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GENERAL CONCEPTS OF SALES TAX ON GOODS

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1. DIFFERENCE BETWEEN TAXABLE, ZERO RATED AND EXEMPT SUPPLIES ALONG WITH SCHEDULES

A. TAXABLE SUPPLY

Section 2(35) “taxable activity”, means any economic activity carried on by a person whether or not for profit, and includes—

- (a) an activity carried on in the form of a business, trade or manufacture;
- (b) an activity that involves the supply of goods, the rendering or providing of services, or both to another person;
- (c) a one-off adventure or concern in the nature of a trade; and
- (d) anything done or undertaken during the commencement or termination of the economic activity,

but does not include—

- (a) the activities of an employee providing services in that capacity to an employer;
- (b) an activity carried on by an individual as a private recreational pursuit or hobby; and
- (c) an activity carried on by a person other than an individual which, if carried on by an individual, would fall within sub-clause (b)

Section 2(39) “taxable goods” means all goods other than those which have been exempted under section 13;

Section 2(41) “taxable supply” means a supply of taxable goods made by an importer, manufacturer, wholesaler (including dealer), distributor or retailer other than a supply of goods which is exempt under section 13 and includes a supply of goods chargeable to tax at the rate of zero per cent under section 4;

B. SCOPE OF TAX

Section 3.Scope of tax. (1) Subject to the provisions of this Act, there shall be charged, levied and paid a tax known as sales tax at the rate of seventeen per cent of the value of—

- (a) taxable supplies [Section 2(41)] made by a registered person in the course or furtherance of any taxable activity [Section 2(35)] carried on by him; and
- (b) goods imported into Pakistan.

(1A) Subject to the provision of sub-section (6) of section 8 or any notification issued thereunder, where taxable supplies are made to a person who has not obtained registration number, there shall be charged, levied and paid a further tax at the rate of one per cent of the value in addition to the rate specified in sub-section (1), (1B), (2), (5) and (6):

Provided that the Federal Government may, by notification in the official Gazette, specify the taxable supplies in respect of which the further tax shall not be charged, levied and paid.

(1B) The Board may, by notification in the official Gazette, in lieu of levying and collecting tax under sub-section (1) on taxable supplies, levy and collect tax-

- (a) on the production capacity of plants, machinery, undertaking, establishments or installations producing or manufacturing such goods; or
- (b) on fixed basis, as it may deem fit, from any person who is in a position to collect such tax due to the nature of the business.

(2) Notwithstanding the provisions of sub-section (1),--

- (a) taxable supplies specified in the Third Schedule shall be charged to tax at the rate of seventeen per cent of the retail price which alongwith the amount of sales tax shall be legibly, prominently and indelibly printed or embossed by the manufacturer on each article, packet, container, package, cover or label, as the case may be:

Provided that the Federal Government, may, by notification in the official Gazette, exclude any taxable supply from the said Schedule or include any taxable supply therein; and

- (b) the Federal Government may, subject to such conditions and restrictions as it may impose, by notification in the official Gazette, declare that in respect of any goods or class of goods imported into or produced or any taxable supplies made by a registered person or a class of registered persons, the tax shall be charged, collected and paid in such manner and at such higher or lower rate or rates as may be specified in the said notification.

(3) The liability to pay the tax shall be,--

- (a) in the case of supply of goods, of the person making the supply, and
- (b) in the case of goods imported into Pakistan, of the person importing the goods.

(3A) Notwithstanding anything contained in clause (a) of sub-section (3), the Federal Government may, by a notification in the official Gazette, specify the goods in respect of which the liability to pay tax shall be of the person receiving the supply.

C. ZERO RATED SUPPLY

Section 2(48) “zero-rated supply” means a taxable supply which is charged to tax at the rate of zero per cent under section 4.

Section 4. Zero rating.—Notwithstanding the provisions of section 3, the following goods shall be charged to tax at the rate of zero per cent:--

- (a) goods exported, or the goods specified in the Fifth Schedule;
- (b) supply of stores and provisions for consumption aboard a conveyance proceeding to a destination outside Pakistan as specified in section 24 of the Customs Act, 1969 (IV of 1969);
- (c) such other goods as the Federal Government may, by notification in the official Gazette, specify;
- (d) such other goods as may be specified by the Federal Board of Revenue through a general order as are supplied to a registered person or class of registered persons engaged in the manufacture and supply of zero-rated goods.

Provided that nothing in this section shall apply in respect of a supply of goods which—

- (i) are exported, but have been or are intended to be re-imported into Pakistan; or
- (ii) have been entered for export under Section 131 of the Customs Act, 1969 (IV of 1969), but are not exported; or
- (iii) have been exported to a country specified by the Federal Government, by Notification in the official Gazette:

Provided further that the Federal Government may, by a notification in the official Gazette, restrict the amount of credit for input tax actually paid and claimed by a person making a zero-rated supply of goods otherwise chargeable to sales tax.

D. EXEMPT SUPPLIES

Section 2(11) “exempt supply” means a supply which is exempt from tax under section 13;

Section 13Exemption.—(1) Notwithstanding the provisions of section 3, supply of goods or import of goods specified in the Sixth Schedule shall, subject to such conditions as may be specified by the Federal Government, be exempt from tax under this Act.

(2) Notwithstanding the provisions of sub-section (1)–

- (a) the Federal Government may, by notification in the official Gazette, exempt any taxable supplies made or import or supply of any goods or class of goods, from the whole or any part of the tax chargeable under this Act, subject to the conditions and limitations specified therein; and
- (b) the Board may, by special order in each case stating the reasons, exempt any import or supply of goods of such description or class, as may be specified from the payment of the whole or any part of the tax chargeable under this Act.

(3) The exemption from tax chargeable under sub-section (2) may be allowed from any previous date specified in the notification issued under clause (a) or, as the case may be, order made under clause (b) of that sub-section.

(4) *Omitted by Finance Act, 2006*

E. SCHEDULES

THE THIRD SCHEDULE

[Retail Price Basis]

See clause (a) of sub-section (2) of section 3

Serial No.	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)
(1)	(2)	(3)
1	Fruit juices and vegetable juices.	20.09
2	Ice Cream.	21.05
3	Aerated waters or beverages.	22.01 and 22.02
4	Syrups and squashes.	Respective headings
5	Cigarettes.	2402.2000
6	Toilet soap.	3401.1100; and 3401.2000
7	Detergents.	3402.2000
8	Shampoo.	3305.1000
9	Toothpaste.	3306.1010
10	Shaving cream.	3307.1000
11	Perfumery and cosmetics.	Respective sub-headings of 33.03 and 33.04.
12	Omitted Omitted by Finance Act, 2008	

Serial No.	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)
13	Omitted Omitted by Finance Act, 2008	
14	Tea.	Respective sub-headings of 09.02
15	Powder drinks.	21.06
16	Milky drinks.	2106.9090
17	Toilet paper and tissue paper.	4818.1000 and 4818.2000
18.	Spices sold in retail packing bearing brand names and trade marks.	09.04, 09.06, 09.08 and 09.10
19.	Omitted Omitted by Finance Act, 2008	
20.	Omitted Omitted by Finance Act, 2008	
21.	Shoe polish and shoe cream.	3405.1010
23.	Household electrical goods, including air conditioners, refrigerators, deep freezers, televisions, recorders and players, electric bulbs, tube-light, fans, electric irons, washing machines and telephone sets	Respective headings.
24.	Household gas appliances, including cooking range, ovens, geysers and gas heaters	Respective headings.
25.	Foam or spring mattresses, and other foam products for household use	Respective headings.
26.	Auto parts and accessories sold in retail packing	Respective headings.
27.	Lubricating oils, brake fluid, transmission fluid, and other vehicular fluids and maintenance products in retail packing	Respective headings.
28.	Tyres and tubes	Respective headings.
29.	Storage batteries	Respective headings.
30.	Arms and ammunition	Respective headings.
31.	Paints, distempers, enamels, pigments colours, varnishes, gums, resins, dyes, glazes, thinners, black, cellulose lacquers and polishes sold in retail packing	Respective headings.
32.	Fertilizers	Respective headings.
33.	Cement sold in retail packing	Respective headings.
34.	Tiles sold in retail packing	Respective headings.
35.	Biscuits, confectionary, chocolates, toffees and candies	Respective headings.

THE FIFTH SCHEDULE
[Zero Rated Supply]
See section 4

Serial No.	Description
(1)	(2)
1.	(i) Supply, repair or maintenance of any ship which is neither; (a) a ship of gross tonnage of less than 15 LDT; nor (b) a ship designed or adapted for use for recreation or pleasure. (ii) Supply, repair or maintenance of any aircraft which is neither; (a) an aircraft of weight-less than 8000 kilograms; nor (b) an aircraft designed or adapted for use for recreation or pleasure. (iii) Supply of spare parts and equipment for ships and aircraft falling under (i) and (ii) above. (iv) Supply of equipment and machinery for pilot age, salvage or towage services. (v) Supply of equipment and machinery for air navigation services. (vi) Supply of equipment and machinery for other services provided for the handling of ships or aircraft in a port or Customs Airport.
2.	Supply to diplomats, diplomatic missions, privileged persons and privileged organizations which are covered under various Acts, Orders, Rules, Regulations and Agreements passed by the Parliament or issued or agreed by the Government of Pakistan.
3.	Supplies to duty free shops, provided that in case of clearance from duty free shops against various baggage rules issued under the Customs Act, 1969, (IV of 1969), the supplies from duty free shops shall be treated as import for the purpose of levy of sales tax.
4.	Omitted words etc "Supplies against international tenders." by Finance Act, 2012
5.	Supplies of raw materials, components and goods for further manufacture of goods in the Export Processing Zone.
6.	Supplies of such locally manufactured plant and machinery to the Export Processing Zones and to petroleum and gas sector Exploration and Production companies, their contractors and sub-contractors as may be specified by the Federal Government, by notification in the official Gazette, subject to such conditions and restrictions as may be specified in such notification.
7.	Supplies made to exporters under the Duty and Tax Remission Rules, 2001 subject to the observance of procedures, restrictions and conditions prescribed therein.
8.	Imports or supplies made to Gawadar Special Economic Zone, excluding vehicles falling under heading 87.02 of the Pakistan Customs Tariff, subject to such conditions, limitations and restrictions as the Board may impose.

THE SIXTH SCHEDULE

[Exemption]

See section 13(1)

Table-1 (Imports or Supplies)

Serial No	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)
(1)	(2)	(3)
1.	Live Animals and live poultry.	10101.2100 and 0101.3100, 0101.9000, 0102.1010, 20102.2110, 30102.2120, 40102.2130, 50102.2190, 60102.3900, 70102.2910, 80102.2920, 90102.2930, 100102.2900, 0102.9000, 0104.1000, 0104.2000, 0105.1100, 0105.1200, 0105.1900, 0105.9400, 0105.9900, 0106.1100, 0106.1200, 0106.1900, 0106.2000, 0106.3110, 0106.3190, 0106.3200, 0106.3900 and 0106.9000
2.	Meat of bovine animals, sheep and goat, excluding poultry and offal, whether or not fresh, frozen or otherwise, preserved.	02.01, 02.02 and 02.04
3.	Fish and crustaceans excluding live fish whether or not fresh, frozen or otherwise preserved.	03.02, 03.03, 03.04, 03.05 and 03.06

*** Goes on till serial no 71**

Table 2 (Local Supplies only)

Serial No	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)
(1)	(2)	(3)
1.	Supply of cottonseed exclusively meant for sowing purposes, subject to such conditions as the Board may specify.	1207.2000.
2.	Supply of locally produced crude vegetable oil obtained from the locally produced seeds other than cotton seed, except cooking oil, without having undergone any process except the process of washing	Respective headings.
3.	Supplies made by (a) cottage industry; and (b) retailers whose annual turnover from supplies, whether taxable or otherwise, made in any tax period during the last twelve months ending any tax period does not exceed rupees five million.	Respective headings.
4.	Raw material and intermediary goods manufactured or produced, and services provided or rendered, by a registered person, consumed in-house for the	Respective headings.

Serial No	Description	Heading Nos. of the First Schedule to the Customs Act, 1969 (IV of 1969)
(1)	(2)	(3)
	manufacture of goods subject to sales tax.	

** Goes on till serial no 11*

2.1 REDUCED RATES

The Federal Government, subject to conditions and restriction, has powers to impose the sales tax at higher or lower rate or rates through notification that any goods or class of goods imported into or produced or any taxable supplies made by a registered person or a class of registered persons [Section 3(2)(b)].

For instance, the following notification is issued by the Federal Government:

S.No.	SRO No.	Date	Reduced Rate	Industry
1	69(I)/2006	January 28, 2006	14 %	Solvent extraction Industry
2	313(I)/2006	March 31, 2006	6 %	Solvent extraction Industry
3	1125(I)/2011	December 31, 2011	2% or 5%	Textile, Leather, Carpet, Surgical, and Sport Industries
4	213(I)/2013	March 15, 2013	2 %	Cotton seed oil
5	657(I)/2013	July 11, 2013	5%	Second hand and worn clothing

2.2 EXTRA TAX

The Federal Government, in addition to standard sales tax rate i.e. 17%, may impose and collect extra tax at such rates or amount notified through SRO(s) but can not impose in excess of 17% of the value of goods [Section 3(5)].

S.No.	SRO No.	Date	Higher Rate (Extra Tax) in addition to standard rate	Description
1	509(I)/2013	June 12, 2013	5 %	On unregistered and non active taxpayer
2	525(I)/2008 ⁱ	June 11, 2008	0.75 %	On specified electric home appliance

ⁱChapter XIII is inserted through SRO 525(I)/2008 dated June 11, 2008 in the Sales Tax Special Procedure Rules, 2007

3. INPUT AND OUTPUT TAX CONCEPTS

Section 2(14) “input tax”, in relation to a registered person, means—

- (a) tax levied under this Act on supply of goods to the person;
- (b) tax levied under this Act on the import of goods by the person;

- (c) in relation to goods or services acquired by the person, tax levied under the Federal Excise Act, 2005 in sales tax mode as a duty of excise on the manufacture or production of the goods, or the rendering or providing of the services;
- (d) Provincial sales tax levied on services rendered or provided to the person; and
- (e) levied under the Sales Tax Act, 1990 as adapted in the State of Azad Jammu and Kashmir, on the supply of goods received by the person;

Section 2(20) “output tax”, in relation to a registered person, means-

- (a) tax levied under this Act on a supply of goods, made by the person;
- (b) tax levied under the Federal Excise Act, 2005 in sales tax mode as a duty of excise on the manufacture or production of the goods, or the rendering or providing of the services, by the person;
- (c) Provincial sales tax levied on services rendered or provided by the person;

Section 7. Determination of tax liability.— (1) Subject to the provisions of section 8B, for the purpose of determining his tax liability in respect of taxable supplies made during a tax period, a registered person shall, subject to the provisions of section 73, be entitled to deduct input tax paid or payable during the tax period for the purpose of taxable supplies made, or to be made, by him from the output tax that is due from him in respect of that tax period and to make such other adjustments as are specified in Section 9

Provided that where a registered person did not deduct input tax within the relevant period, he may claim such tax in the return for any of the six succeeding tax periods.

- (2) A registered person shall not be entitled to deduct input tax from output tax unless,--
 - (i) in case of a claim for input tax in respect of a taxable supply made, he holds a tax invoice in his name and bearing his registration number in respect of such supply for which a return is furnished;
 - (ii) in case of goods imported into Pakistan, he holds bill of entry or goods declaration in his name and showing his sales tax registration number, duly cleared by the customs under section 79 or section 104 of the Customs Act, 1969 (IV of 1969);
 - (iii) in case of goods purchased in auction, he holds a treasury challan, in his name and bearing his registration number, showing payment of sales tax;
- (3) Notwithstanding anything in sub-sections (1) and (2), the Federal Government may, by a special order, subject to such conditions, limitations or restrictions as may be specified therein allow a registered person to deduct input tax paid by him from the output tax determined or to be determined as due from him under this Act.
- (4) Notwithstanding anything contained in this Act or rules made thereunder, the Federal Government may, by notification in the official Gazette, subject to such conditions, limitations or restrictions as may be specified therein, allow a registered person or class of persons to deduct such amount of input tax from the output tax as may be specified in the said notification.

Section 8. Tax credit not allowed.— (1) Notwithstanding anything contained in this Act, a registered person shall not be entitled to reclaim or deduct input tax paid on—

- (a) the goods or services used or to be used for any purpose other than for taxable supplies made or to be made by him;
- (b) any other goods or services which the Federal Government may, by a notification in the official Gazette, specify;
- (c) the goods under sub-section (5) of section 3;
- (ca) the goods or services in respect of which sales tax has not been deposited in the Government treasury by the respective supplier;
- (caa) purchases, in respect of which a discrepancy is indicated by CREST or input tax of which is not verifiable in the supply chain;
- (d) fake invoices; and

- (e) purchases made by such registered person, in case he fails to furnish the information required by the Board through a notification issued under sub-section (5) of section 26.
- (2) If a registered person deals in taxable and non-taxable supplies, he can reclaim only such proportion of the input tax as is attributable to taxable supplies in such manner as may be specified by the Board.
- (3) No person other than a registered person shall make any deduction or reclaim input tax in respect of taxable supplies made or to be made by him.
- (4)
- (5) Notwithstanding anything contained in any other law for the time being in force or any decision of any Court, for the purposes of this section, no input tax credit shall be allowed to the persons who paid fixed tax under any provisions of this Act as it existed at any time prior to the first day of December, 1998.
- (6) Notwithstanding anything contained in any other law for the time being in force or any provision of this Act, the Federal Government may, by notification in the official Gazette, specify any goods or class of goods which a registered person cannot supply to any person who is not registered under this Act.

4. ASSESSMENT

Section 11. Assessment of tax and recovery of tax not levied or short-levied or erroneously refunded.—

- (1) Where a person who is required to file a tax return fails to file the return for a tax period by the due date or pays an amount which, for some miscalculation is less than the amount of tax actually payable, an officer of Inland Revenue shall, after a notice to show cause to such person, make an order for assessment of tax, including imposition of penalty and default surcharge in accordance with sections 33 and 34:

Provided that where a person required to file a tax return files the return after the due date and pays the amount of tax payable in accordance with the tax return along with default surcharge and penalty, the notice to show cause and the order of assessment shall abate.

- (2) Where a person has not paid the tax due on supplies made by him or has made short payment or has claimed input tax credit or refund which is not admissible under this Act for reasons other than those specified in sub-section (1), an officer of Inland Revenue shall, after a notice to show cause to such person, make an order for assessment of tax actually payable by that person or determine the amount of tax credit or tax refund which he has unlawfully claimed and shall impose a penalty and charge default surcharge in accordance with sections 33 and 34.
- (3) Where by reason of some collusion or a deliberate act any tax or charge has not been levied or made or has been short-levied or has been erroneously refunded, the person liable to pay any amount of tax or charge or the amount of refund erroneously made shall be served with a notice requiring him to show cause for payment of the amount specified in the notice.
- (4) Where, by reason of any inadvertence, error or misconstruction, any tax or charge has not been levied or made or has been short-levied or has been erroneously refunded, the person liable to pay the amount of tax or charge or the amount of refund erroneously made shall be served with a notice requiring him to show cause for payment of the amount specified in the notice:

Provided that, where a tax or charge has not been levied under this sub-section, the amount of tax shall be recovered as tax fraction of the value of supply.

(5) No order under this section shall be made by an officer of Inland Revenue unless a notice to show cause is given within five years, of the relevant date, to the person in default specifying the grounds on which it is intended to proceed against him and the officer of Sales Tax shall take into consideration the representation made by such person and provide him with an opportunity of being heard:

Provided that order under this section shall be made within one hundred and twenty days of issuance of show cause notice or within such extended period as the Commissioner may, for reasons to be recorded in writing, fix provided that such extended period shall in no case exceed ninety days:

Provided further that any period during which the proceedings are adjourned on account of a stay order or Alternative Dispute Resolution proceedings or the time taken through adjournment by the petitioner not exceeding sixty days shall be excluded from the computation of the period specified in the first proviso.

(6) Notwithstanding anything contained in sub-section (1), where a registered person fails to file a return, an officer of Inland Revenue, not below the rank of Assistant Commissioner, shall subject to such conditions as specified by the Federal Board of Revenue, determine the minimum tax liability of the registered person.

(7) For the purpose of this section, the expression "relevant date" means—

- (a) the time of payment of tax or charge as provided under section 6; and
- (b) in a case where tax or charge has been erroneously refunded, the date of its refund.

5. APPORTIONMENT OF INPUT TAX CREDIT CONCEPT

Rule 24.Application.—The provisions of this chapter shall apply to the registered persons who make taxable and exempt supplies simultaneously.

Rule 25.Determination of input tax.—(1) Input tax paid on raw materials relating wholly to the taxable supplies shall be admissible under the law.

(2) Input tax paid on raw materials relating wholly to exempt supplies shall not be admissible.

(3) The amount of input tax incurred for making both exempt and taxable supplies shall be apportioned according to the following formula, namely:—

$$\text{Residual input tax credit on taxable supplies} = \frac{\text{Value of taxable supplies}}{(\text{Value of taxable} + \text{exempt supplies})} \times \text{Residual input tax}$$

(4) Monthly adjustment of input tax claimed by a registered person under this chapter shall be treated as provisional adjustment and at the end of each financial year, the registered person shall make final adjustment on the basis of taxable and exempt supplies made during the course of that year.

(5) Any input tax adjustment claimed wrongfully on account of incorrect application of formula set out in sub-rule (3) shall be punishable under the respective provisions of law irrespective of the fact that the claim was provisional.

6. REFUND AND CARRY FORWARD

Refunds in case of Zero-rated local supplies/ exports [Section 10]:

Excess amount of input tax [input tax paid on taxable purchases made during the year exceeds output tax on zero-rated local supplies/ exports] shall be refunded not later than 45 days [*theoretically*] of refund claim filing.

Carry Forward and Refund in case of Other than zero-rated local supplies or exports [Section 10]:

The excess amount of input tax [input tax paid on taxable purchases made during the year exceeds output tax on other than zero-rated local supplies/ exports] shall be carry forward to next tax period.

Section 7 allows that a registered person did not deduct input tax within the relevant tax period, he may claim such tax in the return for any of the six succeeding tax periods.

The excess amount of input tax also occur when input tax that is not adjustable by virtue of provision of section 8B, where input tax is in excess of 90 % of the output tax for that tax period.

The registered person may be allowed on yearly basis in second month following the end of financial year of the registered person for adjustment or refund of input tax that is not allowed to adjust under section 8B(1). Such adjustment may be allowed when the following conditions meet by:

- a) registered person whose accounts are subject to audit under the Companies Ordinance 1984 upon furnishing the following certified by auditors:
 - a statement showing value additions less than the limit prescribed.
 - annual audited accounts
- b) In other case, conditions may be notified by the Federal Board of Revenue.

Refunds in case of sales tax paid by way of inadvertence, error, or misconception and time barred input tax adjustments [Section 66]:

Registered person may apply with Commissioner for refund of excess sales tax within one year of sales tax paid, if such tax paid inadvertence, error, or misconception or on account input tax adjustment not claimed.