

Government of Pakistan
Revenue Division
Federal Board of Revenue

C. No. 3(1)ST-L&P/2015 (Vol-III)

Islamabad, the 21st July, 2023

Circular No. 02 of 2023-24
Sales Tax, Federal Excise and ICT (Tax on Services)

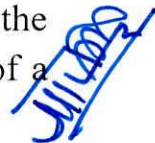
Subject: Explanation of Important Amendments in Sales Tax Act 1990, ICT (Tax on Services) Ordinance, 2001 and Federal Excise Act, 2005 Through the Finance Act, 2023

The Finance Act, 2023 has brought about certain amendments in Sales Tax Act, 1990 (hereinafter referred to as "STA"), Federal Excise Act, 2005 (hereinafter referred to as "FEA") and Islamabad Capital Territory (Tax on Services) Ordinance, 2001 (hereinafter referred as 'ICTO'). Significant amendments are explained hereunder. Changes are effective from 1st day of July, 2023.

1. Revamping of Alternative Dispute Resolution Mechanism.

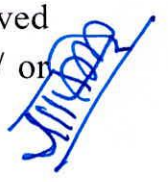
In order to facilitate the registered persons and to reduce litigation as well as cost of litigation, common amendments have been made in STA and FEA by revamping alternative dispute resolution mechanism through the Finance Act, 2023. Major highlights and departure points from previous regime are highlighted as under:

- a. The flexible nature of initial proposition by the registered person for resolution of the dispute including an offer of tax payment has been introduced which previously was fixed in nature, once offered, and un-retractable by the registered person;
- b. The Board will appoint the committee within 15 days of receipt of application for dispute resolution instead of previous 45 days;
- c. The third member of the dispute resolution committee which previously was appointed through consensus between the Chief Commissioner and registered person nominated member from the panel has been replaced with a retired judge not below the rank of a



judge of a High Court, who will also be the Chairperson of the dispute resolution committee, to be nominated by the Board from a panel notified by the Law and Justice Division;

- d. Previously, both registered person and Commissioner were required to withdraw pending appeals before appellate fora in respect of the dispute. Now no such requirement of withdrawal of appeal is binding on both registered person and the Commissioner for the resolution of the dispute. The Board will only communicate the order of appointment of Committee to the aggrieved person, court of law or the appellate authority where the dispute is pending and to the concerned Commissioner;
- e. Dispute resolution committee is now bound to decide the dispute within 45 days extendable by 15 days for reason to be recorded in writing. Previously, the dispute resolution committee was required to decide the dispute within 120 days;
- f. Recovery of tax payable by the registered person in connection with the dispute will be deemed to be stayed from the date of constitution of the committee till decision or dissolution of the committee. Previously, the deemed stay was applicable from withdrawal of appeal from appellate fora till decision or dissolution of committee;
- g. The decision of the committee will be binding on the commissioner when the aggrieved person has withdrawn his appeal and communicate the same to Commissioner within 60 days of such decision instead of previous binding nature of decision to both Commissioner and the aggrieved person;
- h. The Commissioner will withdraw the appeal pending before any court of law or an appellate authority within thirty days of the communication of the order of withdrawal of appeal by the aggrieved person to the Commissioner subject to payment of sales tax and/ or FED or other taxes within such time as decided by the Committee.



Amendments made in the STA:

Revenue Measures:

2. Sales Tax on Supply Of Certain Specified Goods Sold Under Brand Names and Trademarks.

Prior to Finance Act, 2023, imports and local supplies of certain edible goods when sold in retail packaging with brand names and trademarks were made chargeable to sales tax. However, as a result, certain quantity of such goods was treated as “bulk” packaging and were claimed as exempt from charging of sales tax although such “bulk” supply was still under a brand name/ trademark.

In order to remove the ambiguity, the relevant entries under the Table-1 and Table-2 of the Sixth Schedule has been suitably amended by removing the distinction between any types of packaging whether ‘retail’ or bulk. As a result, all supplies of goods specified below when made under brand names or trademarks are now chargeable to sales tax. These items include red chilies, ginger, turmeric, yogurt, butter, desi ghee, cheese, processed cheese not grated or powdered, products of meat or meat offal, meat of bovine animals, sheep, goat and uncooked poultry meat & fish and crustaceans.

3. Enhancement of Rate of Sales Tax from 12% to 15% for Tier-1 Retailers of Finished Fabrics and Articles of Textile Leather etc.

Prior to Finance Act, 2023, supplies of goods made by retail outlets integrated with the Board’s real time reporting system dealing in finished fabrics and locally manufactured finished articles of textile leather and artificial leather etc. (subject to the condition that they have maintained 4% value addition during the last six months) were chargeable at reduced sales tax rate of 12%. Through Finance Act, 2023, the said reduced rate has been enhanced to 15%.

4. Enhancement in Rate of Further Tax

Further tax is charged on supplies of taxable goods made by a registered person to a person who has not obtained sales tax registration number or has obtained registration number but not an active taxpayer. The said rate

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of sales tax under sub-section (1A) of section 3 of STA was previously 3% which has now been enhanced to 4% through Finance Act, 2023.

5. Imposition of Sales Tax on DAP.

Prior to Finance Act, 2023, all types of fertilizers including DAP were exempt from sales tax. Through Finance Act, 2023, a reduced rate of 5% sales tax has been imposed on import and local supply of DAP only. However, excess input tax, if any, shall not be admissible for refund.

Relief Measures:

6. Preparations Suitable for Infants.

Prior to Finance Act, 2023, preparations suitable for infants, put up for retail sale not exceeding Rs. 500 per 200 grams enjoyed zero-rating. The threshold has now been increased to Rs.600 per 200 grams.

7. Extension in Exemption of Sales Tax in FATA/PATA till 30.06.2024.

Exemption of sales tax under S. No. 151 and 152 of Table-1 of the Sixth Schedule to the STA on supplies and imports of plant, machinery, equipment etc. and electricity respectively, available to the industrial units located in the jurisdiction of erstwhile FATA/PATA expired on 30.06.2023. In order to promote and support the industry that has provided employment in said territory, the period of said exemption has been extended till 30.06.2024.

8. Streamlining Exemption on Wheat Bran.

Wheat Bran is a by-product obtained during milling of wheat to produce wheat flour. Bran has always remained exempt, except some period when the exemption notification lapsed on 30.06.2018. An insertion has been made in the already available exemption to wheat Bran to cover the intervening period and expression has been added that this exemption shall apply from the 1st day of July, 2018.

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Streamlining Measures:

9. Deletion of Category of Covered Area for Tier-1 Retailers

In order to provide level playing field to retailers, the category of covered area for Tier-1 retailers has been removed. The sub-clauses (e) and (ga) of clause (43A) of section 2 regarding the requirement of shop area i.e. 2,000 sqf. for furniture retailers, 1,000 sqf. for other retailers and 300 sqf. for jewelers are omitted.

10. Enhancement of Scope of Penal Action

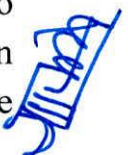
In order to enhance the scope of penal action against the person who commits an offence as listed in section 33 of the STA, the expression “cigarettes packs” has been substituted in clause (23) of section 33 with “goods or class of goods specified by the Board under sub-section (1) of section 40C”. It provides penal action against any person who manufactures, possesses, transports, distributes, stores or sells goods or class of goods as specified by the Board under sub-section (1) of section 40C with counterfeited tax stamps, banderoles, stickers, labels or barcodes or without tax stamps, banderoles, stickers, labels or barcodes.

11. Broadening the Scope of Zero-rating of Sales Tax Supplies made To Registered Exporters Authorized Under EFS, 2021.

Scope of zero-rating facility on local supplies of raw material, components, parts and plant and machinery to the registered exporters authorized under Export Facilitation Scheme, 2021 notified by the Board with such conditions, limitations and restriction as specified therein is enhanced by inserting the word “commodities” under S. No. 21 of Fifth Schedule to the STA.

12. Explanation Regarding Blood Bag CPDA-1 With Blood Transfusion Set Pack in Aluminum Foil With Set.

Blood transfusion sets are integral part of blood bag but are not required to be packed and placed inside the same aluminum foil in which blood bags are packed. The explanation is added to remove ambiguity and to clarify that exemption of sales tax is also available to blood transfusion sets even though not packed in aluminum foil but imported in one



consignment in corresponding quantity under S. No. 121 of Table-1 to the Sixth Schedule to the STA.

13. Enhancement of Scope of Reduced Rate of 1% to Alternative medicines/ Medicaments.

Prior to Finance, Act, 2023, S. Nos. 81 and 82 of Table-1 of the Eighth Schedule provided reduced rate of 1% on import and supply of substances registered as drugs under the Drugs Act, 1976 (XXXI of 1976) and to APIs excluding excipients, for manufacture of drugs registered under the Drugs Act, 1976 (XXXI of 1976) or raw materials for the basic manufacture of pharmaceutical active ingredients subject to certain conditions. The wording of said S. Nos. did not cover alternative medicines/medicaments, hence, they were chargeable at standard rate of sales tax @ 18%.

In order to streamline the sales tax structure on raw materials, APIs and drugs and to include alternative medicines/medicaments in the reduced rate regime of 1% sales tax, S. Nos. 81 and 82 of Table-1 of Eighth Schedule are substituted to extend 1% reduced rate of sales tax to alternative medicines/medicaments subject to certain conditions. It is pertinent to mention here that S. No 81 stands substituted from the 1st day of July, 2022.

14. Implementation of Decision of National Tax Council on Electricity Transmission Services.

National Tax Council (NTC) decided that “transmission” of electricity is a “service” and the same may be excluded from the purview of GST under the STA. Therefore, in order to harmonize the federal and provincial tax laws the words “production, transmission and distribution of electricity” have been omitted from the definition of ‘goods’ and ‘supply’ under clause (12) and sub-clause (e) of clause (33) of section 2 respectively, the effect of which is that only “transmission” of electricity will be excluded from the charging of GST under the STA, however, the electricity itself being a “good” will continue to be chargeable to GST under the STA.



Amendments made in the ICTO:

Revenue Measures:

15. Imposition of Tax on Electric Power Transmission Services @ 15%.

Through Finance Act, 2023, tax on electric power transmission services is imposed @ 15% within the territorial jurisdiction of ICT through addition of S. No. 60 in the Table-1 of the Schedule to implement the decision of National Tax Council (NTC).

Relief Measures:

16. Reduction in the Rate of Sales Tax to 5% on Services Provided by Restaurants if Payment is made through Debit or Credit Cards etc.

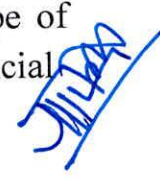
In order to encourage documentation and discourage under reporting of sales, digital payments at restaurants through debit or credit cards, mobile wallets or QR scanning have been provided a special provision of reduced rate of 5% instead of standard 15%, without adjustment of input tax. In case of other modes of payment, tax @ 15% shall be applicable with input adjustment.

The services provided or rendered by hotels, motels, guest houses, farmhouses, marriage halls, lawns, clubs and caterers are however, chargeable to 15%. In situations where restaurants, cafes, ice-cream parlors, coffee houses, coffee shops etc. exist within hotels, motels or clubs, the rate of 5% will apply, being special law to prevail over general law, if conditions as envisaged are met.

Streamlining Measures:

17. Streamlining and Harmonizing the Scope of IT and ITeS.

Prior to Finance Act, 2023 scope of levy of sales tax on services was limited to 'software or IT based system development consultants'. In order to enhance the scope of sales tax on services in tandem with scope of such services under the Income tax Ordinance, 2001 and other Provincial



revenue authorities, the definition of IT and ITeS as given in the Income Tax Ordinance, 2001 has been inserted.

Amendments made in the FEA:

Revenue Measures:

18. Enhancement of Rate of FED on Tobacco Mixture in an Electrically Heated Tobacco Product.

Rate of duty on Tobacco mixture in an electrically heated tobacco product by whatever name called, intended for consumption by using a tobacco heating system without combustion has been enhanced from Rs. 5,200 per kg to Rs. 16,500 per kg in line with rate of duty imposed on locally produced cigarettes under S. No. 9 of Table I of the First Schedule to the FEA.

19. Enhancement of Rate of FED on Sugary Fruit Juices, Syrups etc.

Rate of duty on sugary fruit juices, syrups and squashes, waters whether or not containing added sugar or artificial sweeteners excluding mineral and aerated waters has been enhanced from 10% of retail price to 20% of retail price under S. No. 59 of Table I of the First Schedule to the FEA.

20. Imposition of FED on Energy Inefficient Fans and Incandescent Bulbs.

FED @ Rs. 2,000 per energy inefficient fan and @ 20% ad valorem on incandescent bulbs has been imposed. The said levy under S. No. 60 and 61 of Table I of First Schedule will be applicable w.e.f 01.01.2024.

21. Imposition of FED on Fertilizers

Through Finance Act, 2023, FED @ 5% ad valorem on all types of fertilizers has been imposed by adding S. No. 62 of Table I of the First Schedule to the FEA.

22. Enhancement of the Scope of FED by Adding Royalty and Fee for Technical Services.

A franchisee enjoys an authority given by the franchiser to produce, manufacture, sell or trade in or do any other business activity in respect of

goods or to provide service or to undertake any process identified with franchiser against a fee or consideration including royalty or technical fee. Prior to Finance Act ,2023 only the expression “Franchise Services” was given in S. No. 11 of Table II of the First Schedule to FEA. Now the expression “Franchise services, royalty and fee for technical services” has been substituted in order to enhance the Scope of FED.

Streamlining Measures:

23. Enhancement of the Scope of FED.

Section 3 of the FEA provides chargeability of FED on excisable goods and services. However, there are certain activities or transactions that are neither treated as goods nor as services. In order to cater such situation a new clause (e) of sub-section (1) of section 3 has been added through Finance Act, 2023 which elaborates that any item not covered in clause (a) to (d) of section 3(1) of the FEA but specified in the first schedule shall also be chargeable to FED.

24. Alignment of FEA and STA Procedure/ Provisions.

The procedure for publication of general orders, departmental instructions and rulings of the Board and placement on FBR website has been added through insertion of sub-section (4) of section 40. This will align the procedure/ provisions under FEA with procedure/ provisions available under the STA.


(Akhtar Abbas)
Secretary (ST & FE-Policy) 21/07/23