

POST BUDGET WEBNAR 2021-22

Indirect Tax Laws

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BUDGET 2021-22

Overview of Indirect Tax Amendments



- Growth Budget: Facilitation for Export vs. Import substitution
- Increased reliance on sales tax to meet revenue targets
- Comprehensive Policy Based Direction is missing
- Anticipated Zero rating of Export Oriented Sectors not done
- Broadening of Tax Base drive – no success story yet.
- Automation drive on way - Challenges
- Harmony in Income Tax & Sales Tax Laws – The missing link
- Retailing of smuggled goods; confiscation of goods; who is responsible ?

Overview of Key Amendments

Sales Tax Act, 1990



- ☐ Online Market Place & Tier-1 Retailer [Sec 2(18)]
- ☐ Cottage Industry [Sec 2(4AA)]
- ☐ Time of supply [Sec 2(44)]
- ☐ Restriction on Input tax adjustment [Sec 8B]
- ☐ Time limitation for tax assessment [Sec 11]
- ☐ Record Keeping- e-records [Sec 22]
- ☐ Transfer Pricing – Transaction between associates

Overview of Key Amendments

Sales Tax Act, 1990

- ❑ Licensing of brands [Sec 40E]
- ❑ Constructive Payment - Section 73
- ❑ Taxability of Sugar & Edible Oil
- ❑ Export Facilitation- Zero Rating [5th Schedule]
- ❑ Withdrawal of Zero rating- [5th Schedule]
- ❑ Exemptions & Concessions- withdrawal, transposition & addition

Online Market Place & Tier- 1 Retailer

To tap online retailing, online marketplace [OMP] has been held responsible for sales tax payment

Any web portal, digital platform controlling the terms of transaction, payment, logistics of supply

International Best Practices avoid Double Taxation; either party exempted

Law unclear; Legal Challenges

Practical Issues

Tier - 1 Retailer

Shop area condition for furniture show rooms relaxed to 2000 Sq Feet. Discrimination.

Retailer who have Debit / Credit card machine or other digital payment options included in definition

Turnover Tax could be a choice for all retailers

Service Sectors are also exposed to Tax.

Cash Back scheme withdraw & Prize scheme [mystery shopping] to be introduced. PRA Case Study

Time of Supply- Sale Tax on Advances

Amendment brought through FA 2013 in definition of “Time of supply” was a distortion and source of administrative inconvenience both for the taxpayer as well as department

Now, the old position is to be restored, sales tax liability is to be discharged at the time of delivery of goods

This provision has seen quite ins and outs in recent years.

Restriction on Input Tax Adjustment-Section 8B

Distortive provision which still remain on the statute is the restriction on adjustment of legitimate input tax

Despite the fact that meagre revenue is collected due to this provision as opposed to administrative cost, the provision is not being deleted

Proposal to exclude public listed companies from application of Section 8B

Time Limitation for Tax Assessment-Section 11

Assessment of sales tax is connected with tax period i-e one month as opposed to income tax which is assessed on the basis of “Tax year”

Perhaps in order to synchronize the audit proceedings, time limitation presently defined with reference to due date for monthly transaction, sales tax payment is proposed to be connected with Financial year

As result of change limitation period may be extended in certain cases up to one year

Proposed change is to be applied prospectively

Record Keeping -Section 22

All registered persons are required to maintain cash book & electronic copy of all records

Proposed amendment will facilitate the implementation of e-audit and e-hearing

For some registered persons it could be difficult to comply with; like traders / wholesalers etc.

Ground realities must be considered. Specified Sector must be targeted first.

Transaction Between Associates- Section 25AA

Presently CIR is empowered to determine FMV for a supply between the associated. However, there are no rules / detailed framework to exercise such powers

Proposed provision empowers the FBR to prescribe rules for determination of transfer price for transaction between the associates

It is anticipated that the FBR will replicate the Income Tax Rules under this provision.

Licensing of Brands- Section 40E



Conflict with Preamble of Sales Tax Law !

The concept of licensing for each brand or stock keeping unit [SKU] by the manufacturers of specified goods in such manner as may be prescribed by the Board.

POS Integration, Mystery Shopping, Track & Trace System, Licensing, etc. depict lack of departmental enforcement. Automation is the solution in the times to come.

Appropriate and relevant HR required for automated environment.

Adjustment of Contra Payments- Section 73

Longstanding demand of ICAP / KTBA regarding payment through banking channel be relaxed for contra payments

Though the proposal has been accepted; however, the condition attached i.e., seeking prior approval from CIR is impractical particularly in cases where such adjustment would be a regular feature

To let the scheme work, the requirement of prior permission be replaced with the intimation & CIR may be empowered to scrutinize afterwards.

Taxation of Sugar & Edible Oil

Presently cooking oil & ghee is subject to FED chargeable on retail price, whereas Sugar is taxable on ad valorem basis for manufacturers

Usually cooking oil & ghee is packed as consumer article by the manufacturer whereas sugar is sold in 50KG wholesale packing

The Bill proposes to tax Sugar at retail price by inserting it in Third Schedule except for certain institutional sale; cooking oil & ghee has been brought under standard ST regime

Further Tax exempted on sugar while edible oil will attract further tax

Sugar Issues Settled ?

Post Budget Senate Proceedings. Again Enforcement Failure

Rationale ?

Export Facilitation Scheme - 5th Schedule



Zero rating on local supplies of raw materials, components, parts and plant and machinery to registered exporters authorized under Export Facilitation Scheme, 2021

Board will notify the details of such export facilitation scheme.

All the benefits available to exporters are being consolidated under one regime

Withdrawal of Zero Rating

- Supply, repair or maintenance of any ship / aircraft and spare parts thereof
- Supply of equipment and machinery for pilot age, salvage or towage services.
- Supply of equipment and machinery for air navigation services.
- Supply of equipment and machinery for other services provided for ships or aircraft
- Supplies of such locally manufactured plant and machinery to petroleum and gas sector, Exploration and Production companies, their contractors and sub-contractors
- Raw materials, components, sub-components and parts, if imported or purchased locally for use in the manufacturing of such plants and machinery as is chargeable to sales tax at the rate of 0%
- Petroleum Crude Oil

Withdrawal of Sales Tax Exemption

The bill proposed to withdraw exemption on certain items and seeks to bring such goods under normal sales tax regime.

Table 1 - Imports or Supplies	Table 2 – Local Supplies
Edible oils and vegetable ghee, including cooking oil	Raw and pickled hides and skins
Ice and waters	Bricks
Table salt including iodized salt	LED or SMD lights and bulbs
Glass bangles	Cottonseed oil
Energy saver lamps	
Bicycles	
Raw and pickled hides and skins, wet blue hides / skins, finished leather, etc.	
Import and supply of ships, which was earlier granted till June 2030.	
Import of Halal edible offal of bovine animals	
Components or sub-components of energy saver lamps	
Plant and machinery, imported for setting up fruit processing in Gilgit Baltistan, malakand division and Baluchistan.	
Aircraft	
Maintenance kits, spare parts, aviation simulators for use in aircrafts, etc.	
Steel billets, ingots, ship plates, bars, etc.	

Addition of New Exemption - Imports or Supplies

- Import of CKD of specified electric vehicles
- Goods temporarily imported by International Athletes
- Import of auto disable Syringes and certain raw material thereof
- Import of plant, machinery and raw material by IT Special Technology Zone, zone developers and zone enterprises
- Import of raw materials, components, parts and plant and machinery by registered persons under Export Facilitation Scheme, 2021

Withdrawal of exemption from import

Following items are proposed to be transposed from Table-1 to Table-2 of Sixth Schedule to the ST Act. Now tax on such goods would be applicable at standard rate at the time of import, while they shall remain exempt if supplied locally:

Eggs	Cereals and products of milling industry
Sugar beet	Fruit juices*
Milk and cream*	Flavored milk*
Yogurt*	Whey*
Butter*	Desi ghee*
Cheese*	Processed cheese not grated or powdered*
Sausages of poultry meat *	
Preparations for Infants	
Fat Filled Milk*	
Cream*	

** Such products are proposed to be taxable, if sold in retail packing under a brand name*

Addition of Exemptions – 6th Schedule

- Supply of locally produced silos till 30.06.2026
- Supply of specified goods within the limits of the Border Sustenance Markets, established in cooperation with Iran and Afghanistan, subject to certain conditions.

Withdrawal of Reduce tax rate under 8th Schedule

Following goods are now taxable @ standard tax regime

- Soyabean meal and seed
- Raw cotton and ginned cotton
- Plant and machinery not manufactured locally
- Ingredients of poultry and cattle feed
- Waste paper
- Plant, machinery and equipment used in production of bio-diesel
- Harvesting, threshing and storage equipment
- Machinery for Poultry sector
- LNG/RLNG
- Silver and Gold, in unworked condition
- Articles of jewelry, or parts thereof

if sold in retail packing under brand name

- Fat filled milk
- Flavored milk
- Yogurt
- Cheese
- Butter
- Cream
- Milk and cream

Concession on Electric Vehicles – 8th & 12 Schedule

- Locally manufactured or assembled electric vehicles are proposed to tax at 1% till June 2026
- Locally manufactured or assembled motorcars of cylinder capacity up to 850cc are proposed to be tax at 12.5%
- Import and local supply of Hybrid Electric Vehicles are proposed to be tax at 8.5% and 12.75%.

Exemption from the levy of value addition tax on import.

- Electric vehicles (4 wheelers), either in CKD kits and in CBU condition, till June 2026
- Electric vehicles (2-3 wheelers and heavy commercial vehicles), CBU condition, till June 2025
- Motor cars of cylinder capacity up to 850cc

THANK YOU

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