



Punjab Service Tax Memorandum 2022

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PREFACE

This Service Tax Memorandum summarizes crucial changes proposed in the Punjab Sales Tax on Services Act 2012 through Finance Bill 2022. All such proposed changes through this Bill upon approval will be effective from 01 July 2022.

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

23rd June 2022

PUNJAB SALES TAX ON SERVICES ACT, 2012

Certain Transactions Not Admissible

Section 16(A)

Currently, the registered buyer is required to make invoice payment for single transaction exceeding Rs.50,000 on receipt of taxable services through designated banking instrument to service provider. Making payment other than this manner against single transaction exceeding Rs.50,000 would lead to disallowance of input tax for registered businesses.

Now the Bill proposes that the service recipient will make payment against one or more invoices / transactions on acquisition of taxable services to the service provider where the accumulative effect thereof including sales tax exceeds Rs.50,000/- during a tax period. However, utility bills are excluded from purview of this provision.

This said amendment would lead to enhancement in tax compliances for registered person who would now be required to make invoice payment through banking channel against single transaction even less than value of Rs.50,000 provided the value of taxable services exceeds sum of Rs.50,000 during a tax period as acquired from single service provider.

Extent of Adjustment of Input tax

Section 16(c)

The proposed amendment exceeds the threshold limit for adjustment of input tax from 80% to 90% where the input tax of a registered person exceeds from its output tax in a tax period. We understand that such amendment is parallel to Section 8B of the Sales Tax Act, 1990 and is beneficial for the taxpayers which reduces their cash flow stuck.

Assessment of Tax

Section 24

The Bill proposes to reduce time limit for assessment proceedings from 8 years to 5 years till the end of financial year against a tax period in which it relates to. Such proposed amendment would be applicable for assessment pertaining to tax periods from July 2022 onwards and would not have retrospective effect. In other words, time limit for carrying out assessment for any tax period upto 30 June 2022 will continue to remain 8 years.

The proposed amendment is in alignment to identical provision of Section 11(5) of the Sales Tax Act, 1990 [ST Act].

Besides above, the Bill also proposes to extend timelines to conclude the assessment proceedings from one hundred and twenty days (120 days) to one year from the end of financial year in which show cause notice is issued to taxpayer. The maximum time proposed by legislature will also include the adjournments as taken out by taxpayer.

At present, the time period to conclude assessment proceedings is 120 days excluding the time as sought through adjournments by taxpayer.

As per our understanding, the proposed amendment will benefit the tax department who may now avail extended time in passing assessment order. Furthermore, the pending assessment which have already barred by time-limit of 120 days could be concluded by tax officer in legitimate manner because of such amendment.

Compulsory Registration

Section 27

The Bill proposes to empower the Commissioner to designate any tax officer to perform services pertaining to compulsory registration of a service provider. Currently, such powers are vested to the Authority under this Section.

As per our opinion, such transposition of power to Commissioner will align to other provisions of said Section which empowers Commissioner to deal in registration and allied matters.

Retention and Production of Records and Documents

Section 32

The proposed amendment reduces time limit for retention and production of records from 8 to 6 years after the end of financial year. Such proposed amendment would be applicable for records and documents which would be maintained from July 2022 onwards and would not have retrospective effect. However, time limit for keeping of records and documents of any tax period upto 30 June 2022 will continue to remain intact for 8 years.

The said amendment has been made in line with Section 24 of ST Act.

Offences and Penalties

Section 48

The Bill proposes to enhance penalties against various offences. The below Table depicts existing and proposed penalty position.

S. No.	Offence Proposed Changes Highlighted	Penalty (Existing)	Penalty (Proposed)
3	Where any person fails to deposit the amount of the tax due or any part thereof in the time or manner laid down under the Act or the Rules.	Rs.10,000 or 5% of tax payable for the tax period whichever is higher	Rs.10,000 or 5% of tax payable for the tax period whichever is higher Provided that if the amount of tax or any part thereof is paid within 10 days, the

S. No.	Offence Proposed Changes Highlighted	Penalty (Existing)	Penalty (Proposed)
			defaulter shall pay penalty of Rs.500 per day.
4	Any person who fails to maintain records required under the Act or the rules.	Rs.10,000 or 5% of tax payable for the tax period whichever is higher	Penalty ranging from Rs.10,000 to Rs.100,000 or 5% of tax payable for the period whichever is higher.
5	Where a person, without any reasonable cause, fails to produce the record or information despite receipt of a notice. Proposed: Further, in case, record is not produced despite issuance of three notices, non- maintenance of records will be assumed and penalty relating thereto shall also be imposed.	Rs.25,000 for the first default and Rs.50,000 for each subsequent default.	Rs.25,000 for the first default and Rs.100,000 for each subsequent default.
6	A person who knowingly or fraudulently: a) submits false/ forged document; b) destroys, alters, mutilates or falsifies the record; c) makes false statement, declaration or presentation etc. d) fails to pay, recover or deposit actual amount of tax, or claims inadmissible input tax credit or adjustment or deduction or refund	Rs.25,000 or 100% of tax payable whichever is higher in addition to imprisonment (upon conviction)	Rs.50,000 or 100% tax payable whichever is higher in addition to imprisonment (upon conviction)
9	Where any person violates any embargo placed on providing of service or tempers a seal placed	Rs.25,000 or 10% of tax recoverable	Rs.100,000 or 100% of tax recoverable whichever is higher in addition to

S. No.	Offence Proposed Changes Highlighted	Penalty (Existing)	Penalty (Proposed)
	by an officer of the Authority.	whichever is higher in addition to imprisonment (upon conviction)	imprisonment (upon conviction)
11	Where any person who fails to fulfill any of the conditions, limitations or restrictions prescribed in a notification issued under any of the provisions of the Act or the rules.	Rs.5,000 or 3% of tax payable for the period whichever is higher.	Rs.10,000 or 5% of tax payable for the period whichever is higher
12	Where any person who contravenes any provision of this Act or the rules for which no penalty has specifically been provided in this section.	Rs.10,000 or 3% of tax payable for the period whichever is higher.	Rs.10,000 or 5% of tax payable for the period whichever is higher
18	Where any person fails to intimate any change in particulars of registration including the particulars relating to business address, business bank account, changes in taxable/ economic activity etc. within the prescribed period.	Minimum penalty of Rs.50,000.	Penalty ranges from Rs.50,000 to Rs.100,000.
21	Where a registered person charges sales tax in excess to the rate provided in the Second Schedule.	Rs.10,000 per invoice or 10% of the invoice amount whichever is higher.	Rs.20,000 for first default and Rs.50,000 for each subsequent default. Sealing of business premises for one month introduced.

The Bill further proposes to insert new offences and penalties at Serial No. 22,23 & 24 as represented through below Table:

Serial No.	Offence	Penalty
22	Where any person unauthorizedly issues an invoice in which an amount of tax is specified.	Rs.10,000 per invoice or 5% of the amount of tax involved whichever is higher.
23	Where a bank fails to attach, or delays in attaching the bank account of a person, specified in the notice issued by an officer of the Authority, from whom tax is sought to be recovered, or fails to pay or delays payment of such amount.	Rs.100,000 or 100% of the tax sought to be recovered whichever is higher. The concerned manager or officer in-charge of such bank shall further be liable, upon conviction by a Special Judge, to imprisonment for upto 1 year or with fine, which may extend to an amount equal to the amount of tax sought to be recovered or with both.
24	Where any person refuses to receive any notice or order issued by an officer of the Authority.	Rs.50,000 or 100% of the tax payable for the tax period to which the offence relates whichever is higher.

Recovery of Tax not Levied or Short Levied

Section 52(1) (2)

The Bill proposes amendments for issuance of show cause notice in case of non or short-levy of any tax or charge advertently or otherwise within 5 years till the end of financial year in which a tax period it relates to. Such proposed amendment would be applicable pertaining to tax periods from July 2022 onwards and would not have any retrospective effect. In other words, time limit for issuance of show cause notice of any tax period upto 30 June 2022 will continue to remain 8 years.

The aforementioned amendment being beneficial in nature is aligned to Section 11(5) of ST Act.

Besides above, the Bill also proposes to extend timelines to conclude the assessment proceedings under this Section from one hundred and twenty days (120 days) to one year from the end of financial year in which show cause notice is issued to taxpayer. The maximum time proposed by legislature will also include the adjournments as taken out by taxpayer.

At present, the time period to conclude assessment proceedings is 120 days excluding the time as sought through adjournments by taxpayer.

Identical provision has also been proposed at Section 27 of the Act.

SECOND SCHEDULE TO PSTSA

Withdrawal of Exemption

Serial Number 6

The Bill proposes to withdraw exemption on internet services provided to students where value of such service does not exceed Rs.1500/- per month

Broadening the Scope of Taxable Services

Serial No.22 & 69

The Bill seeks to insert services of 'Real Estate Aggregators' & 'Cab Aggregators' liable to Punjab Sales Tax @5% & 4% with comments to have always been included hereunder.

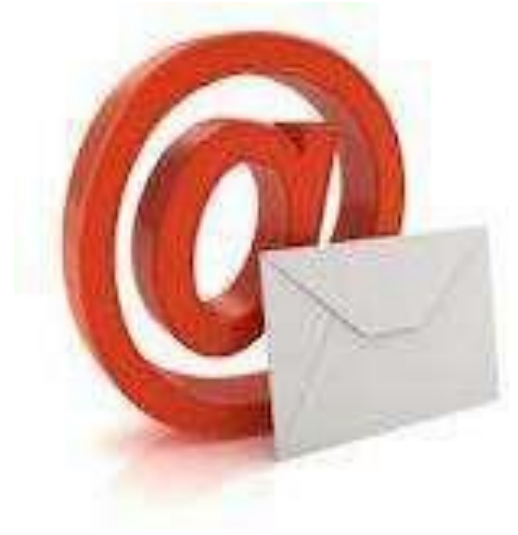
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