaining inventory would be valued at applicable cost for the purpose of any future capital gains tax calculation; and (ze) **Acquisition of shares in Book Building /Initial Public Offer (IPO) and subsequent sale:**

(i) **Details of the transaction:**

Shares are offered by company in an IPO including book building. The shares are subscribed and allotted at the applicable price. These can later be sold by the investors.

(ii) **Tax treatment:**

Capital gain will be computed by applying FIFO method. Capital Gain shall be chargeable to tax as per section 37A read with rates specified in Division VII of Part I of the First Schedule of the Income Tax Ordinance, 2001.

(iii) **Example:**

XYZ Company offered shares in an IPO on 1 June 2016 and the company's shares started trading at PSX from 15 July 2016. Mr. A, has acquired 1,000 shares having a face value of Rs 10 each at Rs20 per share being the publically offered IPO price. The shares have been sold at PSX on 30 June 2019 at Rs 70 per share.

Capital gains tax will be calculated as follows. (The tax rate used in this example is hypothetical. In case of actual transaction the rates as per Division VII of Part I of the First Schedule at the time of sale shall be applicable).

Cost of acquisition	(1,000 x 20)	Rs 20,000
Sales proceeds	(1,000 x 70)	Rs. 70,000
0.5% of sales proceeds as expense		Rs 350
Capital gain		Rs 49,650
Holding period		1124 days
Applicable rate		7.5%
Capital gains tax liability		Rs 3,724

[F.No.1(67)Rules&SROs/2016]

(Syed Hassan Sardar)
Secretary (Rules & SROs)