

Commentary on Significant Amendments Proposed through:

Provincial Finance Bills 2015-16
of Sindh, Punjab and Khyber
Pakhtunkhwa



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Foreword



This memorandum contains highlights of provincial fiscal proposals and explanatory description of significant changes in Sindh Sales Tax on Services Act, 2011, Punjab Sales Tax Act, 2012 and Khyber Pakhtunkhwa Finance Act, 2013.

The amendments proposed through the provincial finance bills once approved by the provincial assemblies will take effect from July 1, 2015 unless stated otherwise.

The memorandum is aimed at providing general guidance with the objective of keeping our clients and staff abreast of the changes in the aforementioned laws. Deloitte Pakistan accepts no duty of care or liability for any loss occasioned to any person acting or refraining from action as a result of any material in this publication. The users are therefore advised to seek professional advice before exercising any judgement, interpretation of any legal provision and action thereupon.

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Karachi
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Proposed amendments through the Sindh Finance Bill, 2015

The Sindh Sales Tax on Services Act, 2011

A. General Tax Rates Reduced

General tax rate of 15% has been proposed to be reduced to 14%. The proposed measure is highly commendable considering the fact that it is second time that Sindh Government has reduced the rate, while in Punjab and Federation rate of sales tax on services is still 16%.

As per Budget Speech, rates of sales tax in respect of following services will be reduced with effect from 1 July 2015, for which the Sindh Revenue Board (the SRB) may issue notification(s):

Description Of Service	Current Rate of tax	Proposed Rate of tax
Telecommunication Services	19.5%	18%
Services provided by programme producers and production houses	10%	6%

B. Reduced rate increased to 6%

The reduced rate of sales tax under non-adjustable (non-VAT) mode is proposed to be enhanced to 6% from existing rate of 5% which will impact following services:

1. Construction services,
2. Inter-city transportation, carriage of goods by road, pipeline or conduit;
3. Corporate law consultants,
4. Accountants and auditors,
5. Tax consultants,
6. Legal practitioners and consultants.

C. New services made taxable

Last year, the Government of Sindh had announced to bring a negative list of service through Finance Act, 2015, in order to broaden the tax base which would have resulted in increased collection of revenue. However, no such list has been proposed in the Bill rather following new categories of services have been proposed to be taxed:

Tariff Heading	Description Of Service	Note	Rate
9805.5000	Travel Agents	1	10%
9805.9200	Services provided or rendered in matter of sale, purchase or hire		14%
9806.3000	Renting of immovable property services	2	6%
9817.9000	Services provided or rendered by laboratories other than the services relating to pathological, radiological or diagnostic tests of patients.		14%
9818.2000	Credit rating agency		14%
9819.1000	Future brokers		14%
9819.1100	Underwriters		14%
9819.1200	Indenters		14%
9819.1300	Commission Agent		14%
9819.1400	Packers and movers		14%
9819.9100	Auctioneers	1	10%
Tariff Heading	Description Of Service	Note	Rate
9822.4000	Dredging or desilting services	1	10%
9837.0000	Ready mix concrete services	3	14% or 6%
9838.0000	Intellectual property services	1	10%
9839.0000	Erection, commissioning and installation services		14%
9840.0000	Technical inspection and certification services, including quality control certification services and ISO certification		14%

9841.0000	Valuation services, including competency and eligibility testing services		14%
	Utility Bill Collection by Banks and NADRA	4	14%

Note 1. In the Finance Bill, these services are proposed to be taxed at the rate of 14%, however, in Budget Speech, the same have been proposed to be taxed at reduced rate of 10% under non-adjustable mode. A notification is likely to be issued in this respect.

Note 2. In the Finance Bill, these services are proposed to be taxed at the rate of 14%; however, in Budget Speech, the same have been proposed to be taxed at reduced rate of 6%. SRB may issue notification in this respect. Moreover, it is worth mentioning here that 'Renting of Immovable Property' (as defined in proposed clause 72B) has not been included in the Second Schedule, however, in the Budget Speech renting of commercial property was proposed to be taxed at the rate of 6%. Only 'Renting of Immovable Property Services' (as defined in proposed clause 72C) have been taxed in the Second Schedule. These services seem to be comprised of services of ancillary nature e.g. maintenance, janitorial services etc. which are already being taxed under the law. A legal debate may arise as to whether rent of immovable property falls within the ambit of service.

Note 3. Here it is worth mentioning that the concrete mix blocks are also taxable as goods under the Federal sales tax law. Hence taxing of 'ready mix concrete services' may lead to double taxation.

Note 4. These services were previously exempted under Notification No. SRB-3-4/7 /2013 dated 18th June, 2013. These have now been proposed to be taxed as per Budget Speech. Accordingly, a notification is likely to be issued.

D. Scope of existing services extended

Tariff Heading	Description Of Service	Note	Rate of tax
9812.9490	Vehicle and Other tracking services	1	19.5%
9812.9500	Burglar and security alarm services	2	19.5%
9801.1000	Services provided or rendered by hotels, motels and guest houses	3	14%
9801.6000	Ancillary services provided or rendered by hotels, motels, guest houses, restaurants, marriage halls and lawns, clubs and caterers	4	14%

Note 1. Previously, only Vehicle tracking services were taxable.

Note 2. Previously, only Burglar alarm services were taxable.

Note 3. Previously, only services provided / rendered by hotels were taxable.

Note 4. Ancillary services by motels and guest houses are proposed to be made taxable.

E. Changes in Definitions

1. New terminologies defined

Through the Sindh Finance Bill, 2015, following new definitions have been proposed to be added in Section 2 of the Sindh Sales Tax on Service Act, 2011 (the Act):

- a. Auctioneer (Clause 13A)
- b. Business bank account (Clause 18A)
- c. Commission agent (Clause 22A)
- d. Credit Rating agency (Clause 30A)
- e. Dredging or desilting (Clause 35A)
- f. Erection, commissioning and installation services (Clause 38A)
- g. Futures Broker (Clause 47C)
- h. Indenter (Clause 51A)
- i. Intellectual property right (Clause 54A)

- j. Intellectual property service (Clause 54B)
- k. Ready mix concrete (Clause 69A)
- l. Ready mix concrete Service (Clause 69B)
- m. Renting of immovable property (Clause 72B)
- n. Renting of immovable property service (Clause 72C)
- o. Tax fraction (clause 93A)
- p. Technical inspection and certification services, including quality control certification services and ISO certifications (clause 96AA)
- q. Travel agent (clause 98C)
- r. Underwriter (clause (98D)

2. Changes in existing definitions

Through the Bill, following definitions which already existed in Section 2 of the Act have been proposed to be modified:

a. Advertising agent (Clause 3)

The term, "media buying house" is proposed to be included in the definition of advertising agent.

b. Exchange (Clause 39A)

The definition of "exchange" presently has the same meaning as defined under the Securities and Exchange Ordinance, 1969. It is now, clarified that "exchange" means stock exchange, securities exchange, futures exchange or commodity exchange.

c. Fashion designer (Clause 42A)

The word 'ancillary' has been clarified to comprise of activities like packing, delivery, display and other similar services.

d. Securities (Clause 77A)

The definition of the term 'securities' presently has the same meaning as defined under the Securities and Exchange Ordinance, 1969. The Bill proposes to include following in the definition of Securities:

- i. Shares and stock of a company (shares);
- ii. Any instrument creating or acknowledging indebtedness which is issued or proposed to be issued by a company including, in particular, debentures, stock, loan stock,

bonds, notes, commercial paper, *sukuk* or any other debt securities of a company, whether constituting a charge on the assets of the company or not (debt securities);

- iii. Loan stock, bonds, *sukuk* and other instruments creating or acknowledging indebtedness by or on behalf of the federal or provincial governments, central bank or public authority (government and public debt securities);
- iv. Modaraba certificates, participation term certificates and term finance certificates;
- v. any right (whether conferred by warrant or otherwise) to subscribe for shares or debt securities (warrants);
- vi. Any option to acquire or dispose of any other security (options);
- vii. Units in a collective investment scheme, including units in or securities of a trust fund (whether open-ended or closed end);
- viii. The rights under any depository receipt in respect of shares, debt securities and warrants (custodian receipts);
- ix. Futures or forward contracts;
- x. Certificates of deposit; or
- xi. Any other instrument notified by the Securities and Exchange Commission of Pakistan to be securities for the purposes of the Securities Act, 2015.

e. Services (Clause 79)

The present definition means anything which is not a supply of goods. Through the proposed amendments, the said words are intended to be excluded. Moreover, an explanation is proposed to be inserted in the definition, clarifying that unless otherwise specified by the Board, the service or services involved in the supply of goods shall remain and continue to be treated as service or services.

The above change is apparently made to counter the effect of the changes recently proposed by the Federal Government in the Sales Tax Act, 1990, enhancing the scope of supply to include "toll manufacturing" under the ambit of supply of goods. This amendment is made by the Sindh Government to keep toll manufacturing within the ambit of the definition of services.

These conflicting amendments in the Sindh and Federal sales tax laws will cause double taxation of same services. This is likely to result in hardship for both the service providers and the services recipient and may ultimately lead to unnecessary litigations.

f. Share transfer agent (Clause 79A)

It is now clarified that share depository agents are also share transfer agents. Further, scope of share transfer agent is proposed to be enhanced by incorporating word “derivatives” under its ambit.

g. Stockbroker (Clause 90)

The definition of stockbroker is substituted whereby scope of stockbroker is proposed to be enhanced by incorporating “any person engaged in the business of effecting transaction in securities for the account of others, and includes a person carrying on any of the activities of securities, broker, securities advisor and securities manager as defined in the section 2 of the Securities Act, 2015.

h. Tax fraud (Clause 94)

Under the existing law, sub-clause (a) of clause (94) of section 2 of the Act defines tax fraud as doing any act or causing to do any act, knowingly, dishonestly or fraudulently and without any lawful excuse.

It has now been proposed to change the definition of tax fraud to mean doing any act or causing to do any act, knowingly, dishonestly or fraudulently and without any lawful excuse, in contravention of the duties and obligations under the Act or the rules made thereunder.

F. Other relief measures

Advertisements in newspapers are proposed to be exempted from tax.

G. Assessment of tax and reduction of Commissioner’s reviewing powers (section 23)

1. Assessment of minimum tax liability

The Bill proposes to introduce sub-section (1A) to section 23 of the Act, whereby minimum sales tax liability may be assessed by the officer of SRB on a person who fails to file sales tax return or where a registered person fails to furnish information sought in connection with:

- Assessment of tax proceedings under section 23;
- Audit proceedings under section 28;
- Audit by special audit panels under section 29; or
- Obligation to produce documents and provide information under section 52.

Such assessment shall be made by an officer of SRB not below the rank of Assistant Commissioner (AC) based on information available on record. Such minimum sales tax liability shall not be the final liability of the registered person who will be responsible for discharging its actual sales tax liability after the conclusion of audit or special audit or forensic audit.

Such discretionary powers should have been given to an officer of a higher rank or atleast there should be a condition that the AC shall take prior approval in writing from the Commissioner SRB before assessing minimum sales tax liability.

2. Reduction in Powers of the Commissioner

The Bill also proposes to significantly reduce amendment / reviewing powers of the Commissioner. Currently, the Commissioner SRB has powers to amend or further amend an assessment order passed by an officer of SRB not below the rank of Assistant Commissioner which are proposed to be withdrawn.

The proposed amendment would leave the person at the mercy of the AC and now the matter in dispute could only be taken up before the Commissioner Appeals.

H. Suspension of registration (Section 25)

Under the existing law, the power to suspend registration of a person including the power to withdraw such suspension rests with the Board. It has been proposed that such powers be extended to any officer of SRB authorized by the Board. Again, this would increase the discretionary power of the officers of SRB. Such power should have only been restricted to an officer not below the rank of Commissioner.

I. Offences and penalties

(Section 43)

Following amendments are proposed to be made in amount of penalties prescribed under the Act:

S. No.	Offence	Penalty
1.	Failure to communicate changes in the registration	Rs.100,000 subject to minimum penalty of Rs.10,000
2.	Failure to maintain records under the Act	Rs.100,000 subject to a minimum penalty of Rs.10,000 or 5% of the total tax payable for the tax periods for the default. Further, upon conviction by special judge, imprisonment up to one year and/or fine up to Rs.100,00 may be imposed.

S. No.	Offence	Penalty
3.	Failure to produce records on receipt of notice	Rs. 100,000, subject to minimum penalty of Rs. 10,000 for each instance of non-compliance.
4.	Submission of false or fraudulent documents / statements	Rs. 50,000 as compared to existing Rs. 25,000
5.	Violate any embargo placed on economic activity of a person	Rs. 100,000 or an amount equal to the amount of tax sought to be recovered, whichever is higher. Further, upon conviction by special judge, imprisonment up to one year and/or fine up to tax to be recovered.
6.	Bank fails to attach or delays in attaching the bank account of the person	Rs. 100,000 or an amount double of the amount of tax sought to be recovered, whichever is higher. Further, upon conviction by special judge, the manager or officer in charge will be liable to imprisonment up to one year and/or fine up to tax to be recovered.
7.	Denying or obstructing the access of SRB officer posted to the business premises or failure to facilitate the SRB officer in discharge of his duty	Rs. 50,000 or an amount of tax involved, whichever is higher. Further, upon conviction by special judge, imprisonment up to one year and/or fine up to tax involved.

J. Exemption from penalty and default surcharge (Section 45)

SRB is empowered to exempt any registered person or class of registered persons from payment of the whole or any part of the penalty

and default surcharge through issuance of notification or special order.

The Bill now proposes to remove power of Board for exempting any penalty or default surcharge through the special order.

K. Compounding of offences

(Section 46)

Under existing law, the Sindh Government is empowered to terminate the proceedings for prosecution under the Act, if such person pays the amount of tax due along with such default surcharge and penalty, as determined under the provisions of this Act.

It is now proposed that the Board, instead of Sindh Government, shall have such powers. The delegation of these powers will expedite the process of termination of prosecution.

L. Power to arrest and prosecute

(Section 49)

Presently, an officer of the SRB not below the rank of a Commissioner or any other officer of equal rank authorized by the Board may arrest the person who has committed a tax fraud or any offence warranting prosecution under the Sindh Act.

The Bill now proposes to assign such powers to the Assistant Commissioner and any other officer of SRB. The AC is being empowered with too much discretionary power. It must be ensured that no one should be harassed.

M. Posting of an officer of SRB to business premises (Section 54)

The Board is empowered to post an officer of SRB to the premises of a registered person or class of such persons to monitor the provision of services by such persons.

The Bill proposes to require the person, to whose premises an officer of SRB is posted under this section to provide, on his own cost, all facilities to meet the departmental requirements of such posting, as may be determined by the Board or the Commissioner SRB.

The proposed amendment would increase hardship and costs of registered persons.

N. Appeal against suspension of registration (Section 57)

An appeal with Commissioner (Appeals) cannot be currently filed against an order passed for suspending the registration of a registered person. The Bill now proposes to provide right of appeal against the SRB's decision.

O. Appointment of the Appellate Tribunal (Section 60)

The Bill proposes to increase eligible age for appointment of legal and technical members of the Appellate Tribunal from 65 years to 70 years.

P. Reference to the High Court

(Section 63)

Currently, any officer of SRB below the rank of Deputy Commissioner is not authorized to file a reference to High Court against an appellate order passed by the Appellate Tribunal.

The Bill now empowers the Assistant Commissioner to file such reference before High Court.

Q. Deposit of sales tax demand while appeal is pending (Section 64)

The Act presently requires a person who has filed the appeal to pay only the "admitted" amount of sales tax in the return filed under section 30 of the Act.

It is proposed that unless the person has been granted stay for recovery of sales tax by the Commissioner Appeals or Appellate Tribunal, it is required to deposit the amount of tax assessed / determined under the order appealed against.

This will cause severe hardship in genuine cases since the aggrieved persons would now be required to either obtain stay from appellate forum which is not an easy task or pay the entire demand arising out of an impugned order. It also needs to be appreciated that Appellate Tribunal is yet to be made functional, so effectively, only one appellate forum, and that is too under the administrative control of SRB, is available to seek stay against erroneous assessments.

Sindh Finance Ordinance, 2001

Sindh Infrastructure Cess (SIC)

The SIC is levied and collected under the Sindh Finance Ordinance, 2001 on C&F value of the goods imported in the province from outside the country. The Bill has proposed to increase the rate of infrastructure cess collection from existing 0.9% - 0.95% to 1% - 1.05%.

Stamp Duty Act, 1899

The Bill proposes following significant changes in the stamp duties:

A. Transfer of property by Developmental REITS to end-users

Currently the duty is chargeable on the market value. The Bill Proposes to compute stamp duty on the transaction value.

B. Transfer of lease by way of assignment

Currently the duty is chargeable on the amount of consideration for such transfer. The Bill proposes to charge duty on the amount of consideration for such transfer or value as per Valuation Table, whichever is higher.

C. Transfer of shares

Currently duty is applicable only on transfer of physical shares and not on electronic transfer within CDC accounts or sub-accounts. The Bill proposes to levy stamp duty at 0.01% of the face value of shares on transfer of shares from one Central Depository Company (CDC) account or sub-account to another CDC account or sub-account.

Further rate of stamp duty on deposit of shares to CDC is proposed to be increased from 0.1% to 0.15% of the face value of shares.

D. Health Insurance

The Bill proposes to levy stamp duty on Health Insurance at the same rates as applicable to life insurance ranging from Re.0.15 to Rs. 1.2.

E. Particular documents

The Bill proposes to increase levy of stamp duty on certain documents particularly on purchase order for supply of goods from 0.20% to 0.25% of the amount of Purchase Order.

Proposed amendments through the Punjab Finance Bill, 2015

The Punjab Sales Tax on Services Act, 2012

New services taxed

Following new services have been proposed to be brought into tax net:

Punjab Tariff Heading	Description Of Service	Note	Rate
Respective headings	Services in relation to transport of goods other than water, through pipeline, conduit or any other medium (other than inland carriage of goods by road otherwise taxable or chargeable to tax as such).		16%
98.04, 9804.2000, 9804.9000 and respective headings	Services provided by persons for inter-city carriage of goods by rail or road. EXCLUDING: Services provided by an individual owner of a vehicle for carriage of goods.	1	16%
Respective headings	Visa processing services including advisory or consultancy services for foreign education or for migration, visa application filing, services provided by document collection centres and subsequent assistance in visa processing (including all ancillary services).		16%
Respective headings	Services in relation to supply of tangible goods including machinery, equipment and appliances for use, without transferring right of possession and effective control of such machinery, equipment and appliances.		16%
9819.9200 and respective headings	Public relation services including communication services and services provided by public relations or media management businesses, communication specialists, media researchers, and services provided by opinion poll agencies.		16%
9815.2000 9815.3000 9850.0000 9851.0000 9855.0000 and respective headings	Services provided by accountants (including practicing chartered or cost accountants), auditors, actuaries, tax consultants (by whatever name called), practicing company secretaries, receivers, liquidators, auctioneers and corporate law consultants, whether individual or otherwise.		16%
Respective headings	Domestic transportation of goods by air (other than courier services otherwise taxable or chargeable to tax as such)	1	16%

Punjab Tariff Heading	Description Of Service	Note	Rate
9803.1000 9803.1100	Facilities for travel (by air): (a) services provided or rendered in respect of travel by air of passengers embarking from the Punjab for air travel or journey within the territorial jurisdiction of Pakistan: (i) long routes (ii) short routes Explanation.- For the purpose of this entry, "long routes" means journeys exceeding 500 kilometres, and "short routes" means the remaining journeys. (b) Services provided or rendered in respect of travel by air of passengers embarking from the Punjab for international air travel or journey: (i) economy and economy plus (ii) club, business and first class. EXCLUDING: Air travel services provided to Hajj or Umrah passengers, diplomats and supernumerary crew.	1	Rs.2,500 Rs.1,500 Rs.10,000 Rs.5,000
9803.1000 9803.9000	Chartered flight services within or originating from the Punjab.	1	16%
9863.0000	Debt collection and similar other recovery services.		16%
Respective headings	Supply chain management or distribution including delivery) services.		16%
9819.7000 and respective headings	Services provided by photography studios and event or occasion photographers/filmmakers EXCLUDING: Non-corporate (individual) photographers operating from small road-side shops declared as such by the Authority.		16%
9805.9100	Sponsorship services.		16%

Note 1. Please note that this proposal needs to be reviewed since only Parliament has the right to legislate over taxes relating to rail, air and sea as per clause 53 of Federal Legislative List in the Fourth Schedule to the Constitution of Pakistan, 1973. Presently air travel services are already chargeable to Federal Excise Duty. The problem of double taxation may also arise.

Amendment in existing services

The Bill proposes following amendments in the existing taxable services listed under the Second Schedule to the Act:

Classification	Existing service	Proposed amendments	Rate
9801.1000 9801.3000 9801.4000 9801.5000 9801.6000 9837.0000 and 9862.0000	Services provided by hotels, motels, guest houses, marriage halls and lawns (by whatever names called) including pandal and shamiana services, clubs (including race) and caterers.	All ancillary or allied services such as floral or other decoration, furnishing of space whether or not involving rental of equipment and accessories by hotels, motels, guest houses, marriage halls, lawns and caterers are now proposed to be taxed besides main activity of these service providers	16%
9802.1000 and 9802.2000	Advertisement on television and radio, excluding advertisements: <ul style="list-style-type: none"> (a) sponsored by an agency of the Federal or Provincial Government for health education; (b) financed out of funds provided by a Government under grant-in-aid agreement; and (c) conveying public service message, if telecast on television by the World Wide Fund for Nature (WWF) or United Nations Children's Fund (UNICEF) 	Advertisement on radio and television financed out of funds provided by a government under an agreement for grant-in-aid except for foreign grant-in-aid has now proposed to be taxed	16%
9808.0000 and 9804.9000	Courier services including cargo services by road passenger transportation business and transportation through pipeline and conduit services.	Scope of taxable courier services enhanced by including express cargo services and logistic services;	16%
9823.0000 and 9839.0000	Franchise services including intellectual property rights services	Licensing services, in addition to already taxable Franchise and intellectual property rights services are proposed to be taxable;	16%

Classification	Existing service	Proposed amendments	Rate
9824.0000 and 9814.2000	Construction services EXCLUDING : (i) Construction projects (industrial and Commercial) of the value (excluding actual and documented cost of land) not exceeding Rs.50 million. (ii) The cases where sales tax is otherwise paid as property developers or promoters. (iii) Government civil works including Cantonment Boards. (iv) Construction of industrial zones, consular buildings and other organizations exempt from income tax. (v) Construction work under international tenders against foreign grants-in-aid. (vi) Residential construction projects where the covered area does not exceed 10,000 square feet for houses and 20,000 square feet for apartments.	The Bill proposed to omit following exempted construction services: “(i) Industrial and commercial construction projects of value not exceeding Rs. 50 million. (ii) Construction of industrial zones, consular buildings and other organizations exempt from income tax.” Consequently, these services will now be taxable.	16%
9807.0000 and respective subheadings of heading 98.14	Services provided by property developer and promoters (including allied services) EXCLUDING: Actual purchase value or documented cost of land	Services provided by builders are proposed to be taxable in addition to already taxable services of property developers and promoters	Land development: Rs. 100 per sq. yds. Building construction: Rs. 50 per sq. ft.
9810.0000 9848.0000 9847.0000 9821.4000 and 9821.5000	Services provided for personal care by beauty parlors, clinics, sliming clinics including cosmetic and plastic surgery by such parlors / clinics. EXCLUDING: (i) If beauty parlor or clinic is not a corporate or chain business; or (ii) no aspect of the business is trademarked or franchised; or (iii) annual turnover does not exceed Rs. 3.6 million; or (iv) the facility of air-condition is not installed or available in the premises.	Services provided by spas (including saunas, Turkish baths and Jacuzzi) have been proposed to be taxed in addition to already taxable personal care services by beauty parlors, salons, sliming clinics, etc. However, parlors, salons or clinics without air conditioning will remain exempt.	16%
9805.3000	Freight forwarding agents	Rs. 1,000 per bill of lading.	Rs. 400 per bill of lading

Classification	Existing service	Proposed amendments	Rate
9815.6000	Services provided by software or IT-based system development consultants.	Currently, services provided by software or IT based system development consultants are taxable. The existing category of these services substituted with new list of services to enhance the scope of taxable services provided by this sector. The new services now include "Information technology-enabled or information technology based services including software development, software customization, software maintenance, system support, system assembly, system integration, system designing and architecture, system analysis, system development, system operation, system maintenance, system up-gradation and modification, data warehousing or management, data entry operations, data migration or transfer, system security or protection, web designing, web development, web hosting, network designing, services relating to enterprise resource or management planning (including marketing of products), development and sale of smart phone applications or games, graphics designing, medical transcription, remote monitoring, telemedicine, insurance claim processing, online retrieval and database access or retrieval service.	16%
9815.9000, 9832.000, 9827.0000, 9818.3000, 9818.2000, 9818.9300, 9852.000 and 9859.0000	Services provided by other consultants including but not limited to human resources and personnel development consultancy services, exhibition or convention services, event management services, valuation services (including competency and eligibility testing services), market research services and credit rating services.	Whole range of already taxable services of event management service providers have been proposed to be taxable regardless of separate or individual classification. Further, marketing or sales services (including marketing agencies and online marketing or sales services) have now proposed to be taxed. These changes have been made to bring e-commerce activity in tax net.	16%
Respective headings	Shares transfer or depository agents including services provided through manual or electronic book-entry system used to record and maintain securities and to register the transfer of shares, securities and derivatives.	Services provided by registrar to issue, investor account services, trustee or custodial services, share registrar services including their allied services have been proposed to be taxable	16%

Classification	Existing service	Proposed amendments	Rate
9834.0000 and 9819.6000	Services provided by fashion designers whether relating to textile, leather, jewellery or other products regimes including allied services such as cutting, stitching, printing, manufacturing, fabrication, assembly, embellishment, adornments, display (including marketing, packing and delivery, etc.).	The scope of already taxable services provided by fashion designers is proposed to be enhanced by including services by fashion designers using brand name, logo or house mark (whether registered or not) in manufacturing or trading of products.	16%
9814.1000 9814.9000	Services provided by architects, town planners and interior decorators.	Bill intends to bring under tax-net services that are rendered by landscaper and landscape designer. For this purposes, separate tariff heading 9814.4000 has been introduced under classification column.	16%
9819.3000	Services provided in respect of rent-a-car.	Scope of already taxable rent-a-car services proposed to be enhanced by including all categories of vehicles used for transportation of persons For this purposes, separate tariff heading 9819.3000 has also been introduced under classification column.	16%
9816.000 and 98.17	Services provided by laboratories other than services relating to pathological or diagnostic test for patients.	Bill proposes to substitute the word "patients" with following expression: "exclusively for medical treatment purposes." The purpose of replacement is intended to provide clarity that exemption is available in respect of services provided for medical treatment purposes.	16%

A. New terms defined (Section 2)

Following new terms have been defined in the Bill:

1. Additional Commissioner
2. Appellate Tribunal
3. Non-banking financial institution (this definition already exists in Rule 67)
4. Taxpayer (This definition is of a clarificatory nature which provide that the service provider is a "taxpayer".)

B. List of services and taxable services [Section 3(6)]

A new subsection 3(6) is proposed to be inserted, whereby list of services specified under the First Schedule to the Act is not to be considered as final, and all the services mentioned in the Second Schedule, Rules and Circulars shall be taxable services. Moreover, the Bill empowers PRA to classify any service as taxable service through Rules and Circulars.

By virtue of this amendment, all services defined in Punjab Sales Tax on Services (Definition) Rules, 2012 would now be classified as taxable services. Further, PRA is now empowered to tax any service through Rules and circulars, without any need to include such service in the First Schedule or the Second Schedule.

C. Retention of records [Section 32(1)]

The Bill proposes to extend the record retention time from 5 to 6 years i.e. at par with section 24 of the Sales Tax Act, 1990 and section 174 of the Income Tax Ordinance, 2001.

This provision would be applied prospectively in our view i.e. for the period starting from July 1, 2015 and onwards. It is a settled principle, as also held by higher courts in number of cases,

that unless specifically stated otherwise, a change in law is applied prospectively where it is a substantive provision (e.g. creating financial liability or any obligation on the taxpayer), which is the case here.

D. Special audit by chartered accountants or cost accountants

[Section 34(1) and (3A)]

Presently, PRA can only appoint Chartered Accountant (CA) or a firm of CA or Cost and Management Accountant (CMA) or a firm of CMA for special audit of registered persons.

PRA has now been proposed to have the powers to appoint any person or a firm having expertise in forensic audit, in addition to CAs and CMAs, for the purpose of special audit or forensic audit.

Furthermore, a new section (3A) has been proposed to be inserted, whereby PRA can now conduct forensic or special audit in collaboration with its own officers, CAs, CMAs and other experts with other federal and provincial authorities.

This amendment is proposed to utilize the audit skills and expertise of CAs and CMAs which would facilitate PRA officers to conduct audit in a more professional manner.

E. Return [Section 35(6)]

At present, a registered person may, after obtaining prior permission from the Commissioner, file a revised return within 120 days of filing a sales tax return, to correct any omission or wrong declaration made therein and to deposit any amount of tax not paid or short paid. The Bill proposes furnishing of revised return subject to any conditions specified in the Rules. We understand that rules would soon be laid down for this purpose.

F. Offences and penalties [Section 48(2)]

Following amendments have been proposed:

S. No.	Offence	Penalty
1.	person required to be compulsorily registered under section 27 but is not registered	minimum penalty for a company will be Rs. 100,000; and for a person other than a company Rs. 50,000
2.	failure to produce the record or information despite receipt of a notice, without any reasonable cause	Rs. 25,000 for the 1 st default and Rs. 50,000 for each subsequent default
3.	obstruction in the performance of official duties of PRA	Higher of Rs. 25,000 or 100% of the tax payable for default period. Further, upon conviction by a special judge, imprisonment upto 1 year or with fine of Rs. 50,000 or with both may be imposed

G. Obligation to produce documents and provide information [Section 57(2) and (3)]

1. Officer may require information for general purposes of the Act [Section 57(2)]

The power of an officer is proposed to be increased for conducting an audit, enquiry or an investigation under the Act and the rules to require in writing any person to furnish such information as is held by that person. Presently, there is a requirement that information obtained should be relevant for the audit or investigation.

2. PRA's authorized officer may require information for policymaking [Section 57(3)]

Changes have been proposed in section 57(3), whereby an officer authorized by PRA would now be able to require any information that is required for purposes of formulation of policy or administering or implementing the Act and the rules. Currently, only PRA can require information for the purpose of policy making.

H. Prize schemes to promote tax culture (Section 88)

The Bill proposes to introduce novel concept for promoting tax culture in the province of Punjab, whereby general public will be rewarded with prizes on purchasing services from registered person(s) who issue tax invoices as prescribed under the Act.

This initiative may encourage public to acquire services only from registered persons. It would not only incentivize existing registered service providers but may also motivate unregistered service providers to get registered with PRA. Resultantly, tax-net may also be broadened. Such scheme would be implemented and prescribed by the approval of the Government.

I. Reward to Whistleblowers (Section 89)

The Bill proposes to introduce a new concept of Whistleblower through a newly proposed section 89 for rewarding persons who report concealment or evasion of tax or tax fraud leading to deduction or collection of the tax. PRA is empowered to prescribe and implement this reward scheme.

However, in the following circumstances, the claim of reward shall be rejected:

- The information provided is of no value;
- The authority already had the information;
- The information was available in public records; or
- No collection of tax is made from the information provided by a Whistleblower.

The term 'Whistleblower' is proposed to be defined as a person who reports concealment or evasion of tax or tax fraud leading to detection or collection of the tax.

The above provision is intended to attain better tax administration, which will induce persons to be tax compliant, and lower tax leakages and evasions.

Under the European laws, such rewarding schemes ensure that identity of Whistleblower is to be kept confidential for achievement of the objective of the provision.

The scheme is positive step but it should be ensured that it would not lead to misuse.

Stamp Duty Act, 1899

Currently stamp duty on transfer of Leasehold Immovable Property is applicable on the basis of value declared by transferor / transferee.

The Bill now proposes to levy stamp duty on the basis of rates as specified by the District Collector under Section 27-A of the Stamp Act, 1899.

Proposed amendments through the Khyber Pakhtunkhwa Finance Bill, 2015

The Khyber Pakhtunkhwa Finance Act, 2013

A. New services under First Schedule

Through the Khyber Pakhtunkhwa Finance Bill, 2015 (the Bill), no new services are brought to taxation under Khyber Pakhtunkhwa Sales Tax on Services Act, 2013 (the Act).

Following new services are made part of the First Schedule to the Act for classification purpose:

KPK Tariff Heading	Description of services
9809.0000	Printing services
9812.2600	Voice over IP services
9812.2700	Teleconferencing services
9812.2800	3G / 4G LTE services
9875.0000	Electric power transmission or distribution services

These services are likely to be taxed in future.

B. Powers to conduct Special Audit extended (Section 51)

As per the existing law, special audit can be performed by Chartered Accountants or Cost and Management Accounts. Scope of section 51 of the Act is proposed to be extended to provide powers to local or foreign consultants to conduct the forensic audit. As a result, foreign or local consultants having expertise in forensic audit may be appointed to conduct special audit in addition to Chartered Accountants and Cost Accountants.

C. Power of Government to exempt cess (Section 94)

As per the existing law, Khyber Pakhtunkhwa Authority is empowered to collect a cess for special maintenance and development of infrastructure for smooth and safer movement of goods entering or leaving the province.

A new provision has been proposed to be added in section 94 of the Act, whereby KPK Government is empowered to exempt any goods from levy of cess subject to specified conditions or restriction.

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