



KPMG Taseer Hadi & Co.
Chartered Accountants

Withholding Tax Provisions of Federal and Provincial Sales Tax Laws



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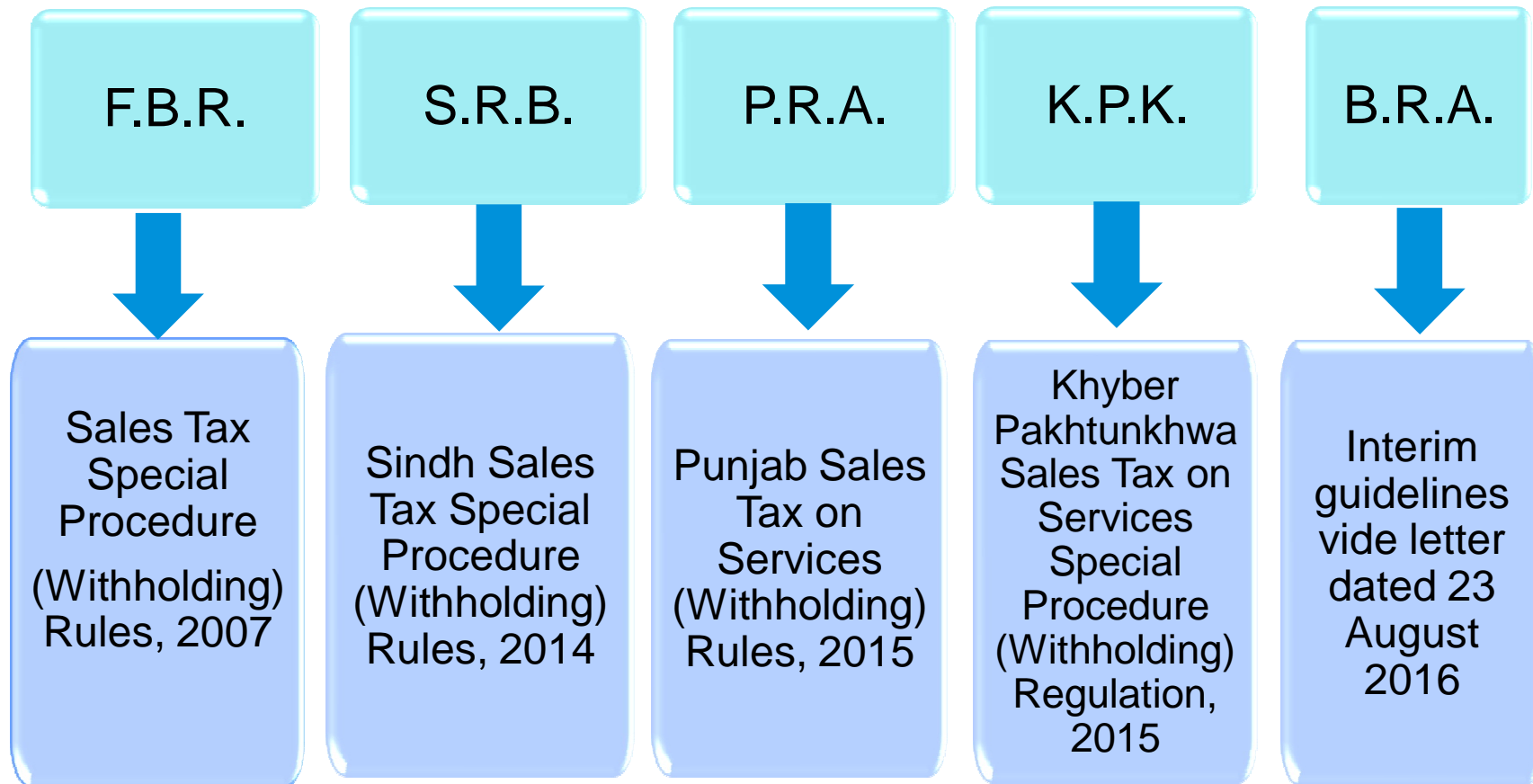
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Evolution of Withholding Sales Tax

- Withholding sales tax is a deviation from international VAT practices
- Initially, the scheme was introduced in 2007 to collect sales tax against taxable supplies made to government organizations
- Subsequently, the scope extended to cover other categories of withholding agents.
- Provincial ST authorities also adopted the WHST regimes, which created multiple problems in tax compliance and made our tax laws quite complex.
- Disputes in ownership of taxes on certain taxable services among Federal & Provincial authorities exaggerated the problems for withholding agents. Few examples are toll manufacturing, contractual execution of work, supply chain management/distribution, franchise services etc. etc.

Legal Framework:

Sales Tax Withholding in Pakistan



Basic Concepts & Mechanism

A withholding agent is required to withhold Sales tax from the payments being made on -

- purchases of taxable goods or acquisition of taxable services under Federal & Provincial WHST regimes except the specific exemptions.
- acquisition of taxable advertisement services under all WHST regimes.

On purchase of taxable goods or services from a registered / unregistered person, withholding agent is required to deduct sales tax:

- at the applicable rate or prescribed rate of withholding of sales tax;
- of the total amount of sales tax/value shown in the tax invoice;
- make payment of the balance amount to the supplier / service provider;
- withholding agent issues sales tax withholding certificate to supplier / service provider.
- registered supplier/service provider to entitled to credit of WHST in its sales tax return.

Registration/Enrollment of WH Agents

A withholding agent **registered** for sales tax is **required to**

- **Deposit withheld sales tax by declaring the invoice-wise purchases in Annexure-A of the monthly sales tax return (whether Federal or Provincial)**

A withholding agent **not registered** for sales tax is **required to seek**

- **e-sign-up/enrollment on e-portal of respective Federal/Provincial revenue authorities**
- **File monthly withholding e-statement as prescribed**
- **Deposit the withheld amount of sales tax**

Withholding Agents under FBR's Regime

Federal WHT Rules shall apply on supply / provision of:

- Taxable **Goods** and
- Taxable **Services** under ICT (Tax on Services) Ordinance 2001 (as amended vide Finance Act 2015) and to certain extent on excisable services rendered or provided in ICT, where FED is applicable in sales tax mode.

Persons specified as withholding agents

- Federal and Provincial government departments;
- Autonomous bodies;
- Public sector organizations;
- Companies as defined under the Income Tax Ordinance 2001, registered for Sales tax, FED or income tax purposes;
- Recipient of advertisement services, who are registered for sales tax with FBR
- Persons registered as exporters

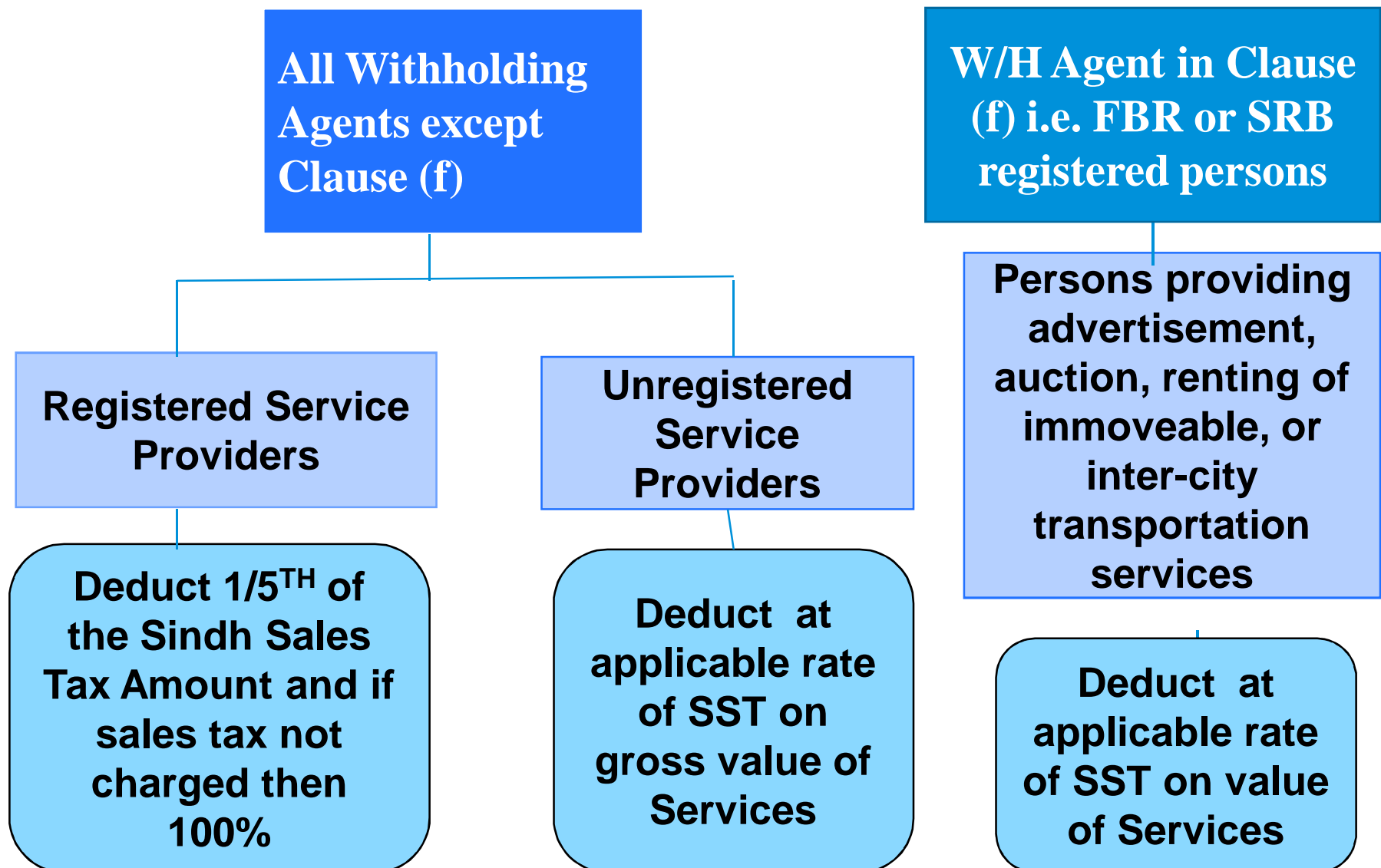
WH Agents under Provincial WHST Regimes

Categories of WH Agents	SRB	PRA	KPKRA	B.R.A.
Federal & Provincial government departments, public sector organizations, autonomous bodies, organizations funded by governments including accounting offices	✓	✓	✓	✓
Companies as defined in respective Provincial statutes	✓	✓	✓	✓
Recipient of Advertisement Services registered with FBR and respective Provincial authority	✓	✓	✓	✓
Registered persons being resident of the respective Province, receiving taxable services from unregistered persons	✓	✓	✓	✓
Recipient of services of: <ul style="list-style-type: none"> • Auctioneers • Renting of Immovable property • Inter-city transportation or carriage of goods by road 	✓	x	x	✓
• Person providing services of advertising agents as specified	✓	x	x	x

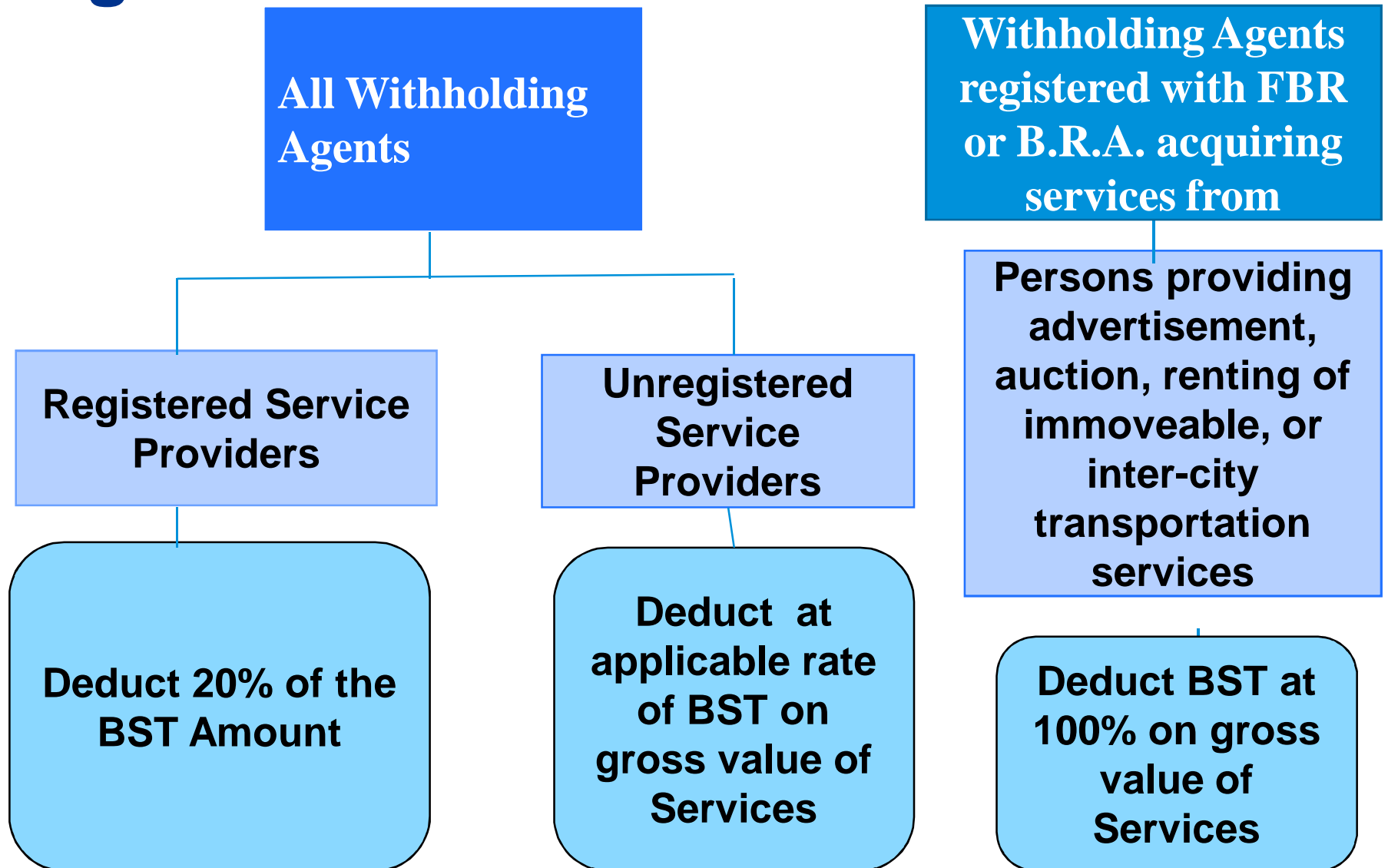
Rates of WH under FBR's WHST regime

Category of Withholding agents	Category of suppliers of taxable goods / services in ICT		
	Non-ATL Registered wholesaler, dealer or distributor	Non-ATL Registered person (manufacturer & service provider)	Unregistered person (not service provider)
Federal & Provincial Govt. departments, autonomous bodies, etc.	1/10th of sales tax amount	1/5th of sales tax amount	Applicable rate on gross value of taxable goods
Companies registered for ST, FED & IT	1/10th of sales tax amount	1/5th of sales tax amount	1% of gross value of taxable goods
Recipient of Advertisement services (FBR ST registered)		Applicable rate (applies on active taxpayers also)	Applicable rate
Registered Exporters	1/10th of sales tax amount	1/5th of sales tax amount	1% of gross value of taxable goods

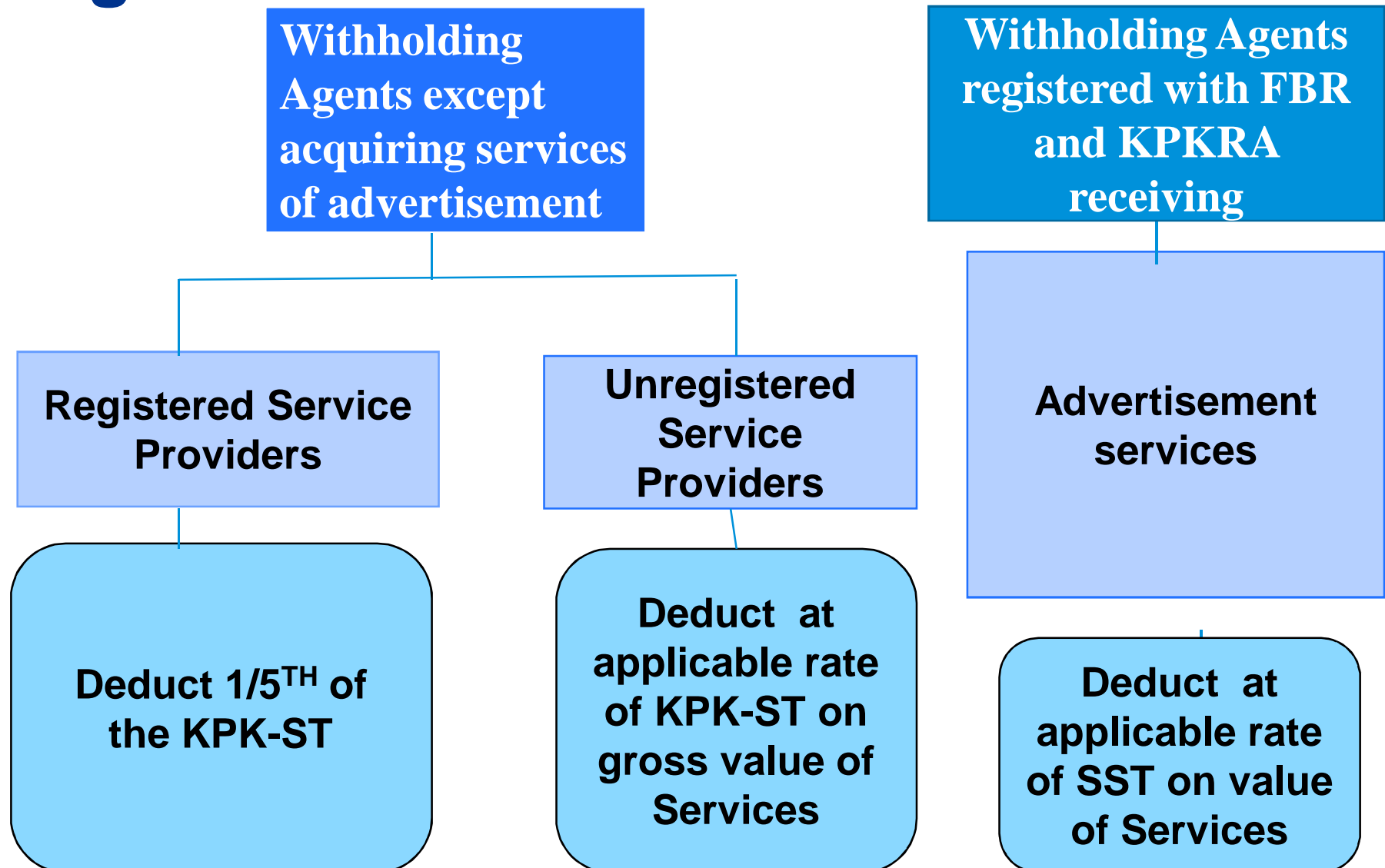
Rates of WHST under SRB's WH Rules



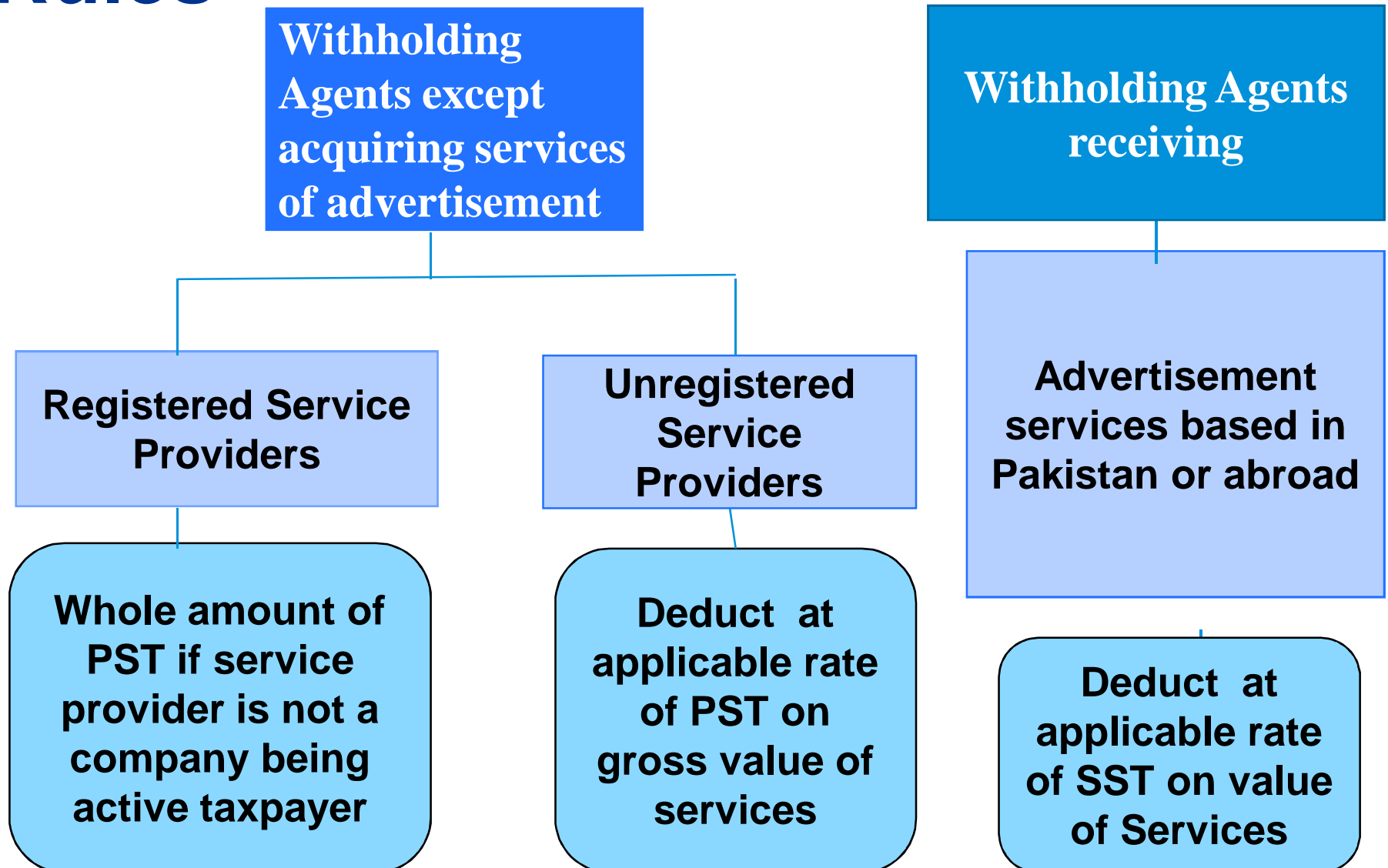
Rates of WHST under B.R.A.'s WH Regime



Rates of WHST under KPK's WH Regulations



Rates of WHST under Punjab's WH Rules



Immunity from Federal WHST

Following taxable **goods & services** are exempt from Federal withholding sales tax under Rule-5 of Federal WHST Rules:

1. **Electrical energy**
2. **Natural gas**
3. **Petroleum products as supplied by petroleum production and exploration companies, oil refineries and OMC & dealers of motor spirit & high speed diesel**
4. **Registered persons paying sales tax under Retailer's fixed sales tax regime**
5. **Vegetable ghee and cooking oil**
6. **Telecom services**
7. **Goods specified in the Third Schedule (Fruit juices, ice cream, aerated water, tea, fertilizers and etc.)**
8. **Supplies made by commercial importers who paid value addition tax on such goods at the time of import.**
9. **Supplies made by an active taxpayers to another registered person with exception of advertisement services**

Immunity from Provincial WHST on Services

Following **taxable services** are exempt from withholding of:

Sindh Sales Tax	Punjab Sales Tax	KPK Sales Tax	Baluchistan Sales Tax
<ul style="list-style-type: none"> • Telecom • Banking Co. • Financial Institutions • Insurance Co.(other than re-insurance) • Port Operator • Airport Operator • Terminal Operator • Airport Ground services 	<ul style="list-style-type: none"> • Telecom • Banking • Courier • Insurance • Services provided by companies being active taxpayers (except advertisement services) 	Exemptions not yet notified	<ul style="list-style-type: none"> • Telecom • Banks • Financial Institutions • Insurance • Re-insurance • Port Operator • Airport Operator • Terminal Operator • Airport Ground services

Time of payment of WST under SRB Rules

Following timelines shall be followed by a withholding agent to deposit the withheld amount of Sindh Sales Tax in SRB head of account:

In case a withholding agent is registered under Sindh Act and claims input tax:

Earlier of the following date/month:

- The date when payment is made to supplier or;**
- The month in which input tax is claimed by such registered withholding agent.**

Cont'd....

In case a withholding agent is registered under Sindh Act but does not claim input tax within four month of the date of invoice or otherwise is not entitled to claim input tax:

Earlier of the following due dates:

- **The month in which payment is made to supplier or;**
- **On a date within four month of the date of invoice.**

Cont'd...

In case of any other type of withholding agent not covered in above two situations:

Earlier of the following dates;

- **By 15th day of the following second month in which the tax invoice was issued by the service provider or**
- **The date on which payment is made to the service provider.**

Assessment & Recovery of WHST

- Effective from 01 July 2016, following sub-section was inserted in Section 11 of ST Act, 1990:

“(4A) Where any person, required to withhold sales tax under the provisions of this Act or the rules made thereunder, fails to withhold the tax or withholds the same but fails to deposit the same in the prescribed manner, an officer of Inland Revenue shall after a notice to such person to show cause, determine the amount in default.”

- Similarly, sub-section (1B) was inserted under Section 47 of Sindh Sales Tax on Services Act, 2011 also w.e.f. 01 July 2016:

“Where any person, required to withhold tax under provision of Act or rules made thereunder, fails to withhold the tax or fails to deposits the withheld or deducted amount of the tax in the prescribed manner, an officer of the SRB shall determine the amount in default and order its recovery in the prescribed manner.”

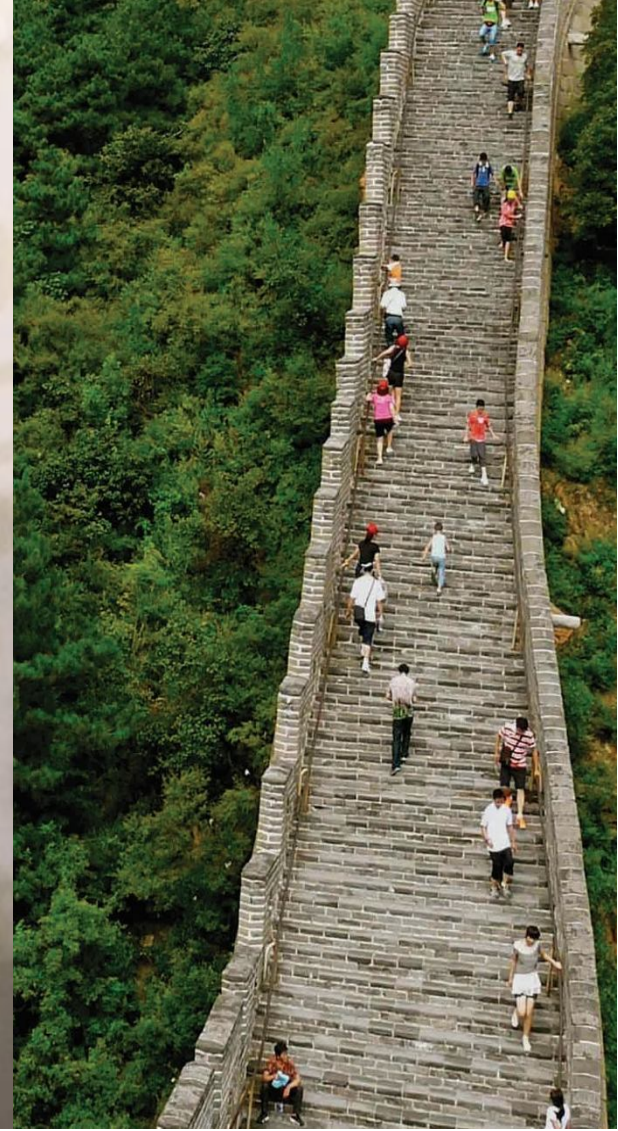
Common / intricate compliance issues

- Media channel based in different cities and the advertisement is aired on the T.V. channel all over the country. How to determine the place of taxation and exchequer where withholding sales tax is required to deposited by the withholding agent?
- Course of action where disputes of Federal & Provincial authorities are going on regarding reverse charge / principles of taxation?
- Taxation issues in composite contracts where supply of taxable goods is involved in substantial quantum and vice versa and the contractors do not charge taxes in accordance with the relevant provisions of laws?
- How to determine the registration status of suppliers or service providers where exemption is based on threshold limit or governed through any exemption notification?
- Services originated from tax jurisdiction and terminated in another tax jurisdiction?

واعظ خلوص ہے ترے اندازِ فکر میں
ہم تیری گفتگو کا بُرا مانتے نہیں

حد سے بڑھے تو علم بھی ہے جہل دوستو
سب کچھ جو جانتے ہیں، وہ کچھ جانتے نہیں

رہتے ہیں عافیت سے وہی لوگ اے خمار
جو زندگی میں دل کا کہا مانتے نہیں





Thank
you