

KARACHI TAX BAR ASSOCIATION PROFESSIONAL DEVELOPMENT PROGRAM – BASIC PDP 2019

**Concept of Sales Tax & Service Tax, Definitions,
Charge of Tax, Adjustment of Input tax**

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COVERED LAWS

SALES TAX ACT, 1990

**SINDH SALES TAX ON
SERVICES ACT, 2011**

Agenda

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Agenda

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Introduction to Services Tax Laws

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Registration – section 14

Every person engaged in making taxable supplies in Pakistan, including zero-rated supplies, in the course or furtherance of any taxable activity carried on by him, falling in any of the following categories, if not already registered, is required to be registered under this Act, namely:-

- (a) a manufacturer who is not running a cottage industry;
 - (b) a retailer who is liable to pay sales tax under the Act or rules made thereunder, excluding such retailer required to pay sales tax through his electricity bill under sub-section (9) of section 3;
 - (c) an importer;
 - (d) an exporter who intends to obtain sales tax refund against his zero-rated supplies;
 - (e) a wholesaler, dealer or distributor; and
 - (f) a person who is required, under any other Federal law or Provincial law, to be registered for the purpose of any duty or tax collected or paid as if it were a levy of sales tax to be collected under the Act.
- (2) Persons not engaged in making of taxable supplies in Pakistan, if required to be registered for making imports or exports, or under any provisions of the Act, or any other Federal law, may apply for registration.
- (3) The registration under this Act shall be regulated in such manner as the Board may, by notification in the official Gazette, prescribe

Key Definitions

Key Definitions

active taxpayer means a registered person who does not fall in any of the following categories, namely:-

- a. who is blacklisted or whose registration is suspended or is blocked in terms of section 21
- b. fails to file the return under section 26 by the due date for two consecutive tax periods
- c. who fails to file an Income Tax return under section 114 or statement under section 115, of the Income Tax Ordinance, 2001(XLIX of 2001), by the due date; and
- d. who fails to file two consecutive monthly or an annual withholding tax statement under section 165 of the Income Tax Ordinance, 2001

CREST means the computerized program for analyzing and cross matching of sales tax returns, also referred to as Computerised Risk-Based Evaluation of Sales Tax

default surcharge means the default surcharge levied under section 34;

Key Definitions

goods include every kind of movable property other than actionable claims, money, stocks, shares and securities;

distributor means a person appointed by a manufacturer, importer or any other person for a specified area to purchase goods from him for further supply and includes a person who in addition to being a distributor is also engaged in supply of goods as a wholesaler or a retailer;

importer means any person who imports any goods into Pakistan;

manufacture or produce includes –

- (a) any process in which an article singly or in combination with other articles, materials, components, is either converted into another distinct article or product or is so changed, transformed or reshaped that it becomes capable of being put to use differently or distinctly and includes any process incidental or ancillary to the completion of a manufactured product;
- (b) process of printing, publishing, lithography and engraving; and
- (c) process and operations of assembling, mixing, cutting, diluting, bottling, packaging, repacking or preparation of goods in any other manner

manufacturer or producer means a person who engages, whether exclusively or not, in the production or manufacture of goods whether or not the raw material of which the goods are produced or manufactured are owned by him; and shall include ...

- a. a person who by any process or operation assembles, mixes, cuts, dilutes, bottles, packages, repackages or prepares goods by any other manner
- b. ...
- c. ...

Key Definitions

retailer means a person supplying goods to general public for the purpose of consumption.

Provided that any person, who combines the business of import and retail or manufacture or production with retail, shall notify and advertise wholesale prices and retail prices separately, and declare the address of retail outlets.

taxable activity means any 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;
- (d) anything done or undertaken during the commencement or termination of the economic activity, but does not include
- (e) the activities of an employee providing services in that capacity to an employer;
- (f) an activity carried on by an individual as a private recreational pursuit or hobby; and
- (g) an activity carried on by a person other than an individual which, if carried on by an individual, would fall within sub-clause (b).

Key Definitions

taxable goods means all goods other than those which have been exempted under section 13;

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;

tier-1 retailers means, –

- (a) a retailer operating as a unit of a national or international chain of stores;
- (b) a retailer operating in an air-conditioned shopping mall, plaza or centre, excluding kiosks;
- (c) a retailer whose cumulative electricity bill during the immediately preceding twelve consecutive months exceeds Rupees six hundred thousand;
- (d) a wholesaler-cum-retailer, engaged in bulk import and supply of consumer goods on wholesale basis to the retailers as well as on retail basis to the general body of the consumers; and
- (e) a retailer, whose shop measures one thousand square feet in area or more

Key Definitions

time of supply, in relation to, a supply of goods, other than under hire purchase agreement, means the time at which the goods are delivered or made available to the recipient of the supply or the time when any payment is received by the supplier in respect of that supply, whichever is earlier;...

value of supply means:--

(a) in respect of a taxable supply, the consideration in money including all Federal and Provincial duties and taxes, if any, which the supplier receives from the recipient for that supply but excluding the amount of tax:

Provided that –

(i) in case the consideration for a supply is in kind or is partly in kind and partly in money, the value of the supply shall mean the open market price of the supply excluding the amount of tax...

(b) in case of trade discounts, the discounted price excluding the amount of tax; provided the tax invoice shows the discounted price and the related tax and the discount allowed is in conformity with the normal business practices;...

zero-rated supply means a taxable supply which is charged to tax at the rate of zero per cent under section 4.

Key Definitions

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;

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;

Key Definitions

due date in relation to the furnishing of a return under section 26 means the 15th day of the month following the end of the tax period, or such other date as the Board may, by notification in the official Gazette, specify and different dates may be specified for furnishing of different parts or annexures of the return

exempt supply means a supply which is exempt from tax under section 13

provincial sales tax means tax levied under, Provincial laws or laws relating to Islamabad Capital Territory, which are declared by the Federal Government, through notification in the official Gazette to be Provincial Sales Tax for the purpose of input tax;

registered person means a person who is registered or is liable to be registered under this Act:

Provided that a person liable to be registered but not registered under this Act shall not be entitled to any benefit available to a registered person under any of the provisions of this Act or the rules made thereunder;

registration number means the number allocated to the registered person for the purpose of this Act;

retail price with reference to the Third Schedule, means the price fixed by the manufacturer or importer, in case of imported goods, inclusive of all duties, charges and taxes (other than sales tax) at which any particular brand or variety of any article should be sold to the general body of consumers or, if more than one such price is so fixed for the same brand or variety, the highest of such price:

Provided that the Board may through a general order specify zones or areas for the purpose of determination of highest retail price for any brand or variety of goods;

Key Definitions

supply chain means the series of transactions between buyers and sellers from the stage of first purchase or import to the stage of final supply

tax period means a period of one month or such other period as the Board, with the approval of the Federal Minister-in-charge may by notification in the official Gazette, specify

cottage industry means a manufacturing concern, which fulfils each of following conditions, namely:–

- (a) does not have an industrial gas or electricity connection;
- (b) is located in a residential area;
- (c) does not have a total labour force of more than ten workers; and
- (d) annual turnover from all supplies does not exceed three million rupees;

Scope of Sales Tax

Scope of Sales Tax

Standard Tax Regime

Applicable at 17% of the value of-

- a) Taxable supplies made by a registered person in the course or furtherance of any taxable activity carried on by him; and
- b) Goods imported into Pakistan irrespective of their final destination in territories of Pakistan.

Further Tax

Applicable at 3% of the value of supplies made to persons who have not obtained registration. Certain exclusions are mentioned under SRO 648.

Retail Price basis

Goods specified in Third Schedule are chargeable to sales tax on retail price basis at the level of supply by manufacturers / Importer

Reduced / Special rates

Goods specified in Eighth & Ninth Schedule are subject to special rates on fulfilment of conditions specified therein.

Scope of Sales Tax

Further Tax – Exclusion under SRO 648

- Electrical energy supplied to domestic and agriculture consumers
- Natural gas supplied to domestic consumer and CNG stations
- Motor spirit, diesel oil, jet fuel, kerosene oil and fuel oil
- Goods sold by retailers to the end consumers
- Supply of goods directly to the end consumers including food and beverage, fertilizers and vehicles
- Items falling in the Third Schedule to the Sales Tax Act, 1990.
- Second hand worn clothing and other worn articles falling under PCT heading 6309.0000
- Supplies by steel melters, re-rollers and ship breakers operating under Chapter XI of Sales Tax Special Procedure Rules, 2007.
- Supplies covered under Fifth Schedule to the Sales Tax Act, 1990.
- Supplies of foam or spring mattresses and other foam products for household use.
- Supplies made to Government, semi-government and statutory regulatory bodies.
- Supplies of white crystalline sugar.

Scope of Sales Tax

Retail Price Regime

Taxable supplies and import of goods specified in the Third Schedule is subject to charge to sales tax at the rate of seventeen per cent of the retail price or in case such supplies or imports are also specified in the Eighth Schedule, at the rates specified therein.

Examples:

- Fruit Juices
- Ice Cream
- Toilet Soap
- Beverages
- Shampoo

Scope of Sales Tax

Ninth Schedule

Sales tax on the import and supply of the goods specified in the Ninth Schedule to this Act shall be charged, collected and paid at the rates, in the manner, at the time, and subject to the procedure and conditions as specified therein.

Examples:

Cellular Mobile Phones or satellite phones

The Eleventh Schedule – For Withholding Sales Tax

The rates for withholding or deduction by the withholding agents “not applicable to goods and supplies specified at the end of the following Table.

S. No.	Withholding agent	Supplier category	Rate or extent of deduction
(1)	(2)	(3)	(4)
1.	(a) Federal and provincial government departments; autonomous bodies; and public sector organizations (b) Companies as defined in the Income Tax Ordinance, 2001 (XLIX of 2001)	Registered persons	1/5th of Sales Tax as shown on invoice
2.	(a) Federal and provincial government departments; autonomous bodies; and public sector organizations (b) Companies as defined in the Income Tax Ordinance, 2001 (XLIX of 2001)	Person registered as a wholesaler, dealer or distributor	1/10th of Sales Tax as shown on invoice
3.	Federal and provincial government departments; autonomous bodies; and public sector organizations	Unregistered persons	Whole of the tax involved or as applicable to supplies on the basis of gross value of supplies
4.	Companies as defined in the Income Tax Ordinance, 2001 (XLIX of 2001)	Unregistered persons	5% of gross value of supplies
5.	Registered persons as recipient of advertisement services	Person providing advertisement services	Whole of sales tax applicable
“6.	Registered persons purchasing cane molasses.	Unregistered persons	Whole of sales tax applicable.”;

The Eleventh Schedule – For Withholding Sales Tax

- (i) Electrical energy;
- (ii) Natural Gas;
- (iii) Petroleum Products as supplied by petroleum production and exploration companies, oil refineries, oil marketing companies and dealers of motor spirit and high speed diesel;
- (iv) Vegetable ghee and cooking oil;
- (v) Telecommunication services;
- (vi) Goods specified in the Third Schedule to the Sales Tax Act, 1990;
- (vii) Supplies made by importers who paid value addition tax on such goods at the time of import; and
- (viii) Supplies made by an Active Taxpayer as defined in the Sales Tax Act, 1990 to another registered persons with exception of advertisement services.

Illustration

Amount of invoice:	Rs 1,000
Output tax at the rate of 17 percent:	Rs 170
Input tax suffered by purchaser:	<u>Rs (80)</u>
Net amount required to be paid to FBR:	Rs 90
Now assume that the supplier is a registered person and withholding agent is a company as defined in the Income Tax, Ordinance, 2001 (i.e. 20 percent of output tax mentioned in invoice)	<u>Rs 34</u>
Total amount required to be paid to FBR	<u>Rs 124</u>

Scope of Sales Tax

Tier-1 retailers

Tier-1 retailers is required to pay sales tax @ 17 %.

Tier-1 retailers are now excluded from collection of sales tax through monthly electricity bills.

Tier-1 retailers are entitled to receive a cash back of upto 5% of the tax involved in manner and extent as may be prescribed by the Board.

Retailer paid sales tax through electricity bills

Tax shall be charged from retailers (other than those falling in Tier-1) through their monthly electricity bills, at the rate of five percent where the monthly bill amount does not exceed rupees twenty thousand and at the rate of seven and half per cent where the monthly bill amount exceeds the aforesaid amount, and the electricity supplier shall deposit the amount without adjusting against his input tax.

Tax on Specified Goods on Value Addition

Federal Government may specify, by notification in the official Gazette, that sales tax chargeable on the supply of goods on the difference between the value of supply for which the goods are acquired and the value of supply for which the goods, either in the same state or on further manufacture, are supplied.

In respect of the goods or class of goods specified in the Twelfth Schedule, the minimum value addition tax, against the value added by the registered person, shall be payable, at the rate and by the registered persons or class of registered persons, specified therein, subject to the conditions, limitations, restrictions and procedure specified therein:

Provided that the Federal Government may, through a notification published in the official Gazette, amend any provision of the said Twelfth Schedule.

Example:

Commercial Importers pays 3% minimum value addition sales tax at import stage.

The Twelfth Schedule

S. No.	Goods or class of goods	PCT Heading	Rate
(1)	(2)	(3)	(4)
1.	All imported goods subject to exclusions as in conditions and procedure given after the Table	Respective Heading	3% ad valorem

Procedure and conditions:—

(1) The sales tax on account of minimum value addition as payable under this Schedule (hereinafter referred to as value addition tax), shall be levied and collected at import stage from the importers on all taxable goods as are chargeable to tax under section 3 of the Act or any notification issued thereunder at the rate specified in the Table in addition to the tax chargeable under section 3 of the Act or a notification issued thereunder:

The Twelfth Schedule

(2) The value addition tax under this Schedule shall not be charged on,—

- (i) Raw materials and intermediary goods meant for use in an industrial process which are subject to customs duty at a rate less than 16% ad valorem under First Schedule to the Customs Act, 1969;
- (ii) The petroleum products falling in Chapter 27 of Pakistan Customs Tariff as imported by a licensed Oil Marketing Company for sale in the country;
- (iii) Registered service providers importing goods for their in-house business use for furtherance of their taxable activity and not intended for further supply;
- (iv) Cellular mobile phones or satellite phones;
- (v) LNG / RLNG;
- (vi) Second hand and worn clothing or footwear (PCT Heading 6309.000);
- (vii) Gold, in un-worked condition; and

The Twelfth Schedule

(viii) Silver, in un-worked condition.”.

(3) The value addition tax paid at import stage shall form part of input tax, and the importer shall deduct the same from the output tax due for the tax period, subject to limitations and restrictions under the Act, for determining his net liability. The excess of input tax over output tax shall be carried forwarded to the next tax period as provided in section 10 of the Act.

(4) In no case, the refund of excess input tax over output tax, which is attributable to tax paid at import stage, shall be refunded to a registered person.

(5) The registered person, if also dealing in goods other than imported goods, shall be entitled to file refund claim of excess carried forward input tax for a period as provided in section 10 or in a notification issued there under by the Board after deducting the amount attributable to the tax paid at import stage i.e. sum of amounts paid during the claim period and brought forward to claim period. Such deducted amount may be carried forward to subsequent tax period.

Zero Rating / Exemption

Zero Rating

Following goods are subject to charge of sales 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 specify by notification in the official Gazette, whenever circumstances exist to take immediate action for the purposes of national security, natural disaster, national food security in emergency situations and implementation of bilateral and multilateral agreements.

Exemption

Under section 13 of The Sales Tax Act 1990, the Sixth Schedule of the Sales Tax Act, 1990 specifically and explicitly mentions those goods on which exemption of sales tax is available.

Examples:

- i) Pharmaceutical Products ii) Supplies to Hospitals iii) Personal Computers, Laptops etc.

Difference between Exemption & Zero rating

No input tax is admissible in respect of exempt items whereas in case of zero rating, the refund of input tax is possible.

Concept of input tax adjustment

Concept of input tax adjustment

Input tax adjustment – sections 7 & 73

- Adjustable against output tax due for a tax period
- Admissible on 'paid' or 'payable' basis
- For the purposes of taxable supplies
- Excluding 'further tax'
- Unclaimed input tax can be claimed in any of the six succeeding tax periods
- Payment of a transaction in excess of Rs 50,000 to be made in crossed cheque or other crossed banking instruments or through direct transfer, credit cards, etc subject to the test of verifiability.
- Payment to be made within 180 days of issuance of tax invoice
- Amount to be transferred to 'business bank account' of the supplier
- Business bank account is the one declared in the prescribed manner

Determination of Tax Liability

A registered person shall not be entitled to deduct input tax from output tax unless,-

- (i) Holding of a tax invoice in his name and bearing his registration number or in case of supply of electricity or gas, a bill bearing his registration number and the address where the connection is installed for which a return is furnished. If the supplier has not declared such supply in his return or he has not paid amount of tax due as indicated in his return;
- (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, section 81 or section 104 of the Customs Act, 1969 (IV of 1969)

Particulars of Invoice

- Name, address and registration number of the supplier
- name, address and registration number of the recipient and NIC or NTN of the unregistered person, as the case may be, excluding supplies made by a retailer where the transaction value inclusive of sales tax amount does not exceed rupees fifty thousand, if sale is being made to an ordinary consumer.

Explanation. – For the purpose of this clause, ordinary consumer means a person who is buying the goods for his own consumption and not for the purpose of re-sale or processing

- Date of issue of invoice
- Description [including count, denier and construction in case of textile yarn and fabric] and quantity of goods
- Value exclusive of tax
- Amount of sales tax; and
- Value inclusive of tax

Provided also that if it is subsequently proved that CNIC provided by the purchaser was not correct, liability of tax or penalty shall not arise against the seller, in case of sale made in good faith.

Provisional Input Tax Adjustment

Supplier's Declaration

Annexure / Return	Explanation	Time & Manner
Annexure C	Declaration of sales tax invoices	10th of the following tax period
Return	Submission of complete return	By 18th of the following tax period

Buyer's Declaration

Annexure / Return	Explanation	Time & Manner
Annexure A [for input tax adjustment]	Immediately available to upload sales tax invoices declared by Suppliers	After submission of Annexure C by registered supplier buyer will be able to claim input tax Adjustment

Apportionment of Input Tax

Circumstances	Input Tax Allowance
Input tax paid on goods wholly relating to taxable supplies	Yes
Input tax paid on goods wholly relating to exempt supplies	No
Input tax paid on goods relating to both exempt supplies as well as taxable supplies	Apportionment

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

Inadmissible input taxes

Inadmissible input taxes

S. No.	Description	Section
1.	A registered person shall 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 excluding the amount of further tax under sub-section (1A) of section 3.	7(1)
2.	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.	7(1)
3.	A registered person shall not be entitled to deduct input tax from output tax unless 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	7(2)
4.	In case of goods imported into Pakistan, the registered person can claim input tax if 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, section 81 or section 104 of the Customs Act, 1969.	7(2)
5.	In case of goods purchased in auction, the registered person can claim input tax if he holds a treasury challan, in his name and bearing his registration number, showing payment of sales tax.	7(2)
6.	During the period of suspension of registration, the invoices issued by registered person shall not be entertained for the purposes of sales Tax refund or input tax credit during the period of his suspension of registration, and once such person is black listed, the refund or input tax credit claimed against the invoices issued by him shall be rejected through a self-speaking appealable order and after affording an opportunity of being heard to such person.	21(3)

Inadmissible input taxes

S. No.	Description	Section
7.	The buyer shall not be entitled to claim input tax credit, adjustment or deduction, or refund, repayment or draw-back or zero-rating of tax under this Act if payment for the amount for a transaction exceeding value of fifty thousand rupees, excluding payment against a utility bill, is made otherwise than by a crossed cheque drawn on a bank or by crossed bank draft or crossed pay order or any other crossed banking instrument showing transfer of the amount of the sales tax invoice in favor of the supplier from the business bank account of the buyer.	73
8.	No person can claim input tax unless payment in case of a transaction on credit is so transferred within one hundred and eighty days of issuance of the tax invoice. The amount transferred shall be deposited in the business bank account of the supplier, otherwise the supplier shall not be entitled to claim input tax credit, adjustment or deduction, or refund, repayment or draw-back or zero-rating of tax under this Act.	73
i.	the goods or services used or to be used for any purpose other than for taxable supplies made or to be made by him	8(1)(a)
ii.	any other goods or services which the Federal Government, may, by a notification in the official Gazette, specify.	8(1)(b)
iii.	The goods under sub-section (5) of section 3 (i.e. goods on which extra tax has been charged).	8(1)(c)
iv.	The goods or services in respect of which sales tax has not been deposited in the Government treasury by the respective supplier.	8(1)(ca)

Inadmissible input taxes

S. No.	Description	Section
v.	purchases, in respect of which a discrepancy is indicated by CREST or input tax of which is not verifiable in the supply chain	8(1)(caa)
vi.	fake invoices	8(1)(d)
vii.	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.	8(1)(e)
viii.	Goods and services not related to the taxable supplies made by the registered person.	8(1)(f)
ix.	goods and services acquired for personal or non-business consumption	8(1)(g)
x.	goods used in, or permanently attached to, immoveable property, such as building and construction materials, paints, electrical and sanitary fittings, pipes, wires and cables, but excluding pre-fabricated buildings and such goods acquired for sale or re-sale or for direct use in the production or manufacture of taxable goods.	8(1)(h)
xi.	vehicles falling in Chapter 87 of the First Schedule to the Customs Act, 1969 (IV of 1969), parts of such vehicles, electrical and gas appliances, furniture furnishings, office equipment (excluding electronic cash registers), but excluding such goods acquired for sale or re-sale	8(1)(i)
xii.	services in respect of which input tax adjustment is barred under the respective provincial sales tax law	8(1)(j)

Inadmissible input taxes

S. No.	Description	Section
xiii.	import or purchase of agricultural machinery or equipment subject to sales tax at the rate of 7% under Eighth Schedule to this Act; and	8(1)(k)
xiv.	From the date to be notified by the Board, such goods and services which, at the time of filing of return by the buyer, have not been declared by the supplier in his return or he has not paid amount of tax due as indicated in his return.	8(1)(l)
xv.	the input goods attributable to supplies made to un-registered person, on pro-rata basis, for which sale invoices do not bear the NIC number or NTN as the case may be, of the recipient as stipulated in section 23	8(1)(m)
xvi.	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	8(2) / Rule
xvii.	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	8(3)

Restriction on Input Tax Adjustment

- Registered Person is not allowed to adjust input tax in excess of 90 per cent of the output tax for that tax period.
- Such restriction on the adjustment of input tax is not applicable in case of fixed assets or capital goods.
- Refund of un-adjusted input tax can be filed on yearly basis in the second month following the end of the financial year of the registered person.

Exclusion from Section 8B – SRO 1190

Person registered in electrical energy sector

Oil marketing companies and petroleum refineries

Fertilizer manufacturers

Persons making zero-rated supplies, including exports, provided that value of such supplies exceeds 50% of value of all taxable supplies in a tax period.

Distributors

Gas Distribution companies

Telecommunication services

Restriction on input tax adjustment

Exclusion from Section 8B – SRO 1190

Pakistan Steel, Bin Qasim, Karachi

Registered persons other than manufacturers, making supplies of items covered under the Third Schedule to the Sales Tax Act, 1990, on which sales tax has been paid by the manufacturer or importer on retail price, provided that value of such supplies exceeds 80% of value of all taxable supplies in a tax period.

Commercial importers where value of imports subject to 3% value addition as prescribed in Twelfth Schedule to the Act exceeds 50% of value of all taxable purchases, including imports, in a tax period.

CNG dealers provided the value of natural gas on which sales tax is charged on the basis of value notified by the Federal Board of Revenue exceeds 50% of value of all taxable purchases in a tax period.

Petroleum dealers of licensed oil marketing companies

Abovementioned persons shall be excluded from the purview of subsection 1 of section 8(b). Accordingly, limit of 90 percent for adjustment of input tax is not applicable on persons mentioned above.

SRO 1190

The persons mentioned below may adjust input tax to the extent of ninety-five percent of the output tax for that tax period and the excess amount shall be carried forward to the next tax period.

1. Retailers also importing goods in bulk and operating chains of stores
2. Wholesalers of yarn

ILLUSTRATION	
Input Tax	100,000
Output Tax	80,000
Sales Tax Liability	?

Debit / Credit Notes

Debit / Credit Notes

Circumstances in which Debit / Credit note can be issued

- Cancellation of supply
- Return of goods
- Change in the nature of supply
- Change in the value of supply
- Any other event

In all the above circumstances, if the amount showed in the return requires revision, debit / credit note Rules are followed to make corresponding adjustments in the returns of supplier and buyer.

The general restriction is to issue the debit / credit note within 180 days to the invoice, however, the condonation provisions, subject to certain conditions are applicable.

SINDH SALES TAX ON SERVICES ACT, 2011

Service Tax Laws

Service Tax Laws

- Sindh Sales Tax on Services Act, 2011 & Notifications
- Punjab Sales Tax on Services Act, 2012 & Notifications
- Balochistan Sales Tax on Services Act, 2015
- Islamabad Capital Territory (Tax on Services) Ordinance, 2001 & Notifications
- Khyber Pakhtunkhwa Finance Act, 2013 & Notification

Service Tax Laws - Effective Dates

Service Tax Laws	Effective Date
Sindh Sales Tax on Services Act, 2011	July 2011
Punjab Sales Tax on Services Act, 2012	July 2012
Balochistan Sales Tax on Services Act, 2015	July 2015
Islamabad Capital Territory (Tax on Services) Ordinance, 2001	August 2001
Khyber Pakhtunkhwa Finance Act, 2013	July 2013

Service Tax Laws - Enforcement Authority

Service Tax Laws	Enforcement Authority
Sindh Sales Tax on Services Act, 2011	Sindh Revenue Board [SRB]
Punjab Sales Tax on Services Act, 2012	Punjab Revenue Authority [PRA]
Balochistan Sales Tax on Services Act, [BRA] 2015	Balochistan Revenue Authority [BRA]
Islamabad Capital Territory (Tax on Services) Ordinance, 2001	Federal Board of Revenue [FBR]
Khyber Pakhtunkhwa Finance Act, Revenue 2013	Khyber Pakhtunkhwa Authority [KPRA]

Sindh Sales Tax Law

Sindh Sales Tax Law

- Sindh Sales Tax on Services Act, 2011
- Sindh Sales Tax on Services Rules, 2011
- Sindh Sales Tax Special Procedure (Withholding) Rules, 2014
- Notifications
- Circulars

Concept of taxable services vis-à-vis supply of goods

Concept of taxable services vis-à-vis supply of goods

- As per Entry no. 49 of Federal Legislative list, the Federal Government has a right to impose tax on sale and purchase of goods sold, imported and consumed in Pakistan.
- The right to impose 'sales tax on services' vest in Provincial Governments
- As such, unless a transaction is other than 'sale or import of goods', the same cannot be classified as 'services'
- There is, however, no definition of goods and services for the purpose of Constitutional distribution of powers hence for certain classes there is an overlap
- Examples of such overlap or controversy is with regard to following items:-
 - a) Toll manufacturing
 - b) Distributors
 - c) Indenting commission
- There are certain transactions where the element of 'service' is questionable e.g. rental of immovable property
- The safest principle hence adopted in Sindh Sales tax on Services was that **anything which is not goods or supply of goods is 'services'**
- In other words, for any transaction, it has to be first determined whether the same is in the nature of goods or supply of goods. If not, the same can be covered by 'services' for SST Act.

Sindh Sales Tax on Services Act, 2011

Important Provisions

Important Provisions

Section	Description
-	Preamble
2	Definitions
3	Taxable Services
4	Economic Activity
5	Value of a Taxable Services
9	Person liable to pay tax
10	Exemptions
13	Special Procedure and tax withholding provisions
15	Adjustment
15A	Input tax credit not allowed
15B	Adjustment of input tax on certain goods and service
17	Time, manner and mode of payment
18	Joint and several liability persons where tax unpaid
23	Assessment of Tax
24	Registration

Important Provisions

Section	Description
24A	Voluntary Registration
24B	Compulsory Registration
26	Records
27	Retention and production of records and documents
28	Audit Proceedings
30	Return
43	Offences and penalties
44	Default Surcharge
47	Recovery of tax not levied or short-levied
47A	Short paid amounts recoverable without notice
52	Obligation to produce documents and provide information
57	Appeals
61	Appeal to the Appellant Tribunal
66	Recovery of arrears of tax
81	Condonation of time-limit

Preamble.-- WHEREAS in accordance with the Constitution of the Islamic Republic of Pakistan 1973 the imposition, administration, collection and enforcement of taxes on services is the prerogative of the provinces.

WHEREAS it is expedient to provide for the levy of a tax on services provided, rendered, initiated, received, originated, executed or consumed in the Province of Sindh and for all matters incidental and ancillary thereto or connected therewith.

Short, title, extent and commencement – Section 1

This Act may be called the Sindh Sales Tax on Services Act, 2011.

It shall extend to the whole of the Province of Sindh.

This Act shall come into force with effect from the first day of July, 2011.

Definitions of certain important categories of taxable services

Services defined in the law

- Accountant – Section 2(1)
- Advertisement - Section 2(2)
- Advertising agent - Section 2(3)
- Agent - Section 2(4)
- Airport ground services provider and airport service provider - Section 2(5)
- Aircraft operator - Section 2(6)
- Architect - Section 2(9)
- Auctioneer - Section 2(13A)
- Authorised service station - Section 2(14)
- Automated Teller Machine operations, maintenance and management - Section 2(16)
- Beauty parlour - Section 2(17)
- Business Support Services - Section 2(19)
- Cable TV Operator - Section 2(20)
- Car or automobile dealer - Section 2(20B)

Services defined in the law

- Call centre - Section 2(20A)
- Car or automobile washing or similar services - Section 2(20C)
- Caterer - Section 2(21)
- Club - Section 2(22)
- Commission agent - Section 2(22A)
- Commodity broker - Section 2(27)
- Cosmetic and plastic surgery - Section 2(29A)
- Courier Services - Section 2(30)
- Credit rating agency - Section 2(30A)
- Customs agent - Section 2(31)
- Debt collection services and other debt recovery services - Section 2(31A)
- Dredging and desilting - Section 2(35A)
- Erection, Commissioning and installation services - Section 2(38A)
- Event management services - Section 2(39)

Services defined in the law

- Exhibition service - Section 2(41)
- Fashion designer - Section 2(42A)
- Foreign Exchange dealer - Section 2(45)
- Franchise - Section 2(46)
- Freight Forwarding Agent - Section 2(47)
- Fumigation Services - Section 2(47A)
- Fund and asset management services - Section 2(47B)
- Futures brokers - Section 2(47C)
- Healthcare centre, gyms or physical fitness centre - Section 2(50)
- Hotel - Section 2(51)
- Indenter - Section 2(51A)
- Insurance - Section 2(53)
- Intellectual Property right service - Section 2(54A)
- Interior decorator - Section 2(54C)

Services defined in the law

- Labour and manpower supply services - Section 2(55A)
- Laundries and dry cleaners - Section 2(55B)
- Legal practitioners and consultants - Section 2(56)
- Maintenance or cleaning services - Section 2(56A)
- Management consultant - Section 2(57)
- Market Research Agency - Section 2(58)
- Marriage hall and lawn - Section 2(59)
- Port operator - Section 2(65)
- Production house - Section 2(67A)
- Programme producer - Section 2(67C)
- Property dealer - Section 2(67D)
- Public bonded warehouse - Section 2(69)
- Public relations services - Section 2(69A)
- Ready mix concrete service - Section 2(69B)

Services defined in the law

- Recruiting agent - Section 2(69E)
- Registrar to an issue - Section 2(69F)
- Reinsurance - Section 2(72)
- Rent-a-car and automobile rental services - Section 2(72A)
- Renting of immovable property services - Section 2(72B)
- Restaurant - Section 2(74)
- Security Agency - Section 2(78)
- Share Transfer Agent - Section 2(79A)
- Shipping Agent - Section 2(80)
- Ship Chandler - Section 2(81)
- Ship Management Services - Section 2(82)
- Sponsorship - Section 2(87)
- Stevedore - Section 2(89)
- Stockbroker - Section 2(90)

Services defined in the law

- Surveyor - Section 2(91)
- Tax consultant - Section 2(93)
- Technical, scientific and engineering consultants - Section 2(96A)
- Technical inspection and certification services, including quality control certification services & ISO certifications - Section 2(96AA)
- Technical testing and analysis - Section 2(96B)
- Telecommunication services - Section 2(97)
- Terminal operator - Section 2(98)
- Tour operator - Section 2(98A)
- Transportation or carriage of goods - Section 2(98B)
- Travel agent - Section 2(98C)
- Underwriter - Section 2(98D)

Important concepts relating to SST

Important concepts relating to SST

Taxable Service – Section 3

- A taxable service is a service listed in the Second Schedule which is provided by-
 - (a) A registered person from his '**registered office**' or '**place of business**' in Sindh;
 - (b) In the course of an economic activity, including in the commencement or termination of the activity.
- A service that is not provided by a registered person is treated as 'taxable service' if the service is listed in the Second Schedule and is provided to a resident person by a non-resident person in the course of an economic activity.

Economic activity – Section 4

Any activity carried on by a person that involves or is intended to involve the provisions of services to another person and includes-

- Business, profession, calling, trade of any kind whether for profit or otherwise;
- Supply of movable property by way of lease, license or similar arrangement;
- A one-off adventure or concern in the nature of a trade.

Does not include:- Employment, private recreational pursuit or hobby of an individual.

Important concepts relating to SST

Scope of Tax – Section 8

- Sales tax is levied on ‘value of a taxable service’ at the rate specified in the relevant Schedule
- Government empowered to declare a higher or lower rate of tax for any taxable service

Value of a taxable service – Section 5

- Consideration in money including all Federal and Provincial duties and taxes, if any, which a person providing a service receives from recipient but excluding the amount of Sindh Sales Tax;
- In case of consideration partly in cash and partly in kind, value of the service will be ‘open market price’;
- In case of associated persons, an ‘arm’s length price’;
- In case of consideration lower than the price at which such a service is provided by other persons, the value of the service shall mean the open market price;
- In case of trade discounts, the discounted price subject to its disclosure on invoice and its conformity with customary business practice;
- In case of special nature of transaction, the Open market price;
- The SRB empowered to fix value of any services or class of services.

Important concepts relating to SST

Open Market Price – Section 6

- The price the service would fetch in an open market transaction entered into between persons not associated;
- If the above price is not determinable, open market price of similar service;
- As a last resort, the SRB is empowered

Persons liable to pay tax – Section 9

- Where a service is taxable under section 3(1), the liability to pay the tax is on the registered person providing the service
- Where the service is taxable under section 3(2), the liability is on the recipient of the service.
- In case of registered person receiving the service fails to make the payment of tax within 180 days and service provider has also not made the payment, both are jointly and severally liable for such payment of tax.

Registration requirements

Registration requirements

Registration – Section 24

Registration requirement is applicable on all persons, who-

- a) are residents;
- b) provide any of the services listed in Second Schedule from their registered office or place of business in Sindh;
- c) Fulfil any other criteria or requirements which the SRB may prescribe.

A person who receives a service taxable under Reverse charge mechanism if not registered is deemed as registered person for the purpose of the tax period in which such person:-

- a) Receives the service;
- b) An invoice for the value of the services is sent to the person; or
- c) Consideration for the service is paid by the person;

Whichever is earlier

Input Tax Inadmissibility

S. No.	Description	Section
1.	Registered person can claim adjustments or deductions, including refunds arising as a result thereof, in respect of the sale tax paid on or in respect of any taxable services or class of taxable services provided by them.	15
2.	Refund of unadjusted input tax shall be made on yearly basis in the month following the end of financial year.	15
3.	Registered person may claim input tax deduction or adjustment in relevant tax period or in its returns for any of the six succeeding tax periods	Rule 22
4.	Input tax shall not be allowed to registered person who does not hold a tax invoice in his name, bearing his sales tax registration / NTN.	Rule 22
5.	No input tax is admissible if payment has not been made within 180 days from the date of the tax invoice through a crossed cheque or bank draft or pay order or another crossed banking instrument drawn on a bank showing the transfer of the amount of tax invoice in favor of the vendor from the business bank account of the claimant. This condition is not applicable for payment of utilities (telecom, electricity and gas), courier services and also the directly imported goods.	Rule 22

Input Tax Inadmissibility – Section 15A

S. No.	Description	Section
i.	goods or services used or to be used for any purpose other than for the taxable services provided or rendered or to be provided or rendered by him.	15A(1)(a)
ii.	goods in respect of which sales tax has not been deposited in the Federal Government treasury by the respective suppliers of goods.	15A(1)(b)
iii.	the services in respect of which the Provincial sales tax has not been deposited in the treasury of the respective Provincial Government, and the services in respect of which the Islamabad Capital Territory sales tax has not been deposited in the treasury of the Federal Government	15A(1)(c)
iv.	further tax, extra tax or value addition tax levied under the Sales Tax Act, 1990, and the rules or notifications issued thereunder.	15A(1)(d)
v.	fake, false, forged, flying or fraudulent invoices or the invoices issued by persons black-listed or suspended by Board or FBR or any other Provincial Sales Tax Authority.	15A(1)(e)
vi.	capital goods and fixed assets not exclusively used providing or rendering of taxable services.	15A(1)(f)

Input Tax Inadmissibility – Section 15A

S. No.	Description	Section
vii.	vehicles classified under Chapter 87 of the First Schedule to the Customs Act, 1969 (Act No. IV of 1969) and parts (including batteries and tyres and tubes) of such vehicles, excluding the ones directly used and consumed in the economic activity of a registered person in provision of the services paying sales tax at a rate not less than thirteen per cent ad valorem.	15A(1)(g)
viii.	calendars, diaries, gifts, souvenirs and giveaways excluding the ones directly used and consumed in the economic activity of a registered person in provision of the services paying sales tax at a rate not less than thirteen per cent ad valorem	15A(1)(g)
ix.	garments, uniforms, fabrics, footwear, handwear, headwear for the employees excluding the ones directly used and consumed in the economic activity of a registered person in provision of the services paying sales tax at a rate not less than thirteen per cent ad valorem	15A(1)(g)
x.	Foods, beverages and consumptions on entertainments, meetings or seminars or for the consumption of the registered person or his Directors, shareholders, partners, employees or guests excluding the ones directly used and consumed in the economic activity of a registered person in provision of the services paying sales tax at a rate not less than thirteen per cent ad valorem	15A(1)(g)

Input Tax Inadmissibility – Section 15A

S. No.	Description	Section
xi.	electricity, gas and telecommunication services supplied at the residence of the employees or in the residential colonies of the employees excluding the ones directly used and consumed in the economic activity of a registered person in provision of the services paying sales tax at a rate not less than thirteen per cent ad valorem	15A(1)(g)
xii.	building materials including cement, bricks, mild steel products, paints, varnishes, distemper, glass products; excluding the ones directly used and consumed in the economic activity of a registered person in provision of the services paying sales tax at a rate not less than thirteen per cent ad valorem	15A(1)(g)
xiii.	office equipment and machines (excluding electronic fiscal cash registers), furniture, fixtures or furnishings excluding the ones directly used and consumed in the economic activity of a registered person in provision of the services paying sales tax at a rate not less than thirteen per cent ad valorem	15A(1)(g)
xiv.	electrical and gas appliances, pipes and fittings excluding the ones directly used and consumed in the economic activity of a registered person in provision of the services paying sales tax at a rate not less than thirteen per cent ad valorem	15A(1)(g)

Input Tax Inadmissibility – Section 15A

S. No.	Description	Section
xv.	wires, cables, sanitary fittings, ordinary electric fittings, electric fans and electric bulbs and tubes; and excluding the ones directly used and consumed in the economic activity of a registered person in provision of the services paying sales tax at a rate not less than thirteen per cent ad valorem	15A(1)(g)
xvi.	crockery, cutlery, utensils, kitchen appliances and equipment excluding the ones directly used and consumed in the economic activity of a registered person in provision of the services paying sales tax at a rate not less than thirteen per cent ad valorem	15A(1)(g)
xvii.	Utility bills not in the name of the registered person unless evidence of consumption of such utilities is provided to the satisfaction of the officer of the SRB not below the rank of an Assistant Commissioner.	15A(1)(h)
xviii.	goods or services procured or received by a registered person during a period exceeding six months prior to date of commencement of the provision of taxable services by him.	15A(1)(i)

Input Tax Inadmissibility – Section 15A

S. No.	Description	Section
xix.	goods or services used or consumed in a service liable to sales tax at ad valorem rate lesser than thirteen per cent or at specific rate at fixed rate or at such other rates not based on value;	15A(1)(j)
xx.	<p>goods or services as are liable to sales tax, whether a federal sales tax or a provincial sales tax, at specific rate or at fixed rate or at such other rates not based on value or at a rate lesser than thirteen per cent ad valorem and are used or consumed as inputs in the provision of a taxable service under this Act:</p> <p>Provided that in case of telecommunication services paying sales tax at a rate not less than nineteen and a half per cent ad valorem, the amount of sales tax paid on goods and services at ad valorem rates not exceeding seventeen per cent, can be claimed by the person providing the taxable telecommunication services.</p>	15A(1)(jj)
xxi.	the amount of sales tax paid on the telecommunication services in excess of nineteen and a half per cent ad valorem and the amount of sales tax paid on other taxable goods or services in excess of thirteen per cent ad valorem; and	15A(1)(k)

Input Tax Inadmissibility – Section 15A

S. No.	Description	Section
xxii.	such goods or services as are notified by the Board to be in-admissible for input tax claim or reclaim or credit or adjustment or deduction	15A(1)(l)
xxiii.	<p>In case where a registered person deals with taxable and non-taxable or exempt services, only such proportion of the input tax is claimable as is attributable to taxable services as per following formula:</p> <p>(value of taxable service / value of total services) X admissible input tax</p>	15A (2) / Rule 21/22
xxiv.	No person other than a person registered under sections 24, 24A or 24B of this Act shall claim or deduct or adjust any input tax in respect of sales tax paid on any goods or services received or procured by him for use or consumption in the provision of taxable services	15A (3)
xxv.	Input tax paid on the acquisition of capital goods, machinery and fixed assets classified under Chapters 84 and 85 of the First Schedule to the Customs Act, 1969, shall be adjustable against the output tax in twelve equal monthly installments.	15B

Input Tax Inadmissibility – Section 15A

S. No.	Description	Section
xxvi.	The Input tax paid on goods and services used in providing or rendering non-taxable or exempt services, or liable to reduced rate of tax or specific rate of tax and also on the services provided or rendered outside Sindh shall not be admissible	Rule 22
xxvii.	goods and services acquired for personal or non-business consumption	Rule 22A
xxviii.	Goods or services in respect of which input tax adjustment is barred under any federal or provincial law, for the time being enforce, relating to sales tax	Rule 22A
xxix.	carry forward of the input tax adjustment relating to the tax period June, 2011, or earlier;	Rule 22A

Special Procedure Rules

Special Procedure Rules

- Special Procedure – Section 13
- Banking Services – Rule 30
- Insurance Services – Rule 31
- Advertisement Services – Rule 34
- Telecom Services – Rule 35
- Franchise Services – Rule 36
- Intellectual property services – Rule 36
- Port Operators and Terminal Operators – Rule 40
- Construction services – Rule 42B
- Labour and Manpower Supply Services – Rule 42E

Assessment and audit procedure (relevant provisions and procedure)

Assessment and audit procedure (relevant provisions and procedure)

- Assessment of tax – section 23
- Recovery of tax not levied or short levied – section 47
- Short paid amounts recoverable without notice – section 47A
- Audit proceedings – section 28

Appeals

Appeals

- First appeal before the Commissioner – Appeals (Section 57)
- Procedure in appeal – section 58
- Decision in appeal – section 59
- Appointment of Appellate Tribunal – Section 60
- Appeal to appellate tribunal – section 61
- Disposal of appeals by the Appellate Tribunal – section 62
- Reference to High Court – Section 63

Thank You