

*Provincial Finance Acts 2022*

# CRITIQUE ON CHANGES IN SERVICE SALES TAX LAWS

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# Service Sales Tax Laws

The Big Picture

Key Changes in Law

Insights on Unfinished Agenda

# The Big Picture

## Context

Provincial SST laws are widely believed a hurdle in doing business, reasons are well known now

All stakeholders, including KTBA has been demanding harmonization of Tax Laws

IMF in 2019 also conditioned its program, seeking tax harmonization for ease of doing business

# The Big Picture

## National Tax Council

As per notified TORs, council was formed to resolve jurisdiction, single sales tax law, portal

Work halted due to Covid Pandemic, political uncertainty -

Very few tangible outcomes, still a lot to be done

# The Big Picture

## Overall Comments on Finance Acts

Sindh & Baluchistan - providing stable tax regimes, no change in law made in Finance Acts; some notifications !

KPK replaced its law with new one, comparatively more in line with other provincial laws with some exceptions

Punjab – some amendments in machinery provisions made

# The Big Picture

## Overall Comments on Finance Acts

Issue of jurisdiction to tax toll manufacturing, restaurants resolved to some extent

Taxability of certain sectors harmonized across the Board

Leveraging technology, integration, electronic monitoring etc.

## Definitions

Neither provincial nor ICT input tax claimable under KRPA Laws. Government empowered to notify such tax as input tax

“place of business”, includes liaison office, person providing services in territorial jurisdiction of KPK irrespective of physical presence. Implications for virtual businesses, online businesses. International best practices should be adopted.

“Tax fraud” now includes person failing to deposit tax withheld; failing to file four consecutive returns. Procedural lapse should not be penalized so harshly.

## Definitions

Term “Business bank account” defined to mean only bank account declared with authority

Definition of “due date” amended to extend return filing date from 15<sup>th</sup> to 18<sup>th</sup> of following month, payment date remains 15<sup>th</sup>



### Reverse charge

Only service recipient registered either as withholding agent or service provider to pay tax under “reverse charge”.

Previously every resident service recipient was required to pay tax under said provision

Relief for non - business consumers and small entities. Service provider would be liable to pay tax.

### Economic activity

Immovable property renting, leasing & licensing included in scope of economic activity. Experience of SSTSA repeated.

Activities of public companies performing purely state functions are excluded. SCP judgment made part of law.

Exclusion of public companies is subject to certain conditions, commercial activities will remain in the scope

### Penalties

Penalties against certain offences have been enhanced significantly

Penalty imposition allowed on late filing in cases where there is no tax was payable. Amendment contrary to settled principles.

Individual making payment on behalf of withholding agent or holding amount on behalf of taxpayer like banking officer, may personally be penalized

### Other important amendments

Enabling provision for issuance of refund in certain cases has been introduced.

“Taxpayer” defined to include any person liable to pay tax including the withholding agents. Withholding agent needs to be registered with KPRA.

Policy Board may ask persons providing exempt services to obtain registration & file specified returns

### Other important amendments

Enabling provision for giving appeal effect order introduced.

Government vested with power to impose tax by amending Second Schedule at any rate.

Input tax disallowance will be routed through the Act not via rules.

### Other important amendments

Application for revision of order can now be made within 180 days as opposed to 90 days under repealed law

Requirement of transferring undecided appeal on expiry of 180 days to Appellate Tribunal has not been carried in the new law

Enabling provision of monitoring or tracking through electronic means introduced in the law

### Other important amendments

Powers acquired to restrain other regulating authorities from issuing / renewing licenses. Might be conflicting with other laws.

Power of Collector Appeals to enhance the liability withdrawn. Enhancement possible ? With or without SCN ? Article 10A

Collector to seal business premises after giving reason in writing through notice

### Other important amendments

Fixed rate 12% for levying default surcharge (24% *in case tax fraud cases*) introduced as opposed to KIBOR + 3%

Default surcharge to be calculated on monthly basis - period less than one month is to be considered as complete month

Recovery of tax can now be made through direct deposit of sales proceeds in real time by appointing “Receiver”



### Changes in taxability of certain services

Increase of tax rate from 5% to 10% for medical laboratories. Principally this service should be exempted

Marriage Halls who integrate invoicing system taxed @ 5% without input tax credit  
[Notification dated 10 August 2022]

Health insurance including Sehat Card Plus program exempted. [Notification dated 10 August 2022]

### Significant amendments in machinery provisions

Effective from July 2022, time limit for record keeping, assessment and recovery of short paid tax stand shortened to 5 years instead of 8 years. Enhancement to 8 years was retrospective while shortening of period will have prospective effect.

Extent of input tax adjustment – threshold now 90% as opposed previous 80%

Payment through banking channel; payments during a tax period in aggregate exceeding Rs. 50,000 required to paid through bank; not applicable on utilities payments

### Penalties

Significant enhancement in penalties for certain offences. Few new offences added in the list

Penalty of Rs.100k on Bank and imprisonment of banker upon conviction by special judge upto 1 year & fine upto tax involved on failure to attach bank account

On refusal to receive notice, Rs. 50K or tax involved for tax period to which the offence relates, whichever is higher

### Changes in taxability of certain services

Exemption on internet services to students exceeding Rs. 1,500 per month withdrawn

Scope of IT enabled services taxable @ 5% enlarged to include real estate aggregators. Retrospective application since inception !

Scope of ride hailing services taxable @ 4% enlarged to include cab aggregators. Retrospective application since inception !

## Important amendments through notification

Exemption of toll manufacturing services subject to condition that sales tax is paid under Sales Tax 1990. Whether jurisdiction issue resolved ? Impact of conditional exemption. SCP verdict.

Special procedure amended to allow one time election to be taxed under reduced rate or standard rate regime which will remain valid until withdrawn through application

Election was to be filed before 21<sup>st</sup> July 2022. Could be withdrawn before 21 days of commencement of relevant FY. To be filed 14 days before commencement new business

### Important amendments through notification

Software or IT based System development consultants – Option to elect reduce rate of 3%.  
Due date for election of option was 31 July 2022

Services provided or rendered by call centers  
Due date for election of option was 31 July 2022

Commission Agents- Providing services in relation to food home delivery services to home chefs- Reduced rate of 8%

# Key Changes in Law - ICT (Tax on Services) Ordinance, 2001

## New tariff headings

- ☐ Services provided by farmhouses
- ☐ Services by Restaurants

## Change in tax rate

Standard rate of sales tax reduced to 15% from 16%

## Taxability of IT & IT enabled Services

Previously Software & IT based System development consultants were taxable at standard rate, however IT & IT enabled services were notified to be taxed @5%. Now rate of 5% provided in table against, effectively restricting the benefit to consultants only

## Insights on unfinished agenda



Single Sales Tax Law

Data Harmonization

Reduction in duplication  
in administration hassle





# Thank You