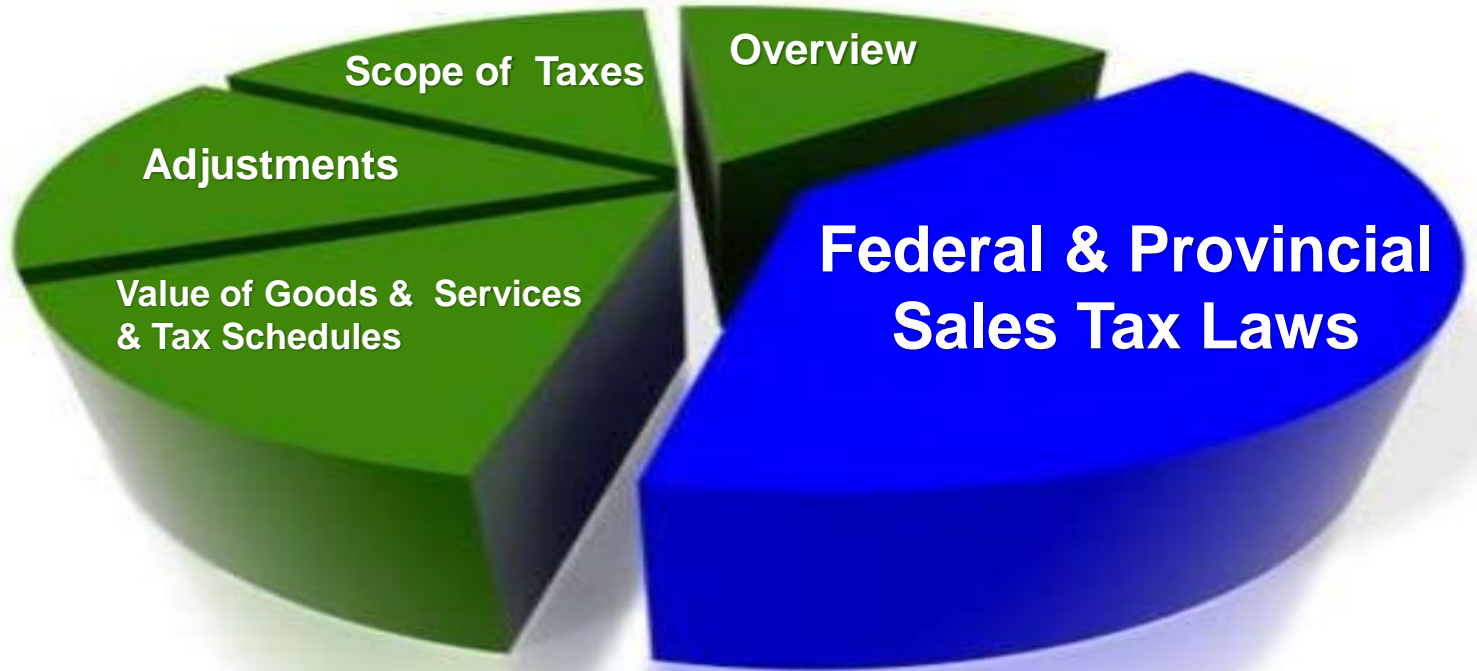


Concepts of Federal Sales Tax & Sindh Sales Tax Laws

Tuesday, 26 January 2022
@ KTBA

AGENDA



Overview

Overview

- ☐ Tax Structure in Pakistan: Direct Tax & Indirect Taxes
- ☐ Direct Tax: Income Tax
- ☐ Indirect Taxes: Sales Tax / Federal Excise Duty / Customs Duty
- ☐ Levy of Indirect Taxes in Pakistan: Goods & Services
- ☐ Indirect Taxes on Goods: Federal Government- FBR
- ☐ Indirect Taxes on Services: Provincial Governments- SRB, PRA, KPRA, BRA
- ☐ Levy of Sales Tax on Goods: Federal Sales Tax Act, 1990
- ☐ Levy of Sales Tax on Services: Sindh Sales Tax on Services Act, 2011
- ☐ Chargeability Provisions at Tax Laws
- ☐ Adjustments
- ☐ Liability for Payment of Taxes
- ☐ Schedules

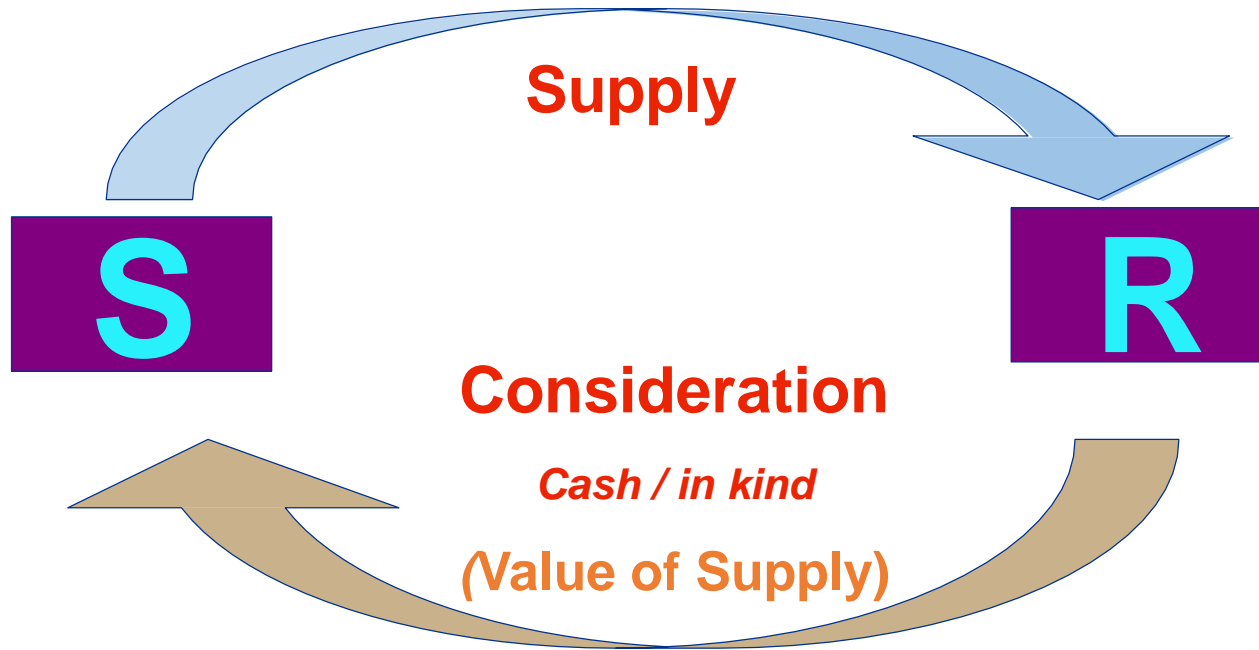
FEDERAL SALES TAX ACT, 1990

PREAMBLE

Levy of Sales Tax on Sale, Importation,
Exportation, Manufacture or Consumption
of Goods

Mechanism in Supply of Goods

Supplier, Recipient & Consideration



What is Sales Tax [GST]?



GST is charged and collected on supply of goods by registered person



GST is a multi-stage levy which is charged at each stage in the supply chain.



At the time of import, the importer is responsible to pay GST. At the time of sale, the supplier is liable to pay to exchequer



GST paid on purchases and import of goods is adjusted from GST due on account of supplies of goods



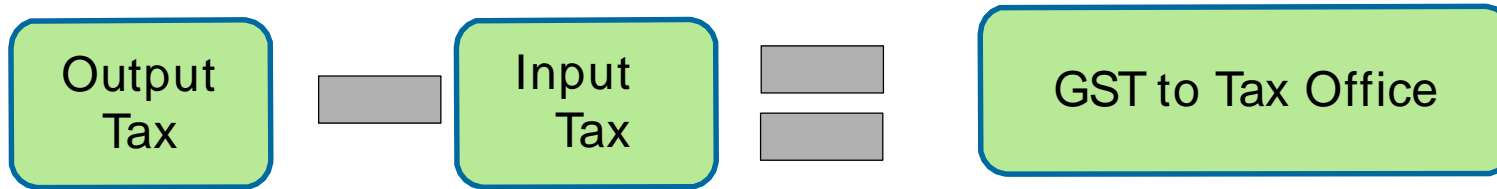
GST (GST) now applies in over 167 countries at varying rates

Registered Person

A person who carries on a taxable activity and is registered or required to apply for registration.



GST Formula



	GST Payable
GST charged at the point of Sale (Output)	20,000
Less: GST paid on purchases (Input)	(7,000)
Less : GST paid on import (Input)	(10,000)
Net GST Payable to Government	3,000

GST Computation in Supply Chain

Value of Supply – Manufacturer	850		
Sales Tax @17%	145	}	
Total Price including Sales Tax	995		Payable to Manufacturer by Distributor
Value of Supply- Distributor	950		Distributor Margin - Rs.100
Sales Tax @17%	162	}	
Total Price including Sales Tax	1,112		Payable to Distributor by Trader
Payable to Government by Distributor: Output-Input	17		
Value of Supply – Trader	1000		Trader Margin - Rs.50
Sales Tax @17%	170	}	
Total Price	1,170		Payable to Trader by Retailer
Payable to Government by Trader: Output-Input	8		
Retailer sold to Consumer	1,200		Retailer Margin- Rs.30

Section-3: Situations for Levy of Sales Tax

Situation-1

Sales Tax shall be @ 17% of value of taxable supplies made by a registered person in the course or furtherance of taxable activity

Situation-2

Sales Tax shall be @ 17% of Value of Taxable Goods imported into Pakistan

Section-3: Situations for Levy of Sales Tax

Situation-3

Taxable supplies and import of goods specified at Third Schedule shall be charged @ 17% ST or @ Reduced ST as provided at Eight Schedule on Retail Price.

Sales Tax and Retail Price shall be legibly, prominently and indelibly printed or embossed by the manufacturer or importer on such goods

ST Payment on Goods at Retail Price

GST Computation for Tea in Supply Chain

Retail Price + Sales Tax=Consumer Price

Retail Price	1,000		RP Set by Manufacturer	
Sales Tax @17%	170			
Consumer Price	1,170		CP Mentioned at Tea Packet	
Distributor Price	850			
Sales Tax @17%	170			
Total	1,020	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> No Tax Liability </div>	Payable to Manufacturer	
Retailer Price	950		Distributor Margin - Rs.100	
Output Tax @17%	170			
Total	1,120		Payable to Distributor	
Consumer Price	1,170		Payable to Retailer having Margin - Rs.50	



Section-3: Situations for Levy of Sales Tax

Situation-4

Sales Tax shall be levied on higher or lower rate in respect of goods as specified in Notification- Goods specified at Eight Schedule

Situation-5

Goods specified in Ninth & Tenth Schedule shall be charged to tax at such rates and subject to conditions as given thereto.

Section-3: Situations for Levy of Sales Tax

Situation-6

Extra Sales Tax shall be levied in addition to Standard Sales Tax @ 17%

Goods	Value of Taxable Supply	Amount of Standard ST @17%	Extra Tax @3%	Total Value Including ST
Electricity	1000	170	30	1,200

Section-3: Situations for Levy of Sales Tax

Situation-7

Tax to be withheld and deposited by the buyer as withholding agent
@ rate specified in Eleventh Schedule

Section-3: Situations for Levy of Sales Tax

Situation-8

- ✓ Minimum Value Addition Tax [MVA] to be paid by importer @3% in addition to sales tax @17% at import stage as specified at Twelfth Schedule
- ✓ MVA adjustable from output tax both for importer & manufacturer
- ✓ Certain Class of Persons Excluded from MVA: See Twelfth Schedule

Section-3: Situations for Levy of Sales Tax

Situation-09

Retailers- Tier-1
Retailer operating as unit of National or International Chain of Store
Retailer operating in Air Conditioned Mall / Shopping Plaza excluding Kiosks
Cumulative electricity bill during Last 12 months Exceeds Rs.1,200,000
Wholesaler cum retailer engaged in bulk import & supplies at wholesale or retail
Retailer's Shop of 1,000 square feet in area or more
Retailer's Furniture Shop of 2,000 square feet in area or more

Section-3: Situations for Levy of Sales Tax

Taxation -Tier-1 Retailers

Normal tax regime @17% with input tax adjustment entitlement

On standard / applicable rate instead of reduced rates provided retail outlets integrated for real time reporting of sales with FBR's Computerized System

Integration retail outlets for real time reporting sales with Board's Computerized System. In case, retailer failed to comply such provision, adjustable input tax for whole of tax period will be reduced by 65%

What is Integration?- Tier-1 Retailers

Section-3: Situations for Levy of Sales Tax

Situation-10

Taxation - Other Than Tier-1 Retailers

In addition to 17%, Following Tax to be charged through monthly electricity bills:

@ 5% - Monthly Bill not Exceeds Rs.20,000 or

@ 7.5% Monthly Bill Exceeds Rs.20,000

Issuance of order by Commissioner Inland Revenue over the person's classification as Tier-1 Retailer or otherwise.

Schedules under ST Act

THE THIRD SCHEDULE

See section 3

ST @ 17% on Retail Price as fixed by Manufacturer / Importer

32 Goods

THE FIFTH SCHEDULE

See section 4

ST @ 0% on Goods Specified at Schedule

More than 10 Goods -

THE SIXTH SCHEDULE

See section 13

Exemption from ST on Goods

Table-1 : Import or Supplies- More than 150 Goods -

Table-2: Local Supplies only - More than 20 Goods -

Table-3: Import of machinery, plant, equipment & apparatus including capital goods subject to conditions- 20 Goods

Schedules under ST Act

THE EIGHTH SCHEDULE

See Clause (aa) of sub-section (2) of section 3
Reduced ST @ 2 or 5 or 10%

Table-1 : Import or Supplies- 70 Goods

Table-2: Import only – 09 Goods [machinery, plant, equipment & apparatus including capital goods subject to conditions]

THE NINTH SCHEDULE

See sub-section (3B) of section 3
Fixed Amount & @ 17% - ST on Mobile

THE TENTH SCHEDULE

See sub-section(1B) of Section 13
Fixed ST on Brick Region-Wise

THE ELEVENTH SCHEDULE

See sub-section (7) of Section 3

Sales Tax Withholding: Various ST Rates & Withholding Agents

THE TWEVETH SCHEDULE

See sub-section (2) of Section 7A

Minimum Value Addition ST @3% on Import Value

THE THIRTEENTH SCHEDULE

See sub-section (9AA) of Section 3

Minimum Production on Specified Goods

Taxation - Other Than Tier-1 Retailers

Whether such retailer required sales tax registration?

Whether such retailer will be liable to further tax?

Section-3: Situations for Levy of Sales Tax

Further Tax

Where taxable supplies are made to a person who has not obtained registration from FBR for sales tax, he will be charged further tax @ 3% in addition to standard sales tax of 17% on value of taxable supplies.

Goods Description	Value of Supply	Amount of ST @17%	Amount of Further Tax @3%	Total Amount Including ST
TV	1000	170	30	1,200

Exclusion from Further Tax- SRO 648 of 2013

- ☐ Electrical Energy
- ☐ Natural Gas
- ☐ Motor spirit oil, jet fuel, kerosene oil & fuel oil
- ☐ Goods sold by retailers to end consumers
- ☐ Supply of goods directly sold to end consumers
- ☐ Items falling under Third & Fifth Schedule of ST Act
- ☐ Second hand worn clothing and other worn articles
- ☐ Fertilizer

Section-3: Situations for Levy of Sales Tax

Exclusion from Further Tax- SRO 648 of 2013

- ☐ Supplies by Steel Melters, re-rollers, and ship breakers
- ☐ Supplies covered under Fifth Schedule to ST Act
- ☐ Supplies by foam or spring mattresses and other foam products for household use
- ☐ Supplies made to Government semi-government and statutory regulatory bodies
- ☐ Supply of white crystalline sugar

Section-3: Liability for Payment of Sales Tax

- ❑ In the case of supply of goods, of the **person making supply** [Supplier].
- ❑ In the case of supply of goods, of the **person receiving supply** as notified by Federal Government [Recipient]
- ❑ In the case of goods imported into Pakistan, of **person importing** the goods [Importer].

Section 2(46)- Value of Taxable Supply

Value of taxable supply is gross amount of consideration in money inclusive of all Federal & Provincial duties, taxes, levies and charges receives from recipient of goods excluding the amount of sales tax under the Act.

Description	PKR
Cost	100,000
+) Overheads	25,000
+) Local taxes on goods	10,000
+) Profit Margin	5,000
+) Expenses paid on behalf of customers	3,000
-) Discount	(3000)
Value of supply on which GST to be imposed	140,000

Section 2(46)- Value of Taxable Supply

Description	Value of Supply
A supply is made in the following case:	Open market price
<ul style="list-style-type: none">➤ Between related persons, and➤ Consideration for supply for no or reduced consideration less than the price as offered to other than associated persons	Price at which good provided to other persons
Consideration in kind or partly in kind and partly in money	Open market price
Taxable supply made to consumer from general public on instalment basis on price inclusive of mark up or charges – higher than open market price	Open market price
In case of trade discounts, invoice must show discounted price and discount to be in conformity with normal business practice	Discounted price
Special nature of transaction where difficult to ascertain value or reason to believe that value of supply	Open market price
The value of supply in case of advance receipt from customers	Amount received to be worked back

Value of Taxable Supply

Description	Value of Supply
In case of imported goods,	Value determined under Section 25 by Customs Authorities including Customs Duty & FED. Goods in Third Schedule on Retail Price
Value not declared correctly at invoice	Value determined by Valuation Committee
Toll manufacture	Conversion Charges
Where Goods provided at higher value as fixed by Board	Value at which goods provided until otherwise directed by Board

Determination of Value for Imported Goods

Assessed Value:	200,000
Customs Duty:	10,000
Value for FED Computation	210,000
Rate of FED @5%:	10,500
Value for ST Computation	220,500
Sales Tax@17%	37,485

Section-4: Zero Rating of Sales Tax

Following goods shall be charged to Sales Tax @ 0%:-

- ✓ Goods exported
- ✓ Goods specified in [Fifth Schedule](#);
- ✓ Supply of stores and provisions for consumption aboard a conveyance proceeding to a destination outside Pakistan,
- ✓ Goods specified by Notification in case of necessary circumstances

Section-4: Goods Not Covered for Zero Rating of Sales Tax

- ✓ Goods exported, but have been or are intended to be re-imported into Pakistan;
- ✓ Have been entered for export, but are not exported;
- ✓ Have been exported to a country specified by the Federal Government
- ✓ Facility of input tax adjustment have been restricted by Federal Government

Zero Rating Vs. Taxable Supply

What is difference between zero rates and taxable supply

Section-6: Time for Payment of Sales Tax to Treasury:

- ✓ At Import Stage when Payment of Custom Duty is Made;
- ✓ Filing of Sales Tax Returns – Local Supplies

Section-7: Deduction of Input Tax from Output Tax Determination of Tax Liability

- ❑ A registered person can 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**
- ❑ Input tax not deducted within relevant period, may be claimed / adjusted in the return for any of the six succeeding tax periods.
- ❑ Deduction of input tax from the output tax is admissible if registered person holds a tax invoice & goods declaration in his name and bearing his registration number.
- ❑ Goods purchased in auction, the buyers hold treasury challan in his name and bearing his registration number

Input-Output Tax Adjustment

Description	Sales Value	Output Tax
Clothes	140,000	23,800

Description	Purchase Value	Input Tax
Chemicals	100,000	17,000
Electricity	5,000	1500
Diesel	3,000	500
Overheads	3500	-
Value of Purchase & GST Paid	111,500	19,000

Payable to Government: **23,800-19,000 = 4,800**

Input-Output Tax Adjustment

Value of supply on which GST to be imposed	140,500
Amount of Output Tax @17%	23,885

Description	Purchase Value	Input Tax	Input Adjustable
Chemicals	100,000	17,000	Yes
Electricity	5,000	1,500	Yes
Diesel	3,000	500	No
Overheads	3500	-	
Value of Purchase & GST Paid	111,500	19,000	18,500

Payable to Government: $23,885 - 18,500 = 5,385$

Section 2(14): Input Tax

In relation to a registered person means the tax levied on:

- ☐ Supply of goods to the person
- ☐ Goods imported and cleared under the Customs Act
- ☐ Provincial sales tax levied on services rendered or provided to the person
- ☐ Levied under ST Act as adapted in State of AJK
- ☐ Federal Excise Duty in sales tax mode on goods or services to the person.

Section-8: Tax Credit Not Allowed

- a) Goods or services not meant for taxable supplies made or to be made by him;
- b) Goods or services, specified by the Federal Government through a notification, e.g. SRO 490 of 2004 dated June 2004

Section-8: Tax Credit Not Allowed

- (c) Goods specified liable to extra-tax.
- (ca) Goods or services in respect of which sales tax has not been deposited in Government treasury by respective supplier;
- (caa) CREST Discrepancy or input tax not verifiable in supply chain
- (d) Fake invoices;
- (e) Registered person fails to furnish information required by the Board

Section-8: Tax Credit Not Allowed

- (f) Goods and services not related to taxable supplies
- (g) Goods & services acquired for personal or non-business consumption
- (h) Goods used in / permanently attached to, immovable property such as building, paints, electrical and sanitary fittings, pipes, wire and cables

Exclusion: Pre-fabricated buildings

Such goods for **sale or re-sale** or for **direct use in manufacture of taxable goods**

- (I) Vehicles falling under Chapter 87, parts of vehicles, electrical & gas appliances, furniture, furnishings, office equipments excluding those acquired for sales or re-sale
- (j) Services in respect of which input tax adjustment is barred under the respective provincial sales tax law;

Section-8: Tax Credit Not Allowed

- (k) Import or purchase of agricultural machinery or equipment subject to sales tax at the rate of 7% under Eighth Schedule to this Act; and
- (l) 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 has not paid amount of tax due as indicated in his return.
- (m) Supplies / Services made to unregistered person for which sales invoices do not bear NIC or NTN of the buyer
- (n) Tier-I retailer failed to integrate his outlets, the adjustable input tax upto 65% shall not be adjustable
- (o) Sales made to unregistered person exceeding Rs.10 million per month or Rs.100 million in financial year. Exception to some class of persons.
- (p) Payment for purchase exceeding value of Rs.50,000 if not made through banking instrument in favour of the supplier from the business bank account of the buyer.

Practical Questions: Tax Credit Not Allowed-Case Studies

- ✓ Building material used in factory construction
- ✓ Building material used in administrative block of office for construction
- ✓ Whether input tax allowed on goods not directly used in manufacturing
- ✓ Ratio of input tax disallowed if not having CNIC / NTN of registered person
- ✓ Vehicles and parts thereof – input tax adjustment,
- ✓ Whether input tax suffered on purchase of goods prior to exemption will be available for the purpose of input tax adjustment sold in July 2019.
- ✓ Whether input tax pertaining to services is claimable for registered person?

Section-8: Tax Credit Not Allowed

SRO 490(I)/2004,

- ☐ Vehicles
- ☐ Food, beverages, garments, fabrics,
- ☐ Consumption on entertainments
- ☐ Gifts and give-aways
- ☐ Supply of electricity and gas to residential colonies of registered person
- ☐ Building material
- ☐ Office equipments & machines, furniture, structure, fixture & fittings excluding those directly used in taxable activity

Section-8: Tax Credit Not Allowed

SRO 490(I)/2004

- ☐ Electrical & gas appliances, pipes, fittings excluding those directly used in taxable activity
- ☐ Wires, cables, ordinary electrical fittings & sanitary fittings excluding those directly used in taxable activity
- ☐ Crockery, cutlery, utensils, etc. excluding those directly used in taxable activity

Stock in Trade:

means goods purchased by a registered person in the course of business for sale or for further processing or manufacture

SRO 1232(I)/90

- ☐ Export of cigarettes from Pakistan by land route or to Afghanistan, Iran or China

Section-8: Tax Credit Not Allowed

2. **Tax Credit Not Allowed.**— 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
3. **Tax Credit Not Allowed.**— Only registered person can make adjustment of input tax in respect of taxable supplies made or to be made by him.

Types of Input Tax:

- **Used in Taxable Supplies**
- **Used in Exempt Supplies**
- **Used in both Taxable & Exempt Supplies [residual input tax]**

Section 8: Apportionment of Input Tax

Registered person dealing in taxable and exempt supplies who has consumed input tax for both taxable and exempt goods need to apportion input tax as per following formula:

$$\text{Residual Input Tax Credit on Taxable Supplies} = \frac{\text{Value of Taxable Supplies}}{\text{Value of Taxable} + \text{Exempt Supplies}} * \text{Residual Input Tax}$$

Input tax not available as per above formula is to be disclosed at S. No. 7 of sales tax return

Section 8B: Extent / Ratio of Input Tax Adjustment

Adjustment of Input Tax upto 90% of the output tax during tax period.

Example:

Input Tax:	1000
Output Tax:	800 [90% of output tax, i.e. 720]
Adjustable Input Tax:	$1000 - 720 = 280$
Carry Forward Input Tax	280
Differential Payable to Treasury:	80

Section 8B: Extent / Ratio of Input Tax Adjustment

FBR may exclude certain categories of registered person from 90% input tax adjustment restrictions.

Example in case of immunity from above:

Input Tax:	1000
Output Tax:	800
Adjustable Input Tax:	1000-800
Carry Forward Input Tax	200
Differential Payable to Treasury:	Nil

Section 8B: Extent / Ratio of Input Tax Adjustment

Non-Application of 8B: Output Tax Exceeds Input Tax

Output Tax :	1000
Input Tax:	800
Adjustable Input Tax:	$1000 - 800$
Differential Payable to Treasury	200

Extent / Ratio of Input Tax Allowed- Filing of Return

Exclusion from 90% Input Tax Restrictions - SRO 1190 of 2019, Dated 02 October 2019

1. Persons registered in electrical energy sector
2. OMCs & petroleum refineries
3. Fertilizers manufacturers
4. Persons making zero rates supplies-exports exceeds 50% of total supplies
5. Distributors
6. Gas distribution companies
7. Telecom services
8. Pak Steel Mills, Karachi
- 9 Registered persons other than manufacturer making supplies of Third Schedule goods on which sales tax has been paid by importer or manufacturer on retail price provided value of all taxable supplies exceeds 80% of total supplies in a tax period

Exclusion from 90% Input Tax Restrictions - SRO 1190 of 2019, Dated 02 October 2019

- 10 Commercial importers- imports subject to 3% value addition tax exceeds 50% of imports
- 11. CNG dealers provided the value of natural gas on which sales tax is charged on the basis of value notified by Federal Board of Revenue exceeds 50% of value of all taxable purchases in a tax period.
- 12. Petroleum dealers of licensed oil marketing companies.
- 13. Automobile manufacturing companies which are listed in PSE

Exclusion from 95% Input Tax Restrictions - SRO 1190 of 2019, Dated 02 October 2019

1. All Tier-1 Retailers who have integrated all their POSs with the Board
2. Retailers importing in bulk and operating chain of stores
3. Wholesalers of yarn

Extent / Ratio of Input Tax Allowed- Filing of Return

100% adjustment of input tax, not falling above provision of law-
Consequences

PROVINCIAL SERVICE SALES TAX LEGISLATION

Service ST Laws in Pakistan- History

- ❑ Excise duty was imposed probably in 1970 on certain services under Central Excise Act, 1944
- ❑ Such excisable services were transposed to Federal Excise Duty Act, 2005 which remained effective till July, 2011 [For Sindh]
- ❑ Meanwhile, Provincial Sales Tax on Services were introduced through Ordinances, 2000

Post 18th Constitutional Amendment era;

- ❑ Sindh ST on Service Act, 2011, Rules & Notifications, enforcing agency SRB effective from 1 July 2011
- ❑ Punjab ST on Services Act, 2012, Rules & Notifications, implementing agency PRA, w.e.f 1 July 2012
- ❑ KP Finance Act, 2013 , Rules & Notifications, Implemented by KPRA w.e.f 1 July 2013
- ❑ Baluchistan ST on Services Act, 2015 Rules and Notification, enforced through BRA, w.e.f 1 July 2015
- ❑ Islamabad Capital Territory (Tax on Services) Ordinance, 2001 Implemented through FBR

ST Laws in Pakistan- Overview

- ❑ VAT concept based Consumption Tax
- ❑ Sales tax on Goods, Negative list approach i-e all goods are taxable unless expressly provided as exempt, destination principle followed in respect of international trade i-e exports zero rated, imports taxable,
- ❑ Whereas w.r.t services, Positive list approach, Taxable services notified, Negative list awaited!, hybrid approach w.r.t destination vs origin principle due to complex nature of service transactions

ST Laws in Pakistan- Overview

- ❑ Self assessment scheme backed by audit
- ❑ Administration by semi autonomous organizations which are partly entrusted the policy & legislation role as well
- ❑ Automation! On way

PROVINCIAL SERVICE SALES TAX LEGISLATION

- ✓ The Sindh Sales Tax on Services Act, 2011
- ✓ The Punjab Sales Tax on Services Act, 2012
- ✓ KPK Sales Tax on Services Act, 2013
- ✓ The Baluchistan Sales Tax on Services Act, 2015
- ✓ The Islamabad Capital Territory (Tax on Services) Ordinance, 2001

THE SINDH SALES TAX ON SERVICES ACT, 2011

PREAMBLE

An Act for levy of tax on services provided, rendered, initiated, received or consumed in Province of Sindh

Section 3(1)- Scope of Services

- ☐ Services listed in the Second Schedule:
- ☐ Provided by Registered Person from his registered office or place of business in Sindh to another Person
- ☐ In the course of Economic Activity including in the commencement or termination of the activity

Taxable Services-Examples

Section 3(1)

Service Provider	Service Recipient	Taxable Services, liable to SSTSA
Registered in Sindh	Unregistered in Sindh	Yes
Unregistered in Sindh	Registered in Sindh	Yes
Registered in Sindh	Outside Sindh	Yes

Section 3(2)- Scope of Services

- ❑ Services listed in the Second Schedule:
- ❑ Provided to Resident Person by Non-Resident Person
- ❑ In the course of Economic Activity

Examples:

Franchise Services acquired by Resident at Sindh from Non-Resident

Taxable Services such as Equipment Testing provided at UAE by Non-Resident for Resident who has sent such items for this purpose. Whether this service falls in the ambit of above provision to be treated as taxable service.

Taxable Services-Examples

Section 3(2)

Service Provider	Service Recipient	Taxable Services, liable to SSTSA
Unregistered in Sindh	Unregistered in Sindh	Yes
Non Resident	Resident	Yes
Non Resident	Non Resident	No

Section 3(3)- Scope of Services

Person having registered office or place of business in Sindh and another outside Sindh- Both will be treated as separate office

Example : Company “A” having a registered office or a place of business in Sindh and outside the Sindh [Punjab/KPK] receiving the services would be treated as separate legal person [entity].

Chargeability according to Jurisdiction

Scope of Tax & Allied Matters- Section 8(1)

Tax charged, levied and collected on value of taxable services at the rate specified in Second Schedule.

Scope of Tax

Scope of Tax & Allied Matters- Section 8(2)

Board may declare rate of sales tax on higher or lower rate for any taxable service provided by a registered person or class of registered person

S. No.	Description	SRO / STGO / Circular
1	Fixed / Reduced Rate of Sales Tax on Various Services subject to conditions	SRB-3-4/8/2013, dated 01 July 2013; SRB-3-4/26/2013, dated 28 December 2016;
2	Exemption for Sales Tax on Various Services subject to conditions	SRB-3-4/7/2013, dated 18 June 2013

Scope of Services

Economic Activity- Section 4(1&2)

- a. Any activity carried on by a person for provision of services for other person
- b. An activity carried on in the form of a business, including a profession, calling, trade or undertaking of any kind, whether or not the activity is undertaken for profit;
- c. Any activity or supply of moveable or immovable property by way of lease, license or similar arrangement; and
- d. A one-off adventure or concern in the nature of a trade.
- e. Anything done or undertaken during the commencement or termination of an economic activity is part of the economic activity.

Economic Activity- Section 4(3)

An economic activity does not include:

- a. The activities of an employee providing services in that capacity to an employer; or
- b. A private recreational pursuit or hobby of an individual.'

Scope of Services

Provision of Services Over a Period of Time- Section 7

- ❑ Service provided over a period of time and payment made periodically, separate service will be considered with respect to each separate part of consideration relates

Examples:

- ✓ Plant / Machinery given on rent for two years and payment is made twice in a year, rented goods for each six months period constitutes a separate service.
- ✓ Providing credit card and receipt of charges on quarterly basis by bank, payment of service for each quarter is separate service.
- ✓ Insurance policy over period of 05 years and receipt of premium on annual basis, each premium relates to separate service.

Liability for Tax Payment / Withholding- Section-9(1)(2)(3) of SSTSA;

Service Provider	Liability for Payment Sales Tax
✓ Taxable services rendered in / originated from Sindh as per sub-section 1 of Section 3	*Registered Person providing the service
✓ Taxable services rendered by non-resident to resident person as per sub-section 2 of Section 3	*Person receiving the service in Sindh
✓ Where a registered service recipient receiving taxable services from other registered service provider is in knowledge or has reasonable grounds to suspects that some or all of the tax payable in respect of any taxable service remains unpaid.	✓ Both service provider and recipient of such unpaid tax *The Board may specify by notification that responsibility for payment of sales tax rests with service provider or service recipient or any other person

Liability for Tax Payment / Withholding- Section-9(1)(2)(3) of SSTSA;

Service Provider	Service Recipient	Liability to Pay Sales Tax rests with
Registered in Sindh	Unregistered in Sindh	Registered Service Provider
Non Resident	Resident in Sindh	Resident Recipient of Service
Registered in Sindh- Tax not paid	Registered in Sindh-Tax not paid to service provider	Both Service Provider & Recipient

Time, Manner & Mode of Sales Tax Payment

Time of Service-Section 17(2)

Service will be considered to have been provided at the earlier of the following 3 events:

- ☐ service is provided to the recipient;
- ☐ invoice is issued to the recipient; **or**
- ☐ consideration for the service is received *

The tax in respect of taxable service is payable with the return. The principle of 'Time of Service' will also apply to an unregistered recipient of taxable service who acquires the same from a registered person

Section 17(3)

The Board may specify by a notification that the tax in respect of any or class of service shall be charged, collected and paid in any other way, mode, manner or time as is specified in such notification

Section 17(4)

- ☐ Deposit in designated bank, or
- ☐ Any other mod and manner as specified by Board / Authority

Adjustments / Deduction of Input Tax from Output Tax- Determination of Tax Liability- Section 15

- ❑ A registered person can deduct input tax **paid or payable** during the tax period for the **purpose of taxable services made, or to be made**, by him from the output tax and to make such other adjustments
- ❑ Input tax not deducted within relevant period, may be claimed / adjusted in the return for any of the six succeeding tax periods.
- ❑ Deduction of input tax from the output tax is admissible if registered person holds a tax invoice & goods declaration in his name and bearing his registration number.

Tax Credit Not Allowed-Section 15A

A registered person shall not claim input tax in relation to goods and services as provided in Table below:

S. No.	Description of Goods & Services
a	Goods or services used or to be used other than for taxable services rendered or provided by him
b	Goods or services in respect of which sales tax has not been deposited in Government treasury by the respective supplier or service provider
c	Goods and services received against false, fake, forged, flying, untrue, unreal or unrelated invoices or against purchases from the persons black listed or suspended by the Authority or by FBR or by any other Provincial authority
d	Further tax, extra tax and value addition tax levied under the Sales Tax Act, 1990, and the rules or notifications issued thereunder;
E	Capital goods and fixed assets (plant, machinery, equipment and others) not exclusively useable or used in providing taxable services

Tax Credit Not Allowed-Section 15A

A registered person shall not claim input tax in relation to goods and services as provided in Table below:

S. No.	Description of Goods & Services
	Following goods or services excluding ones directly used and consumed in economic activity of registered person paying not lesser than @13%: <ul style="list-style-type: none">✓ vehicles falling in Chapter 87 of the First Schedule to the Customs Act, 1969 (IV of 1969), parts of such vehicles,✓ food, beverage, garments, fabrics, etcetera and consumption on entertainments, meetings, or seminars✓ gift, and give aways✓ supply of electricity, telecommunication and gas to residential colonies✓ crockery, cutlery, utensils, etc.✓ building material,✓ Wires, cables, sanitary fittings, ordinary electrical fittings, electrical fans, bulbs, tubes✓ Office equipment and machines

Tax Credit Not Allowed-Section 15A

S. No.	Description of Goods & Services
g	utility bills not in the name of registered person unless evidence of consumption is produced in the matter of such claims
H	Goods or services received by registered person during a period exceeding six months prior to the date of commencement of the provision of taxable services
I	goods and services used or consumed in a service liable to a rate of tax lesser than standard rate of the charges or to a specific rate of tax not based on value
j	goods and services liable to a tax rate lesser than thirteen per cent of the charges or to a specific rate of tax not based on value when used for providing or rendering any service
Jj	Goods and services at specific rate or fixed rate or such other rate not based on value or rate lesser than 13%
K	Sales tax paid on telecommunication services in excess of 19.50% and amount of excess 13% against goods or services



Tax Credit Not Allowed-Rule 22A of Sales Tax on Services Rules, 2011

In addition to list provided at [15A](#), registered person shall not claim input tax in relation to goods and services as provided in Table below:

S. No.	Description of Goods & Services
1	Sales tax claimed on goods and services where a registered person has not made payment within 180 days of the tax invoice through crossed cheque / draft order/ any other bank instrument
2	carry forward of the input tax adjustment relating to the period prior to the commencement of the Act
3	Sales tax claimed on goods or services acquired for personal and non-business use

Extent / Ratio of Input Tax Allowed – Filing of Return, Section 15B

Adjustment of Input Tax equal to 12 monthly installments will be allowed on purchase of fixed assets

Question:

Value of Taxable Service- SSTSA

Value of taxable service is gross amount of consideration in money inclusive of all Federal & Provincial duties, taxes, levies and charges receives from service recipient excluding the amount of sales tax under the Act.

Description	PKR
Cost	100,000
+) Overheads	25,000
+) Local tax on services	10,000
+) Profit Margin	5,000
+) Expenses paid on behalf of customers	3,000
-) Discount	(3000)
Value of Service on which VAT to be imposed	140,000

Value of Taxable Service- SSTSA

Description	Value of Service
A service is made in the following case: <ul style="list-style-type: none">➤ Between related persons, and➤ Consideration for supply for no or reduced consideration less than the price as offered to other than associated persons	Price at which service is provided to other persons
Consideration in kind or partly in kind and partly in money	Open market price
Service provided for no consideration or for lesser than the price	Open market price
In case of trade discounts, invoice must show discounted price and discount to be in conformity with customary business practice	Discounted price
Special nature of transaction where difficult to ascertain value or reason to believe that value of service not correctly declared at invoice	Open market price
The value of service in case of advance receipt from customers	Amount received to be worked back
Where service is provided at higher value as fixed by Board	Value at which service provided until otherwise directed by Board

❑ **Jurisdictional Issues**

- Origination Vs Destination Principle
- Service Sales tax on activities at Ports, airports & Railway stations
- Service Sales Tax on Federal Authorities
- Service Sales Tax on Cross border/international transactions

❑ **Classification issues- Goods Vs Service**

- Toll Manufacturing Services
- Software & Other digital products
- Service by restaurants
- Distributor of goods
- Renting of Assets

Jurisdictional Issues

Origination Vs Destination Principle

- ❑ All the provincial laws envisage both the origination as well as destination principle
- ❑ Overlapping jurisdiction in case of interprovincial transactions- Double taxation
- ❑ Dispute landed before High Court in case of Advertisement services by electronic media
- ❑ Court referred the matter to Ministry of interprovincial Co-ordination for resolution holding that double taxation is not the intent of legislature
- ❑ Issue stands resolved in case of transportation through oil tankers

Jurisdictional Issues

Sales Tax on Activities at Ports, Airports etc

- ❑ Article 53 of 4th Schedule to the Constitution- power to levy terminal taxes on goods or passengers carried by railway, sea or air; taxes on their fares and freights vests in Federal Government
- ❑ SHC held that the tariff heading for levying service sales tax on shipping agents, stevedores and freight forwarders under the SSTA, 2011 in present form overlap with the taxing power of Federal Government- Hence struck down
- ❑ Operation of said judgment was suspended by the SCP

Jurisdictional Issues

Sales Tax on Federal Authorities

- ❑ In case of Civil Aviation Authority, Supreme Court of Pakistan held that Federal Authorities created to perform regulatory role or legislative function cannot be subjected to service sales tax under the SSTSA, 2011
- ❑ The issue of taxability of transportation through Pakistan Railway is sub judice before Lahore High Court

Jurisdictional Issues

Sales Tax on Cross Border Transactions

- ❑ Whether province may promulgate a law to tax transactions which involve economic activity wholly or partially beyond its territorial jurisdiction is grey area
- ❑ It is argued that only Federal Government can legislate to tax such cross border transactions
- ❑ Issue is sub judice before the SHC in case of foreign exchange companies on issue of commission earned on remittances from abroad

Classification Issues

Toll Manufacturing Activity

- ❑ Overlapping jurisdiction claim by FBR as well as Provincial Authorities treating the underlying supply as of “goods” & “services” respectively
- ❑ Based on judgment by SCP FBR issued a clarification
- ❑ Reportedly, it has been agreed at National Tax Council that jurisdiction to tax toll manufacturing activity vests with FBR

Classification Issues

Distributor of Goods

- ❑ SRB issued compulsory registration orders of certain distributors of goods even though such distributors were paying federal sales tax on their entire revenue
- ❑ SRB is of the view that arrangement between the distributors and the manufacturers involve rendering of “Supply chain management services”.
- ❑ SRB view has been upheld by the SHC
- ❑ Issue is expected to land in Supreme Court

Classification Issues

Services by Restaurants

- ❑ Overlapping jurisdiction claim by FBR and provincial authorities treating the supplies as “goods” and “services” respectively
- ❑ Issue is sub judice before courts in certain cases
- ❑ Reportedly, it has been resolved at National Tax Council that the jurisdiction to levy sales tax on supplies of restaurants vest in provincial authorities

Classification Issues

Software & Other digital products

- ❑ Certain products of IT industry are difficult to classify as “good” or “service”
- ❑ Disputes over jurisdiction to tax such transactions e-g renewable licensing of a standard software application for fix period against subscription!!!!
- ❑ Sale of contents of “drama” by a production house
- ❑ Distinguishing factors between “goods” & “services”

Classification Issues

Renting of Assets

- ❑ whether renting activity/ transfer of right to use any assets involves and element of service rendering?
- ❑ Issue is sub judice before Courts in case renting of immovable property
- ❑ It is argued the mere renting / transfer of right to use lacks any element of service

Situations for Issuance of Credit and Debit Notes

- ✓ Cancellation of Supply
- ✓ Return of Supply
- ✓ Change in Nature of Supply
- ✓ Change in Value of Supply
- ✓ Change in Rate of Sales Tax
- ✓ Some Such Event

Section 9: Post Supply Events

Credit-Debit Note & Adjustment of VAT

Description	Action Required
<p>Tax invoice or tax return may be modified in the following cases:</p> <ul style="list-style-type: none">▪ <u>Cancellation</u> or <u>Return</u> of supply of goods in whole or in part as supplied by registered person to registered buyer▪ <u>Cancellation</u> or <u>Return</u> of supply of goods in whole or in part as supplied by registered person to unregistered person	<p>the buyer shall issue <u>Debit Note</u> and must make adjustment in tax return. The supplier will issue a corresponding <u>Credit Note</u> and adjust his tax return.</p> <p>the supplier shall issue <u>Credit Note</u> and must make adjustment in tax return.</p>

Section 9: Post Supply Events

Credit-Debit Note & Adjustment of VAT

Description	Action Required
<p>Tax invoice or tax return may be modified in the following cases:</p> <ul style="list-style-type: none">▪ Material <u>change in nature of supply</u> which results change in amount of tax;▪ Change in amount of <u>Value of Supply</u> including offer of additional discount▪ Change in amount of <u>Tax</u>▪ If amount of <u>output tax</u> mentioned in the invoice <u>increases</u>	<p>the supplier shall issue <u>Debit Note</u> and must make adjustment in tax return. The buyer will issue a corresponding <u>Credit Note</u> and adjust his tax at sales tax return.</p>

Section 9: Post Supply Events

Credit-Debit Note & Adjustment of VAT

Description	Action Required
<p>Tax invoice or tax return may be modified in the following cases:</p> <ul style="list-style-type: none">▪ Material <u>change in nature of supply</u> which results change in amount of tax;▪ Change in amount of <u>Value of Supply</u> including offer of additional discount▪ Change in amount of <u>Tax</u>▪ If amount of output tax mentioned in the invoice <u>decreases</u>,	<p>the supplier shall issue <u>Credit Note</u> and must make adjustment in tax return. The buyer will issue a corresponding <u>Debit Note</u> and adjust his tax return.</p>

Debit-Credit Note: Case Studies

In case of rate of sales tax decrease from 17% to 5%, whether debit – credit note may be issued by supplier to make adjustment.

In case of taxable goods supplied to customers are subsequently exempted, whether debit – credit note may be issued by supplier to make corresponding adjustment.

What are the consequences for not issuing or providing debit / credit note once required by tax authority

Whether credit and debit note be issued if post invoice discount is given

What remedy available in case time of issuance of DN / CN exceeds 6 months

How to declare debit / credit note at return?

ANNEXURE-I

Section-49: Sale of Taxable Activity or Transfer of Ownership by Registered Person

Event	Status of Buyer	Application of Sales Tax	Tax Liability
Termination of Taxable Activity or Part thereof	Unregistered Person	Yes	Supplier
Sales or Transfer of Ownership	Unregistered Person	Yes	Supplier
Sales or Transfer of Ownership as on Going Concern	Registered Person	Zero Rate Supply	Registered Buyer

Section 59: Tax Paid on Stock before Registration

Event	Condition for Input Tax
Person having taxable invoice required to be registered under ST Act	Invoice issued within 30 days of filing registration application Verifiable unsold stock on date of registration or on date of application
Person having Goods Declaration required to be registered under ST Act	Having GD within 90 days of filing registration application Verifiable unsold stock on date of registration or on date of application

Types of Sales Tax Audits under Federal Sales Tax Act, 1990

- ❑ Routine/ Desk Audit of Sales Tax Records – Section 25 of STA
- ❑ Selection of Cases for Audit- 72B of STA read with Chapter VIA of Sales Tax Rules, 2006
- ❑ Investigation/Enquiry under Sections 38, 38A, 38B & 40B
- ❑ Pre or Post Refund Audit - Section 10 of STA– Chapter-III of Sales Tax Rules, 2006
- ❑ Audit by Special Audit Panels under Section 32A of STA read with Chapter VI of Sales Tax Rules, 2006
- ❑ Investigation by Directorate General of Intelligence and Investigation-IR [refer SRO 1301(I)/2018, dated 29 October 2018]

Types of Sales Tax Audits under Federal Sales Tax Act, 1990

- ❑ DTRE Audit of Sales Tax Records –
- ❑ Deregistration Audit- Section 21 of STA read with Rule 11 of Sales Tax Rules, 2006

Investigations / Inquiry – Sections 38A, 38B & 40B

Section	Jurisdiction of authority	Compliance by	Nature of record to be produced / Work to be Done	Event for production of record
38A	Commissioner	Any Person	Information or Statement	Inquiry or Investigation in Case of Tax Fraud
38B	Assistant Commissioner FBR	Any Person	Documents or Records	Relevance to Audit, Inquiry or Investigation Formulation of Policy or Broadening of Tax
40B	Officer of Inland Revenue be Posted upon Board's Approval	Registered Office Premise	Not Required	Monitoring of Production, Sales & Stock

Question:

- ✓ Notice issued by Officer below Commissioner under Section 38A?
- ✓ Notice to produce record in general under Section 38B. Legality?..

Section 8A: Joint & Several Liability of Registered Persons

- Upon receipt of taxable supply by registered person from another registered person, it is in knowledge or has reasonable grounds that some or all tax payable would go unpaid, both persons will be jointly and severally liable for payment of such unpaid tax.
- Burden to prove lies on department