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Provincial Budget 2016 - Sindh

June 12, 2016

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PROVINCIAL BUDGET 2016 - SINDH

This Memorandum summarises salient features of the provincial budget and the Finance Bill presented in the Provincial Assembly of Sindh. All changes proposed through the Provincial Bill are effective July 1, 2016, subject to approval by the Provincial Assembly of Sindh.

Certain other Provincial laws which are already enacted are also summarised in this Memorandum.

This Memorandum can also be accessed on our website www.pwc.com/pk

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BUDGET AT GLANCE

Budget Financials

The following table sets out the Key Budget Financials:

	2016-17		2015-16 (Revised)	
	Rs. in million	%	***Rs. in million***	%
Federal Transfers	561,100	66	494,316	71
Provincial Taxes	154,013	18	125,279	18
Other receipts	139,387	16	77,076	11
Total Receipts	**854,500**	**100**	**696,671**	**100**
LESS:				
Revenue Expenditure	572,760	67	502,772	72
Provincial Annual Development Program	225,000	27	142,000	20
Other Expenditure	71,358	8	60,706	9
Total Expenditure	**869,118**	**102**	**705,478**	**101**
(Deficit)	**(14,618)**	**(2)**	**(8,807)**	**(1)**

SINDH FINANCE BILL 2016

SINDH SALES TAX ON SERVICES

General

There is no policy change in the existing Sindh Sales Tax regime except for proposed introduction of negative list concept (as described below). There has been an extension in the list of services chargeable to tax under the Provincial law.

The general rate of tax has been reduced from 14% to 13%. However, the reduced rate for certain services has been enhanced from 6% to 8%. These reduced rates were applicable with a condition that no input tax is allowed. It is proposed that for the purpose of input tax, under the Sindh Sales Tax Act, any sum in excess of 13% would be considered as inadmissible.

It has been stated in the Speech by the Provincial Finance Minister that with effect from December 1, 2016, there will be a paradigm shift in the manner of levy of sales tax on services. From this date, all services rendered, provided, initiated, originated or consumed in the Province of Sindh shall be subject to Sindh Sales Tax on Services unless they form part of a negative list which will represent services not liable to tax. This concept which in principle is a correct approach is however practically viable in an all-encompassing VAT regime (having one rate without any aberrations in the system). Such a recourse, in this fractured regime which is governed separately by Provincial and Federal authorities applying aberrations in the system will however lead to certain issues in the present context of levy of tax as there are certain overlapping activities and there would be issues in relation to 'composite supplies' which include goods as well as services. It is suggested that a coordinated approach be adopted in consultation with the Federal and other Provincial sales tax authorities to avoid conflicts which may lead to protracted litigation.

The Finance Minister has rightly highlighted the immediate correction required in the Federal Sales Tax Law for the allowability of provincial input tax against the Federal Sales Tax.

Revision in rate of Sales Tax

There is a proposal in the Sindh Finance Bill, 2016 to reduce the existing general rate of sales tax on services from 14% to 13%.

It has been mentioned in the budget documents that the rate of sales tax for telecommunication services presently chargeable to tax at 18% is proposed to be increased to 19%. Moreover, the reduced rate of 6% presently applicable on certain services is also announced to be increased to 8%.

Additions to the list of taxable services

Following services are proposed to be taxed effective July 1, 2016:

1. Chartered Flights within Sindh or originating from any airfield in Sindh.
2. Other Consultants including human resource and personnel development consultants in addition to existing category of tax consultants.
3. Public Relations services.
4. Cosmetic and plastic surgery services including hair transplant and similar services.
5. Visa Processing including immigration advisory services.
6. Debt Collection and other debt recovery services.
7. Supply Chain Management or distribution (including delivery) services.

The proposed amendment relating to levy of sales tax on 'Chartered Flight Services' needs to be examined in relation to Constitutional right of Provinces to levy taxes on inland and air travel.

Distribution of goods and supply chain management represent activity which is covered under the Federal Sales Tax Act. The charge of tax on such activity by the Provinces will require legal sanction which is apparently not available under the Constitution.

It appears that the proposed levy is restricted to delivery services (of goods) in relation to supply chain management and distribution activity.

For the purpose of taxing new services certain definitions are proposed in the Finance Bill, however, no definition has been proposed for distribution and supply chain management services.

Time period for Refund

Refund arising as a result of a claim of adjustments or deductions is proposed to be made on yearly basis in the month following the end of financial year. Previously no time period was prescribed for such claim.

Input tax credit not allowed

A new section 15A regarding inadmissibility of input tax has been introduced. Previously, such procedure was prescribed in Rule 22A of the Sindh Sales Tax on Services Rules, 2011.

Following specific restrictions have inter alia been placed on the admissibility of input tax:

1. The amount of sales tax paid on the telecommunication services in excess of 19% and the amount of sales tax paid on other taxable goods or services in excess of 13%.

2. Goods or services procured or received by a registered person during a period exceeding six months prior to date of commencement of the provision of taxable services by him.

Joint and Several Liability where tax is unpaid

The liability for charge and recovery which was earlier limited to services received by a registered person has now been extended to all persons including unregistered persons receiving such services.

This would effectively mean that the objective of this amendment is to remove the immunity which was deemed to be applicable for the reason that a person receiving the taxable service was unregistered at the time of incidence of tax.

Sale of taxable activity as a going concern

In the case of transfer of taxable activity as a going concern, the tax incidence lies on the transferee whenever the services are rendered.

A proviso has been added whereby in the case of any tax unpaid at the time of transfer, the same shall have the first charge on the assets of the business and the person buying and selling the business shall be jointly and severally liable for such tax.

Revision of period of limitation for certain actions under Sales Tax Act

The limitation of time period for undertaking the following actions under the Sindh Sales Tax Act, 2011 is proposed to be revised from 5 to 8 years:

(i) Issuance of show cause notice for recovery of tax under sections 23 and 47 in certain specified circumstances.

(ii) Retention and production of records and documents.

Recovery of tax short / not withheld

Recovery procedure of tax short or not withheld by a withholding agent has been made part of the law. Now, recovery for tax short or not withheld can be made from the withholding agent.

Separate Return in case of change in rate

Requirement for separate return in case of change in rate of tax during a tax period is proposed to be withdrawn.

Exemption threshold for certain services enhanced

It has been announced that a minimum annual threshold for the levy of sales tax on certain services as prescribed under Notification No. SRB-3-4/7/2013 dated June 18, 2013 will be enhanced from Rs 3.6 million to Rs 4 million per annum.

The services included are Restaurants and Caterers, Beauty Parlors / clinics and slimming clinics, auto workshops, workshops for electric or electronic equipment and automobile washing, laundries and drycleaners.

Exemption for internet and broadband services

The exemption threshold provided under the Notification No. SRB-3-4/7/2013 dated June 18, 2013 for the internet and broadband services has been proposed to be enhanced as under:

Existing	Proposed
2 mbps speed and Rs 1,500 per month per user	4 mbps speed and Rs 2,500 per month per user

STAMP DUTY

The Sindh Finance Bill, 2016 propose to increase the rates of stamp duty on certain documents including Bill of Entry, Bill of Exchange and Power of Attorney.

SINDH URBAN IMMOVABLE PROPERTY TAX ACT, 1958

The Sindh Urban Immovable Property Tax Act, 1958 ('1958 Act') imposes tax on the immovable properties in an urban area. The Sindh Finance Bill, 2016 proposes to amend the 1958 Act with the following provisions:

1) A rebate equal to 5% percent of the amount of annual tax for a financial year be allowed on the annual rental value of buildings and lands. The rebate is proposed to be allowed subject to the condition that the amount of annual tax is paid in lump sum on or before the 30th day of September of the respective Financial Year.

2) Imposition of surcharge @ 10% in the event of default in payment of tax imposed under the 1958 Act.

INFRASTRUCTURE CESS

A schedule has been prescribed for the levy of Infrastructure cess. Under the revised Schedule, the levy of such tax will be based on the weight of imported goods starting from 1,250 KG to those exceeding 16,000 KG.

This cess is presently charged on a composite basis having relation with the value assessed by the Customs authorities and a cess based on the weight of the goods.

Now, the rate in relation to the value of goods has been revised upward and a charge on the basis of weight being 1 paisa per Kilometer has been related to the distance covered within the province.

OTHER ENACTED LAWS IN SINDH

SINDH COMPANIES PROFITS WORKERS' PARTICIPATION ACT, 2015

The Government of Sindh, in exercise of powers conferred under the Constitution, has enacted the Sindh Companies Profits (Workers' Participation) Act, 2015, **(the 2015 Act)** which is deemed to be effective from 2011**.** The practical application of retrospective legislation needs to be examined in relation to the Companies which have already discharged the liability under Federal Law for a period from July 1, 2011 to the date of enactment of this 2015 Act.

Earlier, Sindh WWF Law has already been enacted under the similar Constitutional Powers.

Now, both WPPF and WWF have been enacted under the Provincial legislations of Sindh which effectively means that for workers and establishment situated in Sindh, the Federal law will not be applicable and the levy shall be required to be paid under the Scheme prescribed under the Sindh Acts. However, corresponding amendments are required to be made in the Income Tax Ordinance, 2001 to expressly provide for the admissibility of contributions under the Provincial WWF and WPPF laws as well as to exempt the receipts of workers under the Provincial WPPF Scheme.

Under the present WPPF regime, 5% of profits is allocable to workers. There is a mechanism for distribution to the workers and the excess over the mechanism is deemed to be a payment to WWF.

The rate of profit allocation to workers under the Sindh Act is also 5% in line with the Federal legislation. As per the WPPF Act, the excess over the profit allocable to workers under the Scheme shall have to be transferred to Federal WWF. This matter needs to be examined as there is now a Provincial WWF in place.

The levy is, in principle, based on the entities being a company formed under the Federal legislation namely viz. the Companies Ordinance, 1984. It is considered that a mechanism / procedure would have to be prescribed for allocation / attribution of profits or workers to which this Provincial levy will be applicable in case the operations and organisation of the company is not limited to the Province of Sindh.

The general scheme of the 2015 Act is similar to the Companies Profits (Workers' Participation) Act, 1968, **(the 1968 Act)** however, there are very few important deviations as under:

(i) **Eligibility:** Companies employing 50 persons were required to establish a Workers Participation in Profits Fund (WPPF) under the 1968 Act of Federation. This limit prescribed under the 2015 Act of Sindh is 100 persons.

(ii) **Workers:** The definition of "Worker" has been extended to include workers employed by the contractor. "Worker" in relation to a company is defined to mean an employee of the company, including employed by or through the contractor, who falls within the definition of the worker as defined in Clause (xxx) of section 2 of the Industrial Relations Ordinance, 2002, and has been working for or in the company for a period of not less than six months.

(iii) **Disbursement of Benefits:** The wage categories for the disbursement of benefits to the workers have been proposed to be amended as follows:

(a) Workers drawing average minimum monthly wages as fixed by the Government from time to time.

(b) Workers drawing average minimum monthly wages as fixed by the Government from time to time but not exceeding Rs. 20,000.

(c) Workers drawing average minimum monthly wages exceeding Rs. 20,000.

Previously, the categories for disbursement of benefits were as follows:

(a) Workers drawing average monthly wages not exceeding Rs. 5,000

(b) Workers drawing average monthly wages exceeding Rs. 5,000 but not exceeding Rs. 7,500

(c) Workers drawing average monthly wages exceeding Rs. 7,500 but not exceeding Rs. 10,000

(d) **Maximum Share:**

Furthermore, the maximum share a worker can receive is proposed to be four times of the minimum wages for unskilled worker as given in the Schedule of Minimum Wages for Unskilled Workers Ordinance, 1969.

(e) **Applicability of Law:**

The Scheme applies to all companies which are engaged in Industrial undertakings as defined in the Schedule to the Act which is primarily in line with those covered by 1968 Act.

SINDH EMPLOYEES' SOCIAL SECURITY ACT, 2016

Sindh Employees Social Security Act, 2016, has been enacted to introduce a scheme to provide benefits to employees or their dependents in the event of sickness, maternity leave, injury or death.

Previously, this matter was dealt by the Federal legislation.

The benefits provided for in the new legislation are imported from the Federal law.