



Punjab Sales Tax Memorandum 2018

Preface

This tax memorandum summarizes crucial changes proposed in Punjab Finance Bill 2018 with respect to Punjab Sales Tax Laws.

The tax memorandum contains the comments, which represent our interpretation of the legislation. We, therefore, recommend that while considering their application to any particular case, reference be made to the specific wordings of the relevant statute(s).

The memorandum can also be accessed on our website www.shekhamufti.com

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Highlights

- ❑ Life insurance and health insurance exposed to sales tax.
- ❑ Definition of “Economic Activity” amended to include the supply of immovable property
Letting out of storage space by warehouses is also subjected to tax.
- ❑ Time period for retention of record and assessment increased to 8 years.
- ❑ Sales Tax imposed on Parking Services, Rent collection, toll or fee & regulatory fee collection, Cash on Delivery service provided by Courier / Cargo companies to online selling websites.
- ❑ Tax rate for inter-city transportation services reduced to 15%. Transportation undertaken by an individual vehicle owner is now taxable.
- ❑ Government construction projects to attract 5% sales tax.
- ❑ Commissioner PRA empowered to seal business premises for one month.
- ❑ Video vigilance of service providers’ premises, monitoring / tracking of economic activity through electronic means now possible.

KEY AMENDMENTS

Commission & Commission Agents

[Section 2(9A) & 2(9B)]

The Finance Bill seeks to introduce definitions of terms “Commission” and “Commission Agents” covering all type of activities to be treated as “Commission” which are usually undertaken by a person on behalf of other person in relation to buying or selling goods or services. However, any professional services provided in this respect have been expressly proposed to be excluded.

It is pertinent to note that Brokerage & Indenting Services are already taxable under the Punjab Sales Tax on Services Act 2012 (the Act). The purpose of introducing the subject definitions appear to clarify and, to some extent, enlarge the ambit of sale tax on commission.

Economic Activity

Sections 6

The Bill aim to include the activity of supply of immovable property by way of lease, license or other similar arrangement as economic activity and accordingly bringing same under the scope of the Act being “service”. This amendment has been proposed to provide due legal backing which was necessary in case of taxation of immovable property. Under Sindh Sales Tax Laws, such an amendment was introduced after the Sindh High Court had rejected sales tax on immovable property preciously because it was not covered as an ‘economic activity’ under the Sindh Sales Tax Laws.

Though the Bill has not introduced any sales tax on renting of immovable property which was done in Sindh Sales Tax Laws few years back. However, the Tariff Heading of ‘Warehouse Storage Services’ has been amended to include mere letting out storage space as a taxable service.

We understand that the issue whether the transfer of right to use an asset including immovable property can treated as “Service” is *subjudice* before Honorable Supreme Court of Pakistan. Until such matter is resolved by the apex court, the proposed taxation is likely to provoke litigation, this time in Punjab.

Time, manner and mode of payment

Section 18

The Bill proposes to substitute the provisions of Section 18(1) with a non obstante clause whereby notwithstanding anything to the contrary contained in the Act or any other law for the time being in force, tax in respect of a taxable service provided during a tax period shall be paid by a person at the time of filing the return in respect of that period under Chapter VI thereof.

Compulsory Registration*Sections 27*

The Bill seeks to empower Commissioner Punjab Revenue Authority (PRA) for compulsory registration of a person. Presently such power is vested in PRA.

Retention and production of records & recovery of tax not levied or short-levied*Section 32 & Section 52*

The Bill proposes to enhance the requirement of maintaining records keeping and documents from Six (06) to Eight (08) years. Likewise, time frame for service of show cause notice and assessment has also been enhanced from Five (05) years to Eight (08) years.

We understand that the amendment has been proposed to extend the time limit for assessment of tax for tax year 2012 and onward. However, the apex court have already held that such amendment in law is to be applied prospectively.

Power to Seal the premises*Section 59A*

The Bill proposes to insert new Section 59A to empower Commissioner PRA to seal the business premises of the service providers' upto 1 month where he has reasons to believe that the Act and the Rules made thereunder are not being complied with.

We understand the subject proposition is too harsh and subjective in nature. It could mean that taxpayers' premises may also be sealed on trivial matters or matters of interpretational differences between PRA and taxpayers.

Monitoring or tracking by electronic or other means*Section 59B*

A new Section 59B is proposed to be inserted whereby PRA has been empowered to specify by notification in official gazette registered person or class of registered persons or any of the services or class of services in respect of which monitoring or tracking of provision of service or services may be implemented through electronic or other means. PRA may impose any condition or restriction or devise any procedure, as it deems fit, in this regard.

PRA would also be able to devise and implement an electronic system for monitoring and capturing the transactions recorded or the invoices issued by a registered person or a class of registered persons or a service or services or class of services, and transferring the information, obtained by such monitoring or capturing of transactions or invoices, to the computer systems of the Authority on real time basis or otherwise.

PRA would also specify the date wherefrom the persons providing or rendering taxable services shall compulsorily use such electronic means or systems, including fiscal cash registers for issuance of tax invoice.

Further, proposed Section also provides that Commissioner PRA may also enforce video vigilance of economic activity of a registered person or class of registered person, as and when required by him. We understand such surveillance or monitoring may cause litigation if adequate steps are not taken by PRA to safeguard the security of data or the videos.

Reference to High Court

Section 67(A)

The Bill seeks to insert new Section to allow for filing of reference application to the High Court on question of law arising out of judgment of Appellate Tribunal in line with other tax laws.

NEWLY TAXED SERVICES

S. No	Taxable Services	Tariff Heading	Rate
63	Parking Services	Respective Heading	16%

CHANGE IN SCOPE OF EXISTING TAXABLE SERVICES

S. No	Services	Proposed Amendments / Modifications
4	Courier Services	Cash collection services under Cash on Delivery Basis online selling by websites or otherwise is proposed to be covered as part of taxable courier service.
7	Insurance services	Exclusion provided for life insurance and health insurance is proposed to be withdrawn. Under Sindh Sales Tax Laws, group health services are already taxable. However, life insurance is still exempt from Sindh Sales Tax.
14	Construction Services	Reduced rate of 5% without input tax credit / adjustment is proposed for Government civil works. Services not rendered for Government Projects will attract 16% Sales Tax with input credit / adjustment facility.
24	Services provided by other consultants	Provision of space, equipment, accessories and other allied services with respect to Conventions, Exhibitions, etc. now exposed to Sales Tax.
48	Services provided by person for intercity carriage of goods by rail or road	Exemption previously available to inter-city transportation undertaken by an individual owner of a vehicle for carriage of goods has proposed to be withdrawn. Further, rate of Sales Tax thereon has been reduced to 15% from existing 16% in line with MOU executed among provinces vis.a.vis transportation services.
56	Debt collection	Rent collection and other collection services including right to collect the toll or fee or regulatory fee or duty have now been brought under the tax net.
61	Services of warehouses or depots for storage	Letting of space for storages has been taxed. However, storage of agricultural produce for the person's own consumption shall remain exempted from sales tax.

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