

SINDH SALES TAX ON SERVICES ACT 2011

Client Update

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On 6 June 2011, the Sindh Assembly has passed the much talked about 'Sindh Sales Tax on Services Act 2011' which empowers the Provincial Government to collect sales tax on services w.e.f. 01 July 2011.

The Sindh Sales Tax on Services Act 2011 (SSTSA) not only imposes sales tax on already taxed services which were under the ambit of Federal Excise Act 2005 (FEA) and Sindh Sales Tax Ordinance 2000 (SSTO), but has also brought certain additional services into the tax net. With the enactment of SSTSA, SSTO 2000 stands repealed with effect from 01 July 2011.

The SSTSA contains 12 Chapters with 83 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.

The SSTSA has largely maintained the existing tax / duty structure on services. Further, in line with the Federal Government's decision to reduce sales tax from 17% to 16%, the SSTSA also aims to extend identical benefit to those service providers which are presently being taxed @ 17%. However, certain additional services have also been brought under the sales tax law, while tax rates of few services have also been changed.

**Services governed under SSTSA with existing rate of tax / duty
(Presently exposed to federal excise duty and sales tax under the provisions of FEA and SSTO)**

PCT	DESCRIPTION	EXISTING LEGISLATION	RATE OF SALES TAX UNDER SSTSA
98.12	Telecommunication services.	FEA	19.5%
98.01	Services provided or rendered by hotels, restaurants, marriage halls, lawns, clubs and caterers.	SSTO	16%
98.02	Advertisement	SSTO	16%
9805.2000	Stevedores	SSTO	16%
9805.4000	Customs Agents	-do-	-do-
9805.8000	Ship chandlers	-do-	-do-
9808.0000	Courier services	SSTO	16%
98.13	Services provided or rendered by banking companies, insurance companies, cooperative financing societies, modarabas, musharikas, leasing companies, foreign exchange dealers, non-banking financial institutions and other persons dealing in any such services.	FEA	16%
98.19	Services provided or rendered by specified persons or businesses	FAE	16%
9819.1000	Stockbrokers	-do-	-do-
	Services provided by terminal operators except terminal fee charges	-do-	-do-

Additional Services governed under SSTSA

PCT	DESCRIPTION	RATE OF SALES TAX UNDER SSTSA
9801.2000	Services provided or rendered by restaurants	16%
9801.6000	Ancillary services provided or rendered by hotels, restaurants, caterers	-do-
	Other Advertisements like on web/internet etc.	-do-
9805.2100	Ship management service	-do-
9805.3000	Freight forwarding agents	-do-
9807.0000	Services provided or rendered by property developers or promoters for: a) Development of purchased or leased land for conversion into residential or commercial plots. b) Construction of residential or commercial units. <i>* FED proposed to be abolished vide Finance Bill 2011. However, it is again brought under SSTSA</i>	-do-
9809.0000	Services provided or rendered by persons engaged in contractual execution of work or furnishing supplies.	-do-
9813.9000	Service provided or rendered by a foreign exchange dealer or exchange company or money changer	-do-
9819.2000	Money exchanger	-do-
9824.0000	Construction services	-do-

Services governed under SSTSA with enhanced rate of tax / duty

PCT	DESCRIPTION	RATE OF SALES TAX UNDER SSTSA
9823.0000	Franchise services <i>* Presently, rate of FED is 10%</i>	16%
9805.1000	Shipping agents <i>* Presently, certain services rendered by shipping agents are liable to FED @ Rs. 200 per house bill of lading, while others are dutiable @ 16% of charges.</i>	-do-

Scope of Services

All excisable services presently governed under the FEA are brought into the ambit of SSTSA. In other words, at present, certain services are exposed to both federal excise duty under FEA and sales tax under SSTSA. This issue needs immediate attention of both Federal and Provincial Government failing which we anticipate a chaos when SSTSA comes into force. i.e., 01 July 2011.

The SSTSA carries detailed framework regarding definitions, scope of tax, payment / collection of tax, registration, book keeping, audit, tax returns, offences / penalties, appeals and general administration.

Registration Requirements

Registration under SSTSA is mandatory for all persons who are residents or provide any of the taxable services listed above from their registered office or place of business in Sindh. Thus, no minimum threshold is prescribed for registration purposes to absolve small service providers from service taxation.

Taxable Service

The law contains a wide definition of the term 'taxable service' which is defined to be a service listed above or under the 3rd Schedule of SSTSA and provided by a registered person from his registered office or place of business in Sindh in the course of an economic activity, including in the commencement or termination of the activity. Besides, a taxable service provided by an unregistered person is also to be treated as a taxable service if it is provided to a resident person or by a non-resident person in the course of an economic activity, including in the commencement or termination of the activity. In this way, the SSTSA has prescribed that recipient of taxable services may also be asked to pay sales tax – a concept which was initially coined in FEA few years back.

Value of Taxable Services vs. Open Market Price

The provisions regarding 'Value of Taxable Services' and 'Open Market Price' appear to 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 service provider provides the service to other persons, the value of such service will be taken at open market price for such a service. The law also empowers the tax authorities to make necessary adjustments while computing the open market price on the basis of market conditions prevailing at the time and place at which such service was provided.

Invoicing, Adjustments, etc.

The mechanism of invoicing, post supply adjustments, cross province adjustments, adjustments of tax paid on acquisition of goods / services against the output tax liability of service providers and vice versa, is yet to be defined in SSTSA.

Tax Administration

SSTSA empowers the Sindh Revenue Board (SRB) established under the Sindh Revenue Board Act 2010 to be the administrative and enforcement body with respect to sales tax on services in Province of Sindh. The SRB will be headed by a Chairman and Members while the executive side would be headed by Director SRB who would be assisted by Commissioners, Deputy / Assistant Commissioners and other officers of SRB.

For further information / clarification, kindly do not hesitate to contact us.