



KPMG Taseer Hadi & Co.
Chartered Accountants

Amendments in provincial tax laws 2021

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Preamble

The Provincial Assemblies of Punjab, KPK and Balochistan approved the respective Finance Bills 2021 with certain amendments proposed therein and after the assent of the Governor of respective Provinces, the Finance Acts, 2021 have been enacted.

This publication contains a review of changes made in various indirect taxation laws of Punjab, KPK and Balochistan through respective Finance Acts, 2021.

This document contains comments, which represent our interpretation of the legislations. We recommend that while considering their application to any particular case reference be made to the specific wordings of the relevant statute.

This publication is also available on our website.

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Punjab Sales Tax on Services Act, 2012

Significant Amendments

The Punjab Government presented the Bill on 14 June 2021 which was approved by the Provincial Assembly on 25 June 2021 and assented by the Governor on 30 June 2021 with a continuous support of tax relief measures including tax relief package of Rs. 50 bn due to Covid – 19 impact on economy.

Major new tax initiatives include:

- Reduction in sales tax on various services.
- Reduction in motor vehicle tax rate by 75% for electric vehicles to promote a green environment.
- Repeal of Punjab Entertainment Duty Act, 1958.

Active taxpayer defined

Section 2 clause (1)

The Act has introduced the definition of “active taxpayer” to mean a registered person:

- whose registration has not been suspended or blacklisted by the Authority; and
- who has filed his tax return for at least one of the preceding three consecutive tax periods;

Standard rate defined

Section 2 clause (41A)

The Act has introduced the definition of standard rate which is sixteen percent (16%).

Option to charge tax at standard rate introduced

Section 10A

The sales tax on services operates on VAT mode, however where the sales tax rate on chargeable

services is below the standard rate, input tax adjustment is not allowed.

The Act has inserted a new section 10A through which a registered person, with the permission of the Authority, can opt for standard rate where the said person is providing / rendering the chargeable services at reduce rate subject to such conditions, restrictions and limitation as may be specified by the Authority.

It is further provided that the aforesaid permission is irrevocable except where exemption is allowed by the Authority.

It is further clarified that the Authority will withdraw the permission granted, after providing opportunity of being heard, in case the registered person misuses the option.

This is a welcome amendment and provide facilitation to the registered person to opt or not to opt applicable sales tax regime according to their business need.

Offence and penalties – new entry introduced

Section 48

Section 48 prescribe penalties for various offences mentioned in the said section.

The Act has introduced entry 21 in section 48 whereby a registered person shall be liable to pay a penalty of Rs. 10,000 per invoice or 10% of invoice amount whichever is higher in relation to an offence of charging excess sales tax rate as against provided in the Second Schedule.

Decision in appeal

Section 65

Section 65 inter-alia provides the manner in which the appeal filed with the Commissioner (Appeals) could be decided through an order.

Sub section 7 of section 65 provides that where the Commissioner (Appeals) has not made an order

within 180 days from the end of the month in which the appeal was lodged, the Commissioner (Appeals) shall transfer his appeal to the Appellate Tribunal and the Tribunal shall decide the appeal as if it has been filed against the order of the Commissioner (Appeals).

Sub section 8 of section 65 provides that the Commissioner (Appeals) shall attach his comprehensive report explaining the circumstances and reasons due to which the appeal could not be decided within time.

The Act has omitted the sub sections 7 & 8 of section 65.

Amendments in Second Schedule

New category of insurance agent and insurance broker introduced - Serial No. 7

Presently, services provided by insurer and re-insurer are chargeable to sales tax under serial no.7 of the Second Schedule.

The Act has inserted the new category of insurance agent and insurance broker under the aforesaid serial No.

The existing and revised rate of serial no. 7 is given below:

S. No	Description	Old rate	New rate
7	Services provided in respect of insurance to a policy holder by an insurer, including a re-insurer for: (a) fire insurance; (b) goods insurance;	(a) Zero % without input tax adjustment for Health insurance for individuals; (b) 16 % of gross Premium paid, for others.	(a) Zero % without input tax adjustment for Health insurance for individuals; aa) 5% for insurance agent and insurance broker b) 16 % of gross Premium paid, for others.

S. No	Description	Old rate	New rate
	(c) health insurance; (d) life insurance; (e) marine insurance; (f) theft insurance; and (g) any other insurance. EXCLUDING: (a) marine insurance for export; and (b) crop insurance		

Payment through mobile wallet & QR scanning also allowed reduced rate – Serial No. 11

Hitherto, services provided by restaurant including café, foods etc. is chargeable to sales tax at 5% without input tax adjustment provided payment of these services is received through debit or credit card. In other cases, 16% sales tax would apply.

The Act has extended the payment scope to include mobile wallets or QR scanning in its ambit to avail the benefit of reduce rate of 5% sales tax.

Brokerage / commission in respect of home chef allowed reduced rate - Serial No. 40

Previously, brokerage (other than stock) and indenting services including commission agents, under-writers and auctioneers is chargeable to sales tax at standard rate i.e.16% with an exception of chargeability of 5% (without input tax adjustment) in case of services provided for agricultural produce.

The Act has added brokerage / commission services in respect of Home Chef under the ambit of sales tax through insertion in serial No. 40 at the rate of 5% subject to no input tax adjustment.

Sales tax reduced on call center services - Serial No. 41

Previously, the call center services are chargeable to sales tax at 19.5%

The Act has reduced the sales tax rate on call center services from 19.5% to 16%.

Services provided for inland carriage of goods - Serial No. 48

Previously, the serial No. 48 limits the scope of taxable services to inter-city carriage of goods though rail or road.

The Act has widened the scope of above entry by omitting the term "inter-city", meaning thereby that both intra city and inter city services pertaining to carriage of goods fall under the ambit of sales tax.

Reduction in sales tax rate

The Act has reduced sales tax rates on various services tabulated as follows:

S. No	Description	Old rate	New rate
18	<p>Services provided for personal care by beauty parlors, salons, clinics, sliming clinics, spas (including saunas, Turkish baths and Jacuzzi) and similar other establishments.</p> <p>EXCLUDING:</p> <p>Services provided in a parlour, salon or clinic where the facility of air-conditioning is not installed or is not available in the premises on any day of the financial year.</p>	<p>(a) 5% without input tax adjustment where payment against services is received through debit or credit cards</p> <p>(b) 16% for others.</p>	<p>5 % without input tax adjustment.</p>
33	Services provided by fashion designers including use of brand name, logo or house mark (whether or not registered) in the manufacturing or trading of products whether relating to textile, leather, jewellery or other product regimes including allied services such as cutting,	16%	5 % without input tax adjustment.

S. No	Description	Old rate	New rate
	stitching, printing, manufacturing, fabrication, assembly, embellishment, adornments, display (including marketing, packing and delivery etc.		
34	Services provided by architects, town planners, landscapers, landscape designer, and interior decorators and interior designers	16%	5 % without input tax adjustment.
44	Services provided by laundries and dry cleaners.	16%	5 % without input tax adjustment.
50	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%	5 % without input tax adjustment.
61	<p>Services provided by warehouses or depots for storage or cold storages including letting of space for storages.</p> <p>Excluding:</p> <p>Storage of agriculture produce for the person's own consumption.</p>	16%	5 % without input tax adjustment.
64	Dress designing and stitching services.	16%	5 % without input tax adjustment.
65	Rental of bulldozers, excavators, cranes, construction equipment, Scaffolding, framework and shuttering, generators, storage containers, Refrigerator, shelf or rack renting, etc.	16%	5 % without input tax adjustment.

New service introduced

Entertainment services - Serial No. 70

The Act has introduced entry 70 whereby entertainment services in relation to cinemas, theatres, concerts, circus, sports events, races, "adjustment" film, fashion shows and mobile stage shows are to be taxed at zero% without input tax adjustment.

Punjab Motor Vehicle Taxation Act, 1958

The Act has withdrawn reduction by 75% in motor vehicle tax on ten years old motor vehicles and introduced the above reduction of tax on electric motor vehicles till 30 June 2022.

The Act has introduced following relief measures with respect to Punjab Motor Vehicles Tax for financial year 2021-22:

- discount equal to five percent of the tax being paid shall be allowed on payment of tax through e-payment system;
- following are the relaxation introduced for financial year 2021-2022 from imposition of penalty:

Section	Previous Penalty	Revised Penalty
9	Penalty to the extent of twice amount of tax as per the schedule.	<ul style="list-style-type: none"> i. 10% rebate if paid in first quarter. ii. If paid in second quarter amount of annual tax without any rebate. iii. if paid in third and fourth quarter amount of annual tax with the penalty of twice the amount of tax as per the schedule.

Punjab Finance Act, 1977

Serial No. 3 of Second Schedule

Tax on persons engaged in professions, trades, callings or employments is charged with reference to Second Schedule of Punjab Finance Act, 1977.

The Act has substituted serial No. 3 of the Second Schedule of Punjab Finance Act, 1977. However, we have noted that the substituted entry is similar to existing entry which appear to be a mistake and may be rectified in the Act.

Just for sake of comparison, old and new rates under serial No. 3 is tabulated below:

S. No.	Class of Persons	Rate of Tax	
		Old	New
3	Persons other than companies owning commercial establishments having 10 or more employees		
i.	a) Within Metropolitan and Municipal Corporation limits	6,000	6,000
	b) Others	4,000	4,000
ii.	All other commercial establishments other than wholesalers and retailers	2,000	2,000

Serial No. 6 of Second Schedule

The Act has substituted the term "Motor Car" with the term "Motor Vehicle" in category (vii) sub-category "d" of serial No. 6 of the Second Schedule relating to tax on Motor Car Dealers.

There is no change in the rate of tax, however, apparently the above amendment will increase the scope of chargeability of tax on dealers pertaining to vehicles other than cars.

Serial No. 11 of Second Schedule

The Act has introduced a new entry i.e. entry 11 in the Second Schedule wherein a tax of Rs. 200 has been levied on every person who is engaged in trade, calling or employment and was assessed to pay income tax during the preceding financial year.

Punjab Infrastructure Development Cess Act, 2015

Goods being exported from Punjab and goods manufactured, produced or consumed in Punjab are exempt from levy of Punjab Infrastructure Development Cess. The Act has introduced exemption from levy of Punjab Infrastructure Development Cess on goods exempted by Federal Government from payment of duties and taxes for import.

Punjab Urban Immovable Property Act, 1958

The Act has introduced following relief measures with respect to Punjab Urban Immovable Property Tax for financial year 2021-22:

- discount equal to five percent of the tax being paid shall be allowed on payment of tax through e-payment system;
- option has been provided to assessee to pay tax on yearly basis or half yearly basis or such later date as Government may determine;

— following are the relaxation introduced by the Act for financial year 2021-2022 from imposition of surcharge / allowing rebate:

S. No.	Section	Previous surcharge	Revised rebate / surcharge
3	12(3)	Late payment surcharge at one percent on monthly basis from 31 October of the financial year.	i. 5% rebate if paid in first quarter. ii. If paid in second quarter amount of annual tax without any rebate. iii. if paid in third and fourth quarter amount of annual tax with one percent monthly surcharge on gross amount of tax payable.

Khyber Pakhtunkhwa Finance Act, 2013

Option for standard rate taxation

Section 26A of the KP Finance Act [the KP Act] allows an option to the registered persons providing taxable services, chargeable otherwise at reduced rate of sales tax, to opt for payment of sales tax at standard rate or general rate with input tax adjustment. Exercise of the option is subject to permission by KP Revenue Authority [the Authority] to this effect. Every such permission is effective from the date mentioned therein and subject to such conditions, restrictions and limitations as may be specified by the Authority in this behalf. Reverting to reduced tax regime is also subject to approval of the Authority, which may conduct or cause to conduct such enquiry or audit as it may deem necessary to ascertain the genuineness of the request.

The Act has inserted a proviso to section 26A (1) to authorize Companies to exercise the option for payment of sales tax at standard rate system merely by intimating the Authority at least one month in advance. However, reverting to the reduced tax regime is made subject to approval of the Authority, as aforesaid.

Withholding agent defined and made personally liable for compliance

The Authority has the power to propose a special procedure for payment of tax, registration, book-keeping, invoicing or billing requirements, returns and other related matters in respect of any service or class of services. Further, the KP Act requires any person or class of persons whether registered or otherwise, to withhold full or part of tax charged on provision of taxable services, and to deposit the tax so withheld with the Government within such time and manner as specified in the official gazette.

The Act has inserted a new sub-section (3) to section 30 to provide that where a person has been or is required to act as a withholding agent, he shall be personally liable to withhold and deposit the due tax. In case of failure on his part to do so, it shall be his personal liability to pay such due amount of tax along with default surcharge and penalty under the KP Act. Any such amount of tax, including default

surcharge and penalty, if not paid, may be recovered from such person under section 87 of the KP Act.

This Act has therefore brought withholding agents at par with those entrusted with the withholding tax liability in other laws, like income tax.

Adjustment of tax paid with other authorities

Section 32 authorizes the Authority to allow the registered persons to claim adjustments or deductions, including refunds in respect of the tax paid under any other law i.e., input tax paid to the Federal Board of Revenue or any provincial tax, on any account in respect of any taxable service or goods or class of taxable services or goods provided by them.

The Authority may adopt the principles or concepts laid down in such other law in respect of adjustments, deductions or refunds including zero-rating principle. No adjustment or deduction of any tax payable under any other law is claimable by any person except in the manner and to the extent specified in the notification issued by the Authority.

The Act has inserted proviso to section 32 (3) to stipulate that input tax adjustment or refund shall be allowed to the extent and from the date mentioned in the notification issued by the Authority and if no such date has been specified, the date of coming into effect of such notification shall be deemed to be the specified date for this purpose.

Joint and several liability in case of tax unpaid

Section 35 prescribes joint and several liability of the person receiving and the person providing taxable service for payment of the amount of tax involved in a transaction.

The Act has inserted definition of 'withholding agent', in terms of section 2(57) of the Act, to mean any person who, as a recipient of taxable service or otherwise, withholds or deducts and pays or deposits tax directly to the Government in the manner as may be prescribed.

Additionally, the Act has inserted the term 'a person' to include a withholding agent also to be liable for any amount of tax unpaid. An explanation is also inserted to make a registered person or a person to take all possible measures to ensure that the person from whom taxable services are received, deposits the due tax in relation to a transaction, in the manner as provided under the KP Act.

Assessment of tax

Section 40 prescribes the way assessment proceedings can be conducted against a taxpayer. Where on the basis of any information acquired during an audit, inquiry, inspection or otherwise, an officer of the Authority is of the opinion that a registered person has not paid the tax due on taxable services provided by him or has made short payment for any reason including inadmissible adjustment of input tax, an officer of the Authority shall make an assessment, or further amendment to the assessment, of the tax actually payable by that person and shall impose a penalty and charge default surcharge in accordance with sections 64 and 65 after affording proper opportunity of being heard through a show-cause notice. Such a notice could be issued within five (05) years from the end of the tax period to which it relates. The time limitation for passing the assessment order is prescribed at one hundred and twenty (120) days from the date of issuance of the notice. In computing the period of 120 days, any period during which the proceedings are adjourned on account of a stay order or proceedings with the Alternative Dispute Resolution Committee, or the time taken through adjournments by the person shall be excluded.

Adjournments otherwise ordered by the officer for any bona fide or genuine reasons or factors beyond normal control of the person, on the date fixed for hearing' shall also be excluded while computing the period of 120 days through an amendment made by the Act in section 40.

No time limit was provided in the law for passing an order against a withholding tax agent who defaulted in making compliance with the

withholding tax provisions, which resulted in hardships to the taxpayers. The Act has applied the same time limits to these proceedings as applicable to the assessments.

The Act has inserted the following explanations of the instances to which provisions of section 40 apply.

— **Explanation- I:** In case, if a registered person receives or collects sales tax from recipient of taxable services but the collected amount has not been paid, or has been short paid due to short receipt, collection or due to inadmissible adjustment of input tax.

Where non-payment or short payment of tax is attributable to intention, collusion, abetment, deliberate attempt, misstatement, fraud, forgery, false or fake documents, the Act has applied the provisions of section 68(2) of the act.

— **Explanation- II:** The term 'audit' based on which assessment can be conducted by the Authority includes departmental audit, external audit, special audit or any other scrutiny of records, facts and tax affairs in any manner, style or mode, resembling audit or appearing like audit.

— **Explanation- III:** 'Non-paid' or 'short-paid' amount of sales tax includes non-deposit or short-deposit of non-withheld tax or withheld tax to the Government by the person receiving services as a withholding agent.

Offences and penalties

Like all other taxation laws, the Act provides for imposing penalty for contravention of its provisions in section 64.

The Act has inserted provisions to penalize a person or class of persons whether registered or not, and requires withholding in full or part of tax charged, for non-observance of the following requirements:

— To make an application for registration.

- To furnish a return within the due date.
- To deposit the amount of the tax due or any part thereof in time and manner laid down under the KP Act or the rules.
- To maintain records required under the KP Act or the rules.
- To produce any record that is required to be maintained under the KP Act or the rules made thereunder, or furnish any information required to be furnished under the KP Act or the rules made thereunder, when a notice in this respect is received from the Authority or any officer of the Authority with direction to produce such records or furnish such information.
- To allow access to an authorized officer to business premises, registered office or to any other place where records are kept, or otherwise refuses access to accounts or records.

The Act has inserted provisions to impose penalty equal to twenty-five thousand rupees or more to the above person who commits, causes to commit or attempts to commit tax fraud, or abets or convinces in commission of tax fraud.

Computation of rate of default surcharge

Section 65 prescribes levy of default surcharge for non-payment or part payment of tax due within the stipulated time in the manner specified under the KP Act.

Clause (a) to sub section 1 provides that the rate of default surcharge for a person liable to pay amount of tax or charge shall be the inter-bank rate plus three percent per annum of the amount of tax due.

Clause (b) to sub section 1 provides the rate of default surcharge for a person committing tax fraud shall be two percent per month of the amount of evaded tax.

The Act has now prescribed methodology in case of applicability of clause (a) for computation of monthly rate of default surcharge by using quarterly average of inter-bank rate as announced, certified by or obtained from State Bank of Pakistan. It has also clarified that the rate of default surcharge shall not be compounded for any of the cases mentioned above and that default surcharge is to be prorated over the number of days in the relevant month in which payment is made by the defaulting person.

Enhancement of time period for issuance of show cause notice

Section 68 provides for recovery of tax not levied or short levied due to inadvertence, error, misconstruction or any other reason within a period of three years.

The Act has enhanced the period for issuance of show cause notice in the event of short levy or non-levy of sales tax from 'three' years to 'five' years. It has further removed capping of thirty days' adjournments requested during the proceedings by the taxpayer.

Decision in appeal

Section 81 provides the manner in which the appeal filed with the Collector (Appeals) could be decided through an order. It further provides that in deciding an appeal, the Commissioner (Appeals) may make further inquiry and shall in no case remand any matter for *denovo* consideration.

The Act has authorized the Collector (Appeals) to remand a case for *denovo* consideration in special circumstances for which reasons and purposes are to be recorded by him in writing.

Recovery of arrears of tax

Section 87 provides for recovery of tax due from any person through various mechanisms by an officer of the Authority not below the rank of Assistant Collector.

The Act has provided powers to the officer of the Authority to recover amount of tax due directly from the person who is holding or is otherwise in custody of any money, whether owned by or payable to the defaulter. These powers are *peri materia* to the provisions of the Income Tax Ordinance, 2001.

Amendments in Second Schedule

Reduction in tax rate

The Act has prescribed reduction in tax rate for the following services without input tax adjustment:

Sr. No.	Description	Old rate	New rate
1.	Services provided or rendered by clubs and local non-corporate stand-alone hotels.	15% with input tax adjustment	8% without input tax adjustment
1.	Non-corporate sector hospitality businesses, including hotels, guest houses, rest houses, lodges, restaurants and similar other accommodations and food serving businesses, located in the tourist spots of Galiyat and Kaghan Valleys.	15% with input tax adjustment	5% without input tax adjustment, subject to the compliance to all such conditions and procedures, as may be prescribed by the Authority, in this behalf.
6.	Advertisements on or through print media of all types and forms.	5% without input tax adjustment	1% without input tax adjustment
9.	Stand-alone car wash services	2% without input tax adjustment	1% without input tax adjustment

Sr. No.	Description	Old rate	New rate
16.	Leases (including re-leasing by the lessees) and licenses (including sub-contracting or license usage permissions by license holder) granted or fees and royalties, received by Government Departments, or as the case may be, by the lessees or licensees. Provided that no tax shall be demanded in case of the charges for such leases, licenses, fees or royalties etc., received up to 30th June, 2021, if tax thereon has not been already withheld, paid or recovered (no refund or waiver of any such tax amount shall be admissible under any circumstances)	15% with input tax adjustment	2% without input tax adjustment
20.	Cinematographic production, photographic services, recording services and telecasting or broadcasting services	2% without input tax adjustment	1% without input tax adjustment

Sr. No.	Description	Old rate	New rate
27.	Cold storage services (including other forms of warehousing of agriculture produce) regardless of their corporate or non-corporate status.	10% without input tax adjustment	1% without input tax adjustment
34.	Services provided or rendered by underwriters including sponsorship services.	2% without input tax adjustment	1% without input tax adjustment
36.	Services provided or rendered by auctioneers.	2% without input tax adjustment	1% without input tax adjustment
39.	Services provided or rendered in respect of quality assurance, quality control, quality inspection (including pre-inspection), quality verification or certification including verification or certification of quality or standards under ISO regime.	2% without input tax adjustment	1% without input tax adjustment
44.	Services relating to or in respect of the installation, erection, commissioning or other permanent structure-affixed/ linked/ tied placement (whether full or in	2% without input tax adjustment	1% without input tax adjustment

Sr. No.	Description	Old rate	New rate
	part) of any industrial, mechanical or electrical plant, machinery or equipment (excluding installation of domestic equipment etc. for residential use).		

Tax exemptions

The Act has exempted the below mentioned services from levy of sales tax:

- Under serial No. 10, full exemption is granted on or in respect of franchises relating to the services in the field of health and education;
- Under serial No. 14, the following construction services are exempted from tax:
 - a. Such portion or portions of the construction work of the projects of Public Sector Development Programme (PSDP), as were undertaken and completed before 30th June 2021, regardless of the dates of their approval or initiation; and
 - b. Construction services, including allied works, provided or rendered in respect of low-cost housing projects and schemes of the Provincial Housing Authority of Khyber Pakhtunkhwa. This exemption will be granted under the condition that this exemption shall not be construed or interpreted in any manner to claim or take any refund, waiver, dispensation or relief of tax already deposited, paid or recovered (including already withheld or deducted but not deposited or paid) on or before 30th June, 2021 on any ground whatsoever.

c. The Act has clarified that following services also fall under construction services:

- construction works of power (including hydropower) generation projects;
- Where fixed rates of rupee one hundred per square yard, or as the case may be, rupees fifty per square foot are applicable in case of land development and commercial construction as per description specified above, tax shall not be charged in respect of the areas allocated, fixed or used exclusively for schools, medical dispensaries, mosques, graveyards, parks, public toilets, corridors (inside passages of buildings) and stairs provided that these facilities are meant for common use of the public at large without the involvement of any commercial aspect including intention or purpose for sale, leasing or renting.

Sr. No.	Description	Old rate	New rate
5.	Business support services provided by corporate entities.	5% without input tax adjustment	15% with input tax adjustment
8.	Property dealers, dealers of electrical or electronic equipment appliances, plant and machinery and other second-hand goods rendered or provided by corporate sector dealers.	2% without input tax adjustment	15% with input tax adjustment
10.	Franchise services	10% without input tax adjustment	15% with input tax adjustment
14.	Services provided by construction contractors, architects, civil engineers. Land or property surveyors, construction consultants, designing and supervision consultants. Town or real estate or property promoters. Developers or planners including interior decorators or allied or ancillary professions.	2% without input tax adjustment	5% except Government funded construction projects including ADP/PSDP-funded projects and construction of hydropower projects on which the rate of tax shall be 2%

Enhancement of Sales Tax Rate

The Act has enhanced the Sales Tax Rate on below mentioned services:

Sr. No.	Description	Old rate	New rate
5.	Labour and Manpower Services rendered by:		
	Corporate entities	5% without input tax adjustment	15% with input tax adjustment
	Non-Corporate entities	5% without input tax adjustment	8% without input tax adjustment

Sr. No.	Description	Old rate	New rate
19.	Corporate entities and to such other entities as are operating in collaboration or as subsidiary or branch of foreign service providing entities and all such entities providing services as practitioners, professionals, consultants and advisers.	5% without input tax adjustment	15% with admissible input tax adjustment
26.	Health insurance services and services in respect of Government sponsored Sehat Card plus program	Exempt	1% without input tax adjustment
26	Life insurance	Exempt	15% with input tax adjustment

Entry in Second Schedule

The Act inserted a new entry of 'services of payment system operator or of payment system provider as have always been or are rendered or provided in any manner or mode' in serial No. 26 of the Second Schedule to the Act with the intent to tax these services at tax rate of 15%.

Principals of application and interpretation

The Act has clarified that when a registered service provider opts for payment of tax on standard rates for the services rendered to corporate buyers, the service provider is entitled to claim input tax

proportionally and exclusively confined to the value of such services.

Corporate sector entities providing services referred to in Serial No. 9, 10, 11, 13, 17, 18, 21, 22, 27, 28 (excluding public sector entities), 39 and 44 of the Second Schedule shall mandatorily pay sales tax at standard rate of 15%. They shall be entitled to input tax adjustment.

Further, the Act has clarified that services provided by or relating to dealers of agriculture machinery and equipment, commission agents of agriculture produce, agriculture specific market research, human resource development or management in agricultural fields, and exhibitions of agricultural products or products usable exclusively in agriculture sector shall be charged to tax at 2% without any input tax adjustment.

Stamp Act, 1899

Section 27A provides that where any instrument chargeable with *ad valorem* duty under Articles 23, 27-A, 31, 33, 48(b), 48(bb), 63 or 63-A of Schedule I to Stamp Act 1899, relates to an immovable property, the value of the immovable property shall be calculated according to the valuation table notified by the District Collector in respect of immovable property situated in the locality.

The Act has set a floor for valuation of the immovable property at ninety percent of the value determined by the Federal Board of Revenue.

The Act has made certain amendments in Schedule 1 that prescribe stamp duty on Instruments, as under:

- Stamp duty of Rs.300 per marla and Rs.600 per marla against Article 6A in relation to residential open plots and commercial open plot is increased to Rs.600 per marla and Rs.1,200 per marla respectively.
- Stamp duty of Rs.2, Rs.3 and Rs.7 against Article No. 53 is substituted by Rs.5, Rs.6 and Rs.15 respectively.

The Act has substituted Article 22A relating to instruments of 'Contract' in the nature of memorandum of agreement entered into by a contractor with Government, a corporation, a local body, a local authority, an agency or an organization set up or controlled by Federal or Provincial Government by introducing new slabs for the quantum of work and the related stamp duties.

Registration Act, 1908

Online repository and electronic verification

The Act has empowered the Government to make provision for establishment of online repository of registered instruments and electronic verification of registered property in the prescribed manner.

Digitized version of documents

With a vision of digitizing the record, the Act has introduced the processing of documents, books, instruments, decrees, deeds, assignments, endorsements, debentures, orders, certificates, counterpart of lease and signatures mentioned in the Act through digitized means of registration.

West Pakistan Urban Immovable Property Tax Act, 1958

Charge of tax on petrol pumps and CNG stations

The Act has charged property tax at flat rate of Rs. 45,000 per annum on petrol pumps and CNG stations with effect from 01 July 2020.

Khyber Pakhtunkhwa Land Tax and Agriculture Income Tax Ordinance, 2000

The Act has exempted levy of land tax for the Financial Year 2021-22.

The Act further provides relief to the taxpayers by making the following amendments in Second Schedule regarding agricultural income tax;

Rates	
Where the taxable limit does not exceed Rs.600,000	No tax
here the taxable limit exceeds Rs.600,000/- but does not exceed Rs.850,000	5% of amount exceeding Rs. 600,000
Where the taxable limit exceeds Rs.850,000 but does not exceed Rs.1,000,000	Rs.12,500/- plus 7.5% of the amount exceeding Rs.850,000
Where the taxable limit exceeds Rs.1,000,000 but does not exceed Rs.1,250,000	Rs.23,750 plus 10% of the amount exceeding Rs.1,000,000
Where the taxable limit exceeds Rs.1,250,000 but does not exceed Rs.1,500,000; and	Rs.48,750 plus 15% of the amount exceeding Rs.1,250,000
Where the taxable limit exceeds Rs.1,500,000.	Rs.92,500/- plus 17.5% of the amount exceeding Rs.1,500,000

Khyber Pakhtunkhwa Finance Ordinance, 2002

Tax on hotels is levied every year at the rate of 5% of the room rent per lodging unit per day, on the basis of 50% of the total number of lodging units available in the hotel under section 4 of the Ordinance.

The Act has omitted the use of 50% of the total number of lodging units for the purpose of computation of tax, meaning thereby that the tax shall be payable on the basis of actual use of the lodging units.

Khyber Pakhtunkhwa Local Government Act, 2013

The Act has substituted the development grant for local government from 30% of the total developmental budget of the province to 20% of the provincial share of Annual Development Program.

It has also prescribed that 20% development grant shall be admissible only when the elected local governments are in place.

Considering the health-related issues and delivery of services, the Act has authorized Secondary or Primary Health Facilities to retain ninety percent of the revenue generated by them. The retention amount is subject to the approval of the Health Department of the Government and shall be utilized through Hospital Management Committee or Primary Care Management towards the improvement of service delivery.

The Balochistan Sales Tax on Services Act, 2015

The Balochistan Sales Tax on Services Act, 2015

New services included in the list of taxable services

The Act has extended the scope of tax to six new categories of service providers chargeable to sales tax at the rate of 15%. Definition of these services are inserted in section 2 of the Baluchistan Act. Related amendments have also been made in the First Schedule to the Baluchistan Act. These services and their definitions are enlisted hereunder:

Beaching

Beaching has been defined by the Act to include any activity under which a ship, vessel, boat, or any similar structure whether complete, incomplete, damaged or undamaged is moved from sea waters to the shore or grounded in shallow waters for the purpose of cargo/goods loading or unloading, embarkation or disembarkation of persons/passengers, repairs, maintenance, dismantling, braking or for any other similar purposes.

Cab aggregator

Cab aggregator has been defined by the Act to mean a person who is an aggregator or operator or intermediary or online market place who canvasses or solicits or facilitates passengers for travel by motor vehicles like taxi, cab, car, van, motorcycle and rickshaw, and who connects the passenger or the intending passenger to a driver of any of the aforesaid motor vehicles through telephone, cellular phone, internet, web based services or GPS or GPRS-based services, electronic or digital means, whether or not he charges or collects any fee, fare, commission brokerage or other charges or consideration for providing or rendering such services.

Online marketplace services

Online marketplace services have been defined by the Act to mean an information technology platform run by e-commerce entity or organization over an

electronic network that acts as facilitator in transactions that occur between a buyer and a seller or between a service provider and service recipient.

Pilotage

Pilotage has been defined by the Act to mean any activity involving rendering or providing of any service connected with guiding or providing a parking of a ship or vessel in water near the shore and includes toeing of a vessel or ship from mooring to the shore and its anchorage near or on a berth, wharf, or dock.

Site preparation and clearance, excavation and earthmoving and demolition services [Section 2(154A)]

Site preparation and clearance, excavation and earthmoving and demolition services have been defined by the Act to mean any services provided or rendered to any person by another person, in relation to site preparation and clearance, excavation and earthmoving and demolition and such other similar activities, including-

- (i) Drilling, boring and core extraction services for construction, geophysical, geological, and similar purposes but not including the services in relation to mining of minerals, oil or gas (as covered under tariff heading 9866.0000) or – landfill, leveling, trench digging, rock removal, blasting, and similar services; or
- (ii) Soil stabilization; or
- (iii) Horizontal drilling or passage of cables or drainpipes; or
- (iv) Land reclamation work; or
- (v) Contaminated topsoil stripping work; or demolition or wracking of building structure or road.

Waste collection, transportation, processing, and management services

Waste collection, transportation, processing, and management service has been defined by the Act to mean the services provided in the matters of collection, processing, transportation, disposal, recycling, and management of all kinds of wastes, waste materials and garbage and includes road and street cleaning services, whether manually, mechanically, or otherwise.

Definition of some taxable services already chargeable to tax

The Act has defined three services that were already included in the Second Schedule to the Act but were not defined. Defining these terms are likely to reduce the controversies between the taxpayers and the taxing authority.

Depot for storage including cold storage services

'Depot for storage including cold storage services' have been defined by the Act to mean the facility or space provided or rendered or let out on rent or otherwise for the storage, cold storage or warehousing of goods including those in loft- of liquids and gases, but not including the storage of food grains and fresh vegetables and fruits not subjected to further processing and also not including the storage in public bonded warehouses as defined in clause 125 of Section 2.

Supply of movable property by way of lease, license or similar arrangements

'Supply of movable property by way of lease, license or similar arrangements' have been defined by the Act to mean the services provided or rendered, to any person by another person, by way of lease, license, renting, hire purchase, or similar arrangements wherein usage takes place of machinery, equipment, appliances, and other tangible goods including bulldozers, excavators, road rollers, and levelers, cranes, construction machinery and equipment, earthmoving machinery

and equipment, scaffolding, generators, refrigerators, or in relation to such usage or renting.

Explanation: The Dealers of second-hand goods other than car or automobile, as classified under tariff heading 9806.5000, and also the rent-a-car or automobile rental services, as classified under tariff heading 9819.3000, shall be excluded from the purview of this clause.

Training services

'Training services' have been defined by the Act to mean the training services provided or rendered by any person, institute, or establishment, by whatever name called, for imparting skill or knowledge or lesson on any subject or field, with or without issuance of a certificate, and includes the services of vocational, professional, technical, commercial, or specialized trainings, courses, seminars, workshops, and lectures, imparted for consideration but does not include the services of coaching or training of sports.

Reduced rate for construction services paid out of Federal Consolidated Fund

Construction contracts/ services paid out of the Provincial Consolidated Fund are charged to tax at reduced rate of 6% without input tax adjustment. The Act has extended the benefit of this reduced rate to the projects paid out of Federal Consolidated Fund as well.

Exclusion from charging of tax on repair and maintenance services to of solar and wind energy projects

With a view to promote and facilitate the entities engaged in power generation through wind and solar energy, the Act has excluded repair and maintenance services of wind and solar power projects from the purview of charging sales tax.

Stamp Act, 1899

In the era of electronic record keeping and processing of documents through digital means, the Act has introduced the concept of e-stamp and execution of documents using electronic forms. Such provisions are already available in the laws of other provinces of the Country.

Changes in Stamp Duties

The Act has rationalized the stamp duties for execution of any work or procuring stores and material under a contract and for gift deeds and hiring agreements.

- Rate of stamp duty for contracts is simplified to Rs. 0.25 for every hundred rupees of the value of the contract as against the existing slab rates.
- For gift deeds, including oral gifts, and hiring agreements related to immovable property of urban areas:
 - 0.8% for every hundred rupees of the value of the property
 - If the gift deed is executed between spouses, father, mother, son, daughter, grandson, siblings or from one wife or widow to another wife or widow of the same husband, the rate of stamp duty shall be 0.5% for every hundred rupees of the value of the property.
- The rate of stamp duty in other cases and areas other than urban areas is prescribed at 2%.

Rates for stamp duty on mortgage for housing finance and registration of the related instruments have been altered and prescribed in the Act ranging from Rs. 250 to Rs. 1,500 for mortgage and Rs. 200 to Rs. 1,000 for registration of the document.

Applicability of Certain Laws to Tribal Areas

In the backdrop of amalgamation of Tribal Areas of Balochistan, the Act has extended the provisions of the following statutes to these areas.

- West Pakistan Act V of 1958
- West Pakistan Act X of 1958
- West Pakistan Act XXXII of 1958
- West Pakistan Act XXXIV of 1964
- West Pakistan Act I of 1965.

Tribal areas of Balochistan under the Constitution of Pakistan comprise of Zhob district, Loralia district (excluding Duki Tehsil), Dalbandin Tehsil of Chagai District and Marri and Bugti tribal territories of Sibi district.



Offices in Pakistan

Karachi Office

Sheikh Sultan Trust Building No. 2
Beaumont Road
Karachi 75530
Phone +92 (21) 3568 5847
Fax +92 (21) 3568 5095
eMail karachi@kpmg.com

Lahore Office

351-Shadman-1, Main Jail Road,
Lahore Pakistan
Phone +92 (42) 111-KPMGTH (576484)
Fax +92 (42) 3742 9907
eMail lahore@kpmg.com

Islamabad Office

Sixth Floor, State Life Building
Blue Area
Islamabad
Phone +92 (51) 282 3558
Fax +92 (51) 282 2671
eMail islamabad@kpmg.com

home.kpmg/pk



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