



Punjab Service Tax Memorandum 2020

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PREFACE

This Service Tax Memorandum summarizes crucial changes proposed in the Punjab Finance Bill 2020 vis.a.vis Service Sales Tax Law.

All changes through the Finance Bill 2020 are effective from 01 July 2020.

The tax memorandum contains the comments, which represent our interpretation of the legislation. We, therefore, recommend that while considering their application to any particular case, reference be made to the specific wordings of the relevant statute(s).

The memorandum can also be accessed on our website www.mooreshekhamufti.com

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SALIENT FEATURES OF AMENDMENTS IN PUNJAB SALES TAX LAWS

- Time limit for claiming adjustment of input tax on goods and services under any other law is specified to 6 months from the date of invoice or Goods Declaration.
- Concept of Minimum payment envisaged under Section 8B of Sales Tax Act 1990 introduced whereby taxpayers eligible to adjust input tax upto the maximum of 80% of output tax
- Gross amount of input tax on the acquisition of capital goods, machinery and fixed assets classified under the Customs Act, 1969 may now be claimed in the relevant tax period. Presently, this is claimable in 12 equal monthly installments.
- Refunds of any amount paid through inadvertence, error or misconstruction now sanctionable.
- List of records to be maintained by the taxpayers is modified in line with the records required to be maintained under the Sales Tax Act, 1990.
- Concept of electronic audit introduced.
- Pecuniary powers of adjudication of certain officers is redefined.
- Appeals may be filed electronically before the Commissioner (Appeals). Period of filing of appeal before the Appellate Tribunal is now clarified as 60 days.
- Tax Officer may recover disputed tax demand from running or demand finance facilities of the taxpayer.
- Option of automatic stay may now be availed by paying 10% of tax demand which is currently 25%, in case of appeals pending before the Commissioner Appeals.
- The rate of tax on services reduced to zero percent vide notification No.SO (TAX)1-110/2020 (COVID-19) dated 02 April 2020 is proposed to be charged, generally, at the rate of 5% without input tax adjustment.
- Sales tax is proposed on ride hailing services at the rate of 4% without input tax adjustment.

AMENDMENTS IN PUNJAB SALES TAX ON SERVICES ACT 2012

DEDUCTION AND ADJUSTMENT OF TAX ON INPUTS TO THE BUSINESS

Section 16(2)

The Bill proposes to amend sub-section (2) of Section 16 of the Punjab Sales Tax on Services Act, 2012 [PSTSA] to extend claim of input tax on sales tax involved in goods and services under other laws for 06 tax periods from the date of tax invoices and goods declaration issued under such other law.

By way of proposed amendment, restriction in time limit to claim input tax in terms of sub-section (1) of Section 16 is also being provided in sub-section (1) of PSTSA.

EXTENT OF ADJUSTMENT OF INPUT TAX

Section 16C

Presently, input tax on sales tax involved in capital goods, machinery and fixed asset is claimable in 12 equal installments in terms of Section 16C of PSTSA.

The Bill proposes to replace Section 16C with introduction of concept of mandatory payment of sales tax during filing of monthly sales tax return. Through aforesaid amendment, the registered person is not allowed to claim input tax adjustment in excess of 80% of the output tax in a tax period and also liable to pay 20% of output tax during such tax period.

The proposed amendment is parallel to Section 8B of the Sales Tax Act, 1990. However, restriction in input tax in excess of 90% of output as provided in Section 8B does not apply in case of fixed asset or capital. Identical exclusion has not been provided in proposed Section 16C of PSTSA as yet though PRA is empowered to exclude any person or class of persons from such restriction by a notification.

REFUNDS

Section 16D

Presently, no provision in respect of refund is available in PSTSA. However, Rule 14 of Punjab Sales Tax on Services (Adjustment of Tax) Rules, 2012 contains a provision in respect of refund in case of export of services, subject to certain condition.

The Bill proposes insertion of new Section 16D to authorized PRA or any authorized officer to allow refund to a registered person of sales tax which have been paid through inadvertence, error or misconstruction. Such refund would be subject to the conditions and restrictions as the prescribed by Authority in Rules.

DE-REGISTRATION

Section 29

PRA is empowered to process and dispose the application for De-registration of the registered person. Now, such authority has been vested with the Commissioner PRA. We understand the proposed amendment will facilitate the taxpayers and remove the hassle in deregistration of the registered persons.

ISSUANCE OF TAX INVOICE

Section 30(2) & 30(3)

This section deals with general procedure for issuance of sales tax invoices by registered person.

In terms of Section 30(2), PRA may specify any modified invoices for a different service or person through notification and manner and procedures to regulate the issuance and authentication of the invoices. By virtue of the proposed amendment in Section 30(2) of PSTSA, PRA may specify a format of invoices for registered person or class of registered persons through notification in official Gazette.

A registered person may issue invoice electronically to service recipient or other registered person subject to conditions and restrictions as notified by the Authority in official Gazette. Through another proposed amendment in Section 30(3), the Authority as well as an officer authorized by the Authority may require a registered person or a class of registered person to issue invoice electronically also to transmit these invoices to the Authority subject to such conditions and restriction as mentioned in notification issued by the Authority.

RECORDS

Section 31(1)

The Bill proposed to replace the list of records required to maintain by the registered person under the law. The new list resembles list of records that are required to be kept and maintained under Sales Tax Act 1990:

- a) record of services provided, including exempt services, indicating the description, quantity and value of service, name, registration number and address of the registered person to whom services were rendered and the amount of tax charged;
- b) record of goods and service received, including exempt goods and services, indicating description, quantity and value of goods and services, name, address and registration number of the service provider or supplier of goods and the amount of the tax charged;
- c) record of goods imported indicating the description, quantity and value of goods and the amount of tax paid on imports;
- d) double entry accounts;

- e) bank statements and banking instruments;
- f) inventory records, utility bills, salary and labor bills, rent deeds and agreements;
- g) record required to be maintained and the declarations filed under any other law for the time being enforce; and
- h) such other record or records as may be specified by the Authority

AUDIT PROCEEDINGS THROUGH VIDEO LINK

Section 33(3a)

The Bill proposes that an officer authorized by the Authority may conduct audit proceeding electronically through video link or any other prescribed facility.

The above amendment is a replica of the amendment introduced in Sales Tax Act 1990 via Federal Finance Bill 2020. The apparent objective of this amendment is to promote automation and further movement towards an electronic tax framework.

RETURNS

Section 35(1)

The Bill proposed to substitute sub-section (1) to enable the Authority to specify the form of return through notification. Presently, form of return is specified through Punjab Sales Tax on Services (Filing of Return) Rules, 2012.

APPOINTMENT OF AUTHORITIES

Section 39(1)

The Bill proposed to omit the words "of the Authority" from designations of revenue officers mentioned at certain serials listed in sub-section (1) of Section 39. Further, 'Risk Compliance Officer of the Authority' has been renamed as "Audit-Cum-Risk Compliance Officer".

OBLIGATION TO PRODUCE DOCUMENTS AND PROVIDE INFORMATION

Section 57(1)

The Bill proposes to amend sub-section (1) of Section 57 of the PSTSA whereby any officer / audit-cum-risk compliance officer of the authority below the rank of Assistant Commissioner may also call the record for the purpose of audit, inquiry or investigation.

POWERS OF ADJUDICATION

Section 60(1)(2)(3)(4)

Through this amendment, the pecuniary jurisdictions of the officers for adjudication of cases has been increased as follows:

S. No.	Existing jurisdiction		Proposed jurisdiction	
	Authority	Threshold	Authority	Threshold
1	Additional Commissioner	No limit	Additional Commissioner	No limit
2	Deputy Commissioner	Two and half million rupees	Assistant Commissioner / Deputy Commissioner	Ten million rupees
3	Assistant Commissioner	One million rupees	Enforcement officer and Audit-Cum-Risk Compliance officer	Five million rupees
4	Other officers of the Authority	Such cases or class of cases as may be prescribed by the Authority	-	

The bill is silent with respect to threshold of other officers of the Authority. However, the Finance Bill proposes to insert a new sub Section (4) to empower the Authority to assign any case or class of cases to any officer, irrespective of any pecuniary limit.

ELECTRONIC FILING OF APPEALS WITH COMMISSIONER (APPEALS)

Section 63(4)

Through the proposed amendment, an appeal before Commissioner Appeals may be filed either manually or electronically as may be specified by the Authority. We reckon such an amendment may encourage paperless environment and reduce the time and effort for submission of appeals.

TIME LIMIT TO FILE APPEALS WITH APPELLATE TRIBUNAL

Section 66(1)(2) and (4)

There was an anomaly between sub-section (1) and clause (d) of sub-section (2) in respect of time period required for filing of appeal before Appellate Tribunal which may either be 30 days or 60 days from the date of receipt of the decision or order.

The proposed amendment removes such anomaly and aligns the time limit to file the appeal before the Appellate Tribunal as provided in other tax statute by prescribing a timeline of 60 days.

RECOVERY OF ARREAR OF TAXES

Section 70(1)

Currently, the Authority cannot recover the tax default amount from any person who has obtained borrowings from banks in terms of running or demand finance. The proposed amendment empowers the Authority to recover the tax default amount from the running or demand finance facilities maintained by the taxpayer with the bank. Further, the PRA officer is also empowered to arrest or cause to arrest the defaulter and cause his detention in prison up to 6 months, in case the amount of default is upheld by the Appellate Tribunal.

In order to curb litigation and to recover more revenues upon assessment, the Finance Bill proposes reduce percentage of 10% tax liability / demand to avail automatic stay against the recovery of assessed demand during the pendency of the appeal. The existing percentage is 25%.

AMENDMENTS IN THE SECOND SCHEDULE

Section 3

S. No.	Description	Rate of Tax	As amended on 02 April 2020	Proposed Rate of Tax
1	Services provided by hotels, motels, guest houses	16%	(i) Zero percent without input tax adjustment for non-corporate, non-franchise, non-chain businesses; and (ii) 16% for others	(i) 5% without input tax adjustment for non-corporate, non-franchise, non-chain businesses with less than 20 rooms; and (ii) 16% for others
	Services provided by marriage halls and lawns (by whatever name called) including pandal and shamiana services,	16%	Zero Percent without input tax adjustment.	5% without input tax adjustment.

S. No.	Description	Rate of Tax	As amended on 02 April 2020	Proposed Rate of Tax
	Clubs including race clubs and their membership services including services, facilities or advantages, for a subscription or any other amount, to their members	16%	-	16%
	Catering services (including all ancillary/allied services such as floral or other decoration, furnishing of space whether or not involving rental of equipment and accessories)	16%	Zero Percent without input tax adjustment.	5% without input tax adjustment.
7	<p>Services provided in respect of insurance to a policy holder by an insurer, including a re-insurer for:</p> <p>(a) fire insurance;</p> <p>(b) goods insurance;</p> <p>(c) health insurance;</p> <p>(d) life insurance;</p> <p>(e) marine insurance;</p> <p>(f) theft insurance; and</p> <p>(g) any other insurance.</p> <p><u>Excluding:</u></p> <p>(a) marine insurance for export; and</p> <p>(b) crop insurance.</p>	16% of the gross premium paid	<p>(i) Zero percent without input tax adjustment for health insurance and life insurance; and</p> <p>(ii) 16% of gross premium paid, for others.</p>	<p>(a) Zero percent without input tax adjustment for health insurance for individuals; and</p> <p>(b) 16% of gross premium paid, for others.</p>
11	Services provided by restaurants including cafes, food (including ice-cream) parlors, coffee houses, coffee shops, deras, food huts, eateries, resorts and similar cooked, prepared or ready-to-eat food service outlet etc.	16%	-	<p>(a) 5% without input tax adjustment where payment against services is received through debit or credit cards; and</p> <p>(b) 16% for others</p>

S. No.	Description	Rate of Tax	As amended on 02 April 2020	Proposed Rate of Tax
13	Franchise service including intellectual property rights services and licensing services;	16%	-	(a) 5% without input tax adjustment for services relating to educational institutions; and (b) 16% for others
14	<p>Construction services and services provided by contractors of building (including water supply, gas supply and sanitary works), roads and bridges, electrical and mechanical works (including air conditioning), horticultural works, multidiscipline works (including turnkey projects) and similar other works but:</p> <p>Excluding:</p> <p>(iii) residential construction projects where the covered area does not exceed 10,000 square feet for a house and 20,000 square feet for an apartment except where construction services are provided to construct more than one house or more than one apartment building; or</p> <p>(iv) where the construction services are provided to any registered person who is otherwise liable to pay sales tax as a property developer, builder and promoter.</p> <p>Note:</p> <p>Exemptions are available on certain conditions to registered taxpayer in terms of Notifications issued by the Authority under Section 12 of the PSTSA.</p>	5% without input tax credit/ adjustment in respect of Government civil works and 16% with input tax credit/ adjustment for others	Zero percent without input tax adjustment.	5% without input tax credit/ adjustment in respect of Government civil works and 16% with input tax credit/ adjustment for others

S. No.	Description	Rate of Tax	As amended on 02 April 2020	Proposed Rate of Tax
15	<p>Services provided by property developers, builders and promoters (including their allied services);</p> <p><u>Excluding:</u></p> <p>Affordable housing services provided under Government sponsored housing programs.</p>	<p>(i) 8% without input tax adjustment or 16% with input tax adjustment; and</p> <p>(ii) 5% without input tax adjustment or 16% with input tax adjustment;</p>	-	Rs. 100 per square yard for land development and Rs. 50 per square feet for building construction
18	<p>Services provided for personal care by beauty parlors, salons, clinics, slimming clinics, spas (including saunas, Turkish baths and Jacuzzi) and similar other establishments.</p> <p><u>Excluding:</u></p> <p>Services provided in a parlor, salon or clinic where the facility of air-conditioning is not installed or is not available in the premises on any day of the financial year.</p>	16%	Zero percent without input tax adjustment.	<p>(a) 5% without input tax adjustment where payment against services is received through debit or credit cards; and</p> <p>(b) 16% for others</p>

S. No.	Description	Rate of Tax	As amended on 02 April 2020	Proposed Rate of Tax
22	Information technology-enabled or information technology based services including software development, software customization, software maintenance, system support, system assembly, system integration, system designing and architecture, system analysis, system development, system operation, system maintenance, system up-gradation and modification, data warehousing or management, data entry operations, data migration or transfer, system security or protection, web designing, web development, web hosting, network designing, services relating to enterprise resource or management planning (including marketing of products), development and sale of smart phone applications or games, graphics designing, medical transcription, remote monitoring, telemedicine, insurance claim processing, online retrieval and database access or retrieval service.	16%	(i) Zero percent without input tax adjustment for services provided by digital platforms; and (ii) 16% for others.	5% without input tax adjustment
25	Services provided by tour operators and travel agents including all their allied services or facilities (other than Hajj and Umrah).	16%	Zero percent without input tax adjustment.	5% without input tax adjustment
26	Manpower recruitment agents including labour and manpower supplies.	16%	-	(a) 5% without input tax adjustment for services where the value of services is fixed by the Bureau of Emigration and Overseas Employment and

S. No.	Description	Rate of Tax	As amended on 02 April 2020	Proposed Rate of Tax
				(b) 16% for others
32	Services provided by property dealers and realtors.	16%	Zero percent without input tax adjustment.	5% without input tax adjustment
35	Services provided in respect of rent-a-car including renting of all categories of vehicles meant for transportation of persons)	16%	Zero percent without input tax adjustment.	(a) 5% without input tax adjustment for services provided to end consumers and (b) 16% for others
36	Services provided by car/ automobile dealers.	16%	Zero percent without input tax adjustment.	(a) 16% for services provided by companies or authorized dealers; and (b) 5% without input tax adjustment for others
37	Services provided in respect of manufacturing or processing on toll or job basis (against processing on conversion charges) including industrial and commercial packaging services and similar outsourcing of industrial or commercial processes.	16%	-	5% without input tax adjustment
40	Brokerage (other than stock) and indenting services including commission agents, under-writers and auctioneers.	16%	-	(a) 5% without input tax adjustment for services provided in respect of agriculture produce and (b) 16% for others

S. No.	Description	Rate of Tax	As amended on 02 April 2020	Proposed Rate of Tax
43	Services provided in specified fields such as health care, gym, physical fitness, indoor sports, games, amusement parks, arcades and other recreation facilities, and body or sauna massage etc.	16%	Zero percent without input tax adjustment.	5% without input tax adjustment
45	Services provided by cable TV operators.	16%	Zero percent without input tax adjustment.	5% without input tax adjustment
52	Services provided by accountants (including practicing chartered or cost accountants), auditors, actuaries, tax consultants (by whatever name called), practicing company secretaries, receivers, liquidators, auctioneers and corporate law consultants, whether individual or otherwise.	16%	-	(a) 5% without input tax adjustment for services relating to accountancy, audit, tax or corporate law consultancy; and (b) 16% for others
58	Services provided by photography studios and event or occasion photographers/filmmakers	16%	-	5% without input tax adjustment
60	Services provided by skin and laser clinics, cosmetic and plastic surgeons and hair transplant services including consultation services. Excluding: Services provided to acid or burn victims	16%	-	5% without input tax adjustment
63	Parking services	16%	-	5% without input tax adjustment

S. No.	Description	Rate of Tax	As amended on 02 April 2020	Proposed Rate of Tax
66	Services in respect of treatment of textile, leather but not limited to dyeing services, edging and cutting, cloth treating, water proofing, embroidery, engraving, fabric bleaching, knitting, leather staining, leather working, pre-shrinking, color separation services, pattern printing and shoe making services.	16%	Zero percent without input tax adjustment	5% without input tax adjustment
67	Apartment house management, real estate management and services of rent collection	16%	Zero percent without input tax adjustment	5% without input tax adjustment
68	(i) Medical consultation / visit fee exceeding Rs. 1,500 per consultation / visit of doctors, medical practitioners and medical specialists. (ii) Bed / room charges of hospitals exceeding Rs. 6,000/- per day per bed / room.	5% without input tax adjustment	Zero percent without input tax adjustment	Zero percent without input tax adjustment.
69	Ride-Hailing services	-	-	4% without input tax adjustment

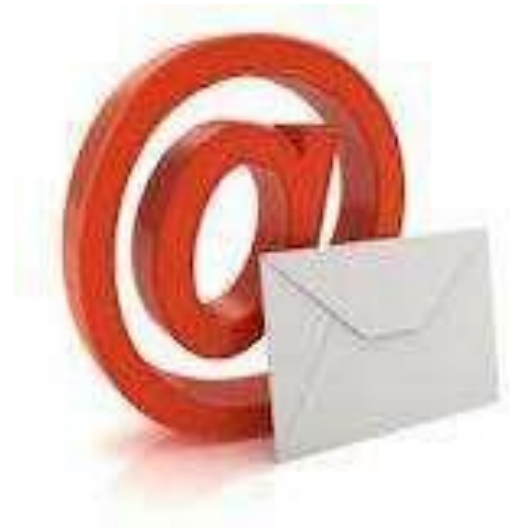
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