



KTBA's Key Recommendations for Federal Budget 2016-17

Indirect Taxes

By: Mazhar Saleem Shah
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Taxonomy of the proposals

- Reducing cost of doing business
- Incentivizing increased industrialization
- Bringing simplicity in the law
- Simplifying administrative laws
- Broadening the scope and equitability of the law



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Reducing cost of doing business

Reduction in standard rate of sales tax

- Standard rate of 17% on imports and local supplies is quite high, On commercial imports it is 20% (17% plus 3%)
- High rate in narrow tax base – Stimulator to tax evasions, under-invoicing and smuggling
- Bar proposes 10% standard rate alongwith 3% value addition rate on luxurious/high margin goods.
- Even higher value addition rate of 5-7% may be prescribed for imported luxurious goods.
- Reduced rate will broaden tax base and high value addition on imported luxurious goods will protect local industry.

Average VAT Rates – Global Outlook

North America	5%
Asia	12.37%
Oceania	13%
Latin America	13.07%
Africa	15%
Europe	20.19%
Global Average	15.73%
VAT rate is higher by:	2.27% (Global) & 4.63% (Asia)

Input tax not adjustable against 'further tax'

- Presently, Section 7(1) of Sales tax Act, 1990 (ST Act) allows adjustment of input tax for the month against output tax excluding levy of 'further tax' i.e. 2%
- The restriction is proposed to be withdrawn to lessen unrest among the taxpayers, particularly where excess input tax arises in the sales tax returns.

Extra Tax – Chapter XIII of Sales Tax Special Procedure Rules, 2007

- 2% extra sales tax applies in addition to 17% on specified goods e.g. electrical & gas home appliances, auto-parts, lubes, tyres, tiles, confectionary items, etc.
- Regime applies on both importers and manufacturers
- Input tax on goods subject to extra tax is not allowed under Section 8(1)(c), which affects manufacturers consuming such goods as industrial inputs, with exception of automobile sector.
- Bar proposes to provide immunity from extra tax on sale of specified goods to manufacturers or industrial sectors.
- Section 8(1)(c) of ST Act, 1990 also be reworded to allow input tax to registered manufacturers. Preamble under Rule 58S also be aligned accordingly.

FED on services

- Despite of clarity and prevailed practices within large service segments like banks, insurance, telecommunication, FBR authorities keep on raising demand of FED on services which are subject to Provincial sales tax.
- Due to lacuna in FED laws, FBR officers consider it a tool for meeting budget targets. FBR's delay in issuance of notification jeopardized the matter.
- Unnecessary litigation costs suffered by taxpayers.



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Incentivizing increased industrialization

Cottage Industry

- Currently, the present exemption threshold for cottage industry is turnover exceeding Rs. 5 Million in any tax period during last 12 months or utility bills 12 tax periods exceeds Rs 0.8 Million.
- Such capping for cottage industry is outdated in view of consistent inflation and devaluation of Pak Rupee.
- Bar proposes to enhance the exemption limits for cottage industry from Rs.5 m to Rs. 10 m (annual turnover) with simultaneous increase in utility bills' limit from Rs. 0.8 m to Rs. 1.2 m.

Tax Credit Not Allowed

- Clause (f) of Section 8(1) of ST Act disallows input tax paid on goods and services related to taxable supplies, which seems to over-lap with Clause 1(a) thereof.
- Clause (h) of Section 8(1) disallows input tax on purchase of building and construction materials excluding those purchased for direct use in the production or manufacturing of taxable goods.
- Clause (j) of Section 8(1) restricts input tax on taxable services where input tax is barred under the respective Provincial sales tax laws. Provincial laws generally restrict input tax paid or payable at reduced rates. Bar proposes to allow input tax adjustments on taxable services irrespective of the rate of sales tax.



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Bringing Simplicity in the Law

Time of Supply

- Through Finance Act, 2013 the definition of time of supply has been amended and receipt of advance has been made subject to sales tax. Such provision was earlier withdrawn vide Finance Act, 2007.
- Aforesaid provision has led to reconciliation issues between the books of accounts where sales is recorded on the basis of delivery of goods and sales tax returns wherein sales tax is paid on advance receipts. Furthermore, CREST discrepancies also arise as a result.
- Charging sales tax on advance receipts will not create any additional revenue for the government, therefore Bar recommends to withdraw sales tax on advance receipts.

Friction Between FBR and Provincial Authorities

- FBR and Provincial Revenue Authorities have locked horns over taxation of services such as toll manufacturing, franchise services, restaurants etc. India and EU are shining examples where VAT regime is harmonized in its true spirit.
- Fully empowered Commission is need of the hour to bring harmony in the sales tax laws dealing with services with a special focus on:
 - ✓ Principle for taxation of services (origin, destination or mix)
 - ✓ Adjustment of taxes collected by authorities
 - ✓ Harmonization of tariff classifications and scope of taxation
 - ✓ Withdrawal of FED on services where provincial legislation is in place.

Explanation of Tariff Heading

- There is absence of any explanatory notes/material regarding chapter 98 of the Customs Act, 1969.
- Service providers are facing problems in classification of headings, particularly sub-headings titled “others”.
- It is suggested that specific nature and scope of all tariff headings and sub tariff headings in Chapter 98 may be issued by FBR to avoid unnecessary hardship being faced by business.

Sales tax refund

- Unadjusted excess input tax has to be carried forward for consecutive twelve months period before it can be claimed as refund by filing a refund application.
- Such time limit needs to be reduced to six months in order to facilitate new businesses who pay input tax on plant and machinery but have not started production.
- Cumbersome refund mechanisms and red tapism needs to be eschewed in order to facilitate taxpayers.



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Simplifying Administrative Tasks

Active Taxpayer List (ATL)

- Government introduced section 2(1) of ST Act, which lists following situations when a registered person shall be excluded from ATL:
 - ✓ Blacklisted, suspended or blocked
 - ✓ Fails to file sales tax return for two consecutive tax periods.
 - ✓ Fails to file income tax return on due date
 - ✓ Fails to file two consecutive monthly or annual income tax withholding statements
- Appropriate modifications in the aforesaid section needs to be introduced in consultation with KTBA.

Registration

- Presently approval process of sales tax registration takes at least 60 to 120 days which is too long, considering that making supplies without registration is treated as a “tax fraud”.
- It is proposed that the sales tax registration process should be simplified.
- Similarly, the facility of temporary registration should also be allowed to persons other than manufacturers as they also face same period of delay in registration process.

Revision of Sales Tax Return

- The revision of sales tax return for any error or omission is subject to the prior approval of Commissioner Inland Revenue within 120 days of the filing of original return.
- Provisions for auto revisions, particularly in the regime of e-filing, may be restored where there is no decrease in tax liability or increase in refund claim.
- Time limit of 120 days for revision of return needs to be revisited.

Time Limitation

- Time limit for issuance of debit and credit notes is 180 days, for submission of refund claim under section 10 is 120 days and compliance of proof under section 73 is 180 days.
- Time limitation in all above situations should be extended till one year as no revenue loss is involved.

Recovery of Arrears

- The law gives overwhelming powers to tax officials for recovery of arrears.
- Undue pressure is mounted on taxpayers when recovery drive is initiated under Section 48.
- Bar proposes that Section 48 should not be exercised unless the demand of tax undergoes two appellate proceedings.
- Thereafter, a stage wise partial recovery of the principal amount involved can be considered.

Condonation of Time Limit

- Section 74 of ST Act, the Board and the Commissioner IRS is allowed to condone the time limit prescribed under any provision of law.
- E-FBR portal does not allow adjustment of purchase invoices where the manual permission is granted by the Board or Commissioner IRS.
- It is recommended that a detailed mechanism be laid down by the Board to dispose the condonation requests.
- Powers given to the Commissioner for condonation should be extended to three years.



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Broadening the Scope and Equitability of the Law

Adjustable Input Tax

- Section 8B restricts adjustment of input tax in excess of 90% of output tax for a tax period by the registered person.
- It creates cash flow problems for the registered persons.
- Mandatory restriction of input tax and creation of tax liability thereby is against business practice and may be removed in the forthcoming budget.

CREST, Supply Chain & Inadmissible Input Tax

- Through Finance Act, 2013, FBR introduced Computerized Risk based Evaluation of Sales Tax (CREST) software to confirm buyers tax credit against seller's output tax payment.
- In this respect, certain amendments were introduced such as section 8(1)(caa) of ST Act and section 21(4) of ST Act. Also, the definition of "supply chain" was amended.
- Issues arising due to lack of mindful utilization of CREST system. The entire system needs to be revamped.
- KTBA should also be consulted to avoid frivolous litigation on this account.

Presumptive / Value Addition / Fixed Tax Schemes

- Existence of presumptive/value addition/fixed tax regimes is against the spirit of VAT.
- This distorts the confidence of genuine persons who are paying sales tax at higher rates.
- In line with VAT's best practices, all such said schemes should be abolished.
- All such sectors may be brought under the uniform tax regime.

Commercial Electricity Connections

- Large number of persons doing business, either as retailer or manufacturer on small scale are not registered.
- In order to bring such persons in tax net, it is suggested that condition of obtaining a NTN should be made mandatory for new commercial electricity connections.
- It will promote tax culture and increase revenue collection.

Adjustment of Sales Tax Refund with Income Tax Liability

- Sales tax refunds are not currently being offset with income tax liabilities.
- Board vide letter C.No. 3(70)STM/99 dated 20 December 1999 has already devised a procedure of inter-tax refund/adjustment.
- It is suggested that a simple and unambiguous procedure be notified for adjustment of sales tax refund with income tax liabilities.
- Cash flow issues of taxpayers will be sorted out through the said manner.

Sales Tax Withholding Rules, 2007

- Sales tax withholding should be done away with in respect of payments made to registered persons.
- Minimum threshold should be prescribed for sales tax withholding in lines with Income Tax Ordinance, 2001.
- Concept of exemption certificate for sales tax withholding should be introduced so that sales tax withholding does not result in accumulation of refunds/excess input tax.
- Laws of tax withholding under the income tax and sales tax should be harmonized.
- Sales tax withholding on payment basis needs to be restored instead of withholding on accrual basis.



THANK YOU