

**MOORE STEPHENS**

**Shekha & Mufti**  
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# **PUNJAB SALES TAX ON SERVICES ACT 2012**

## **Brief Overview**

Shekha & Mufti is an independent member firm of Moore Stephens International Limited, members in principal cities throughout the world.

**The Punjab Assembly has enacted the Punjab Sales Tax on Services Act 2012 (PSTSA) on 21 June 2012, which will come at force w.e.f. 01 July 2012. By virtue of such an enactment, Punjab Sales Tax Ordinance 2000 stands repealed. The Punjab Assembly has also enacted Punjab Revenue Authority Act 2102 which will administer and enforce Sales Tax on Services rendered or acquired in Punjab.**

The Punjab Sales Tax on Services Act 2012 (PSTSA) is a much wider and exhaustive tax law which not only imposes sales tax on services rendered in Punjab but would also tax services received or consumed in the Province. Besides bringing certain excisable services like banking, shipping, etc. into sales tax net, certain other services such as those rendered by clubs / hotels / caterers, advertisements on TV / Radio, courier, telecommunication, insurance, stock brokers, etc. will also be taxed under the law. In line with Sindh Sales Tax on Services Act 2011, the PSTSA also places strong significance to 'reverse tax charge' to be deducted and paid by withholding tax agents.

The PSTSA contains 13 Chapters with 87 Sections in all. Todate, the rules and format of tax returns and other statutory declarations, to be filed by the taxpayers, have not been notified. However, we have been informed by Punjab Revenue Authority (PRA) that such rules are under final stages and would be issued within due course of time.

The following services have been specified in 2<sup>nd</sup> Schedule of PSTSA to be taxable services, attracting sales tax @ 16% of value of service. Besides specifying list of taxable services, the legislature has awarded a unique empowerment to Government of Punjab to specify any other service, liable to sales tax. We feel such an authority is a

deviation from all fiscal laws whereby leviability of tax or exemption thereof has always been a prerogative of legislation instead of Government or Tax Authorities.

TARIFF HEADING	DESCRIPTION	RATE OF SALES TAX UNDER PSTSA
9801.1000, 9801.4000 and 9801.5000	Services provided by hotels, clubs and caterers	16%
9802.1000 and 9802.2000	Advertisement on television and radio, excluding advertisement sponsored by an agency of the Federal or Provincial Government for health education; financed out of funds provided by a Government under grant-in-aid agreement; and conveying public service message, if telecast on television by WWF or UNCF	16%

TARIFF HEADING	DESCRIPTION	RATE OF SALES TAX UNDER PSTSA
9802.5000	Advertisement on a cable television	
9805.4000, 9805.8000 and 9805.2000	Services provided by persons authorized to transact business on behalf of others- (a) customs agents; (b) ship chandlers; and (c) stevedores	16%
9808.0000	Courier services	16%
98.12	Telecommunication services <i>(excluding internet and other allied services, as listed in law)</i>	19.5%
98.13	Services provided in respect of insurance to a policy hold by an insurer, including a re-insurer-  (a) goods insurance; (b) fire insurance; (c) theft insurance; (d) marine insurance; and (e) other insurance.	16%

	<b><u>EXCLUDING:</u></b>  (a) Marine insurance for export;  (b) Life insurance;  (c) Health insurance;  (d) Crop insurance.	
98.13	Services provided by Banking Companies or Non-Banking Financial Institutions including but not limited to all non-interest based services provided against a consideration in form or a fee or commission or charge.	16%
9819.1000	Services provided by stock brokers.	16%
9805.1000	Services provided by shipping agents	16%
	Any other service notified by the Provincial Government in the official Gazette.	

A 'taxable service' is defined to be a service listed in the 2<sup>nd</sup> Schedule of PSTSA, which is provided by a registered person from his office or place of business in Punjab in the course of an economic activity, including in the

commencement or termination of the activity. Besides, a taxable service provided by a non resident person shall also be treated as a taxable service if it is provided to a resident person by a non-resident person. In this way, the PSTSA has prescribed that recipient of taxable services may also be asked to pay sales tax – a scheme which was initially coined in Federal Excise Act 2005 few years back and adopted as such in Sindh Sales Tax on Services Act 2011.

The law empowers the PRA to fix minimum annual turnover threshold for registration under PSTSA. Besides, PRA is also empowered to declare any area of Punjab exempt from sales tax. However, as earlier stated in preceding paragraphs, the recipient of service may also be held liable to registration.

The provisions regarding 'value of taxable services' and 'open market price' have been adopted from the Sindh Sales Tax Law; accordingly they are quite stringent and are likely to hinder usual business activities of service providers. The law prescribes value of a taxable service to be the gross money consideration which the service provider receives from the recipient of service. However, in case the service is provided at a price lower than the price at which the person provides the service to other persons, the value of the service will be taken @ open market price for such a service - the price such service would fetch in an open market transaction freely entered into between independent buyers and sellers. The law also suggests application of subjective adjustments in computing the open market price, in case such price is not easily determined.

PSTSA places strong emphasis upon collection of sales tax by way of withholding tax. Thus, the role of withholding tax agents is likely to be both crucial and cumbersome.

The PSTSA carries detailed framework regarding definitions, scope of tax, invoicing, adjustments of tax paid on acquisition of services against the output tax liability, payment / collection of tax, registration, book keeping, audit, tax returns, offences / penalties, appeals and general administration. However, we understand such areas would be more clarified or elaborated in the allied rules, which are being drafted at the moment.

PSTSA empowers the PRA established under the Punjab Revenue Authority Act 2012 to be the administrative and enforcement body with respect to sales tax on services in Province of Punjab. The PRA will be headed by a Chairman and assisted by Commissioners, Deputy / Assistant Commissioners and other officers of PRA.

Significant aspects of the law are the likelihood of cross border / inter Province problems when goods and services originated from one Province are delivered or rendered in another Province. For certain service providers operating across Pakistan, accounting, IT and operating systems would need to be revamped and modified particularly in cases where a particular service is taxable only in Sindh and not in Punjab. Besides, there could be contentious industry & tax issues vis.a.vis compliance and enforcement of Punjab Sales Tax Law.

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