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# SERVICE TAX MEMORANDUM

Amendments in Sindh Sales Tax on Services Laws  
2024

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# PREFACE

This Service Tax Memorandum summarizes crucial changes in the Sindh Sales Tax on Services Act, 2011 through Sindh Finance Act 2024 and in allied Rules & Notifications. All such changes are effective from 01 July 2024, except those made through Notifications No. SRB-3-4/18/2024 & No. SRB-3-4/19/2024 which are effective from 10 May 2024.

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  
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04 July 2024

## SINDH SALES TAX ON SERVICES ACT, 2011

### TAXABLE SERVICES

#### *Increase in Standard Rate*

Standard Sindh Sales Tax Rate has been increased to 15% from 13%.

We understand this will increase the cost of doing business for service recipients including exporters registered with FBR whose refunds against services tax does not automatically process by FASTER (Automatic Refund System).

Enhancement of tax rate has also been recorded in the following Rules:

Rules	Amending Notification
Sindh Sales Tax Special Procedure (Tax on Specified Services) Rules, 2023	Notification No. SRB-3-4/30/2024 dated 29 June 2024
Sindh Sales Tax Special Procedure (Online Integration of Business) Rules, 2022	Notification No. SRB-3-4/29/2024 dated 29 June 2024
Sindh Sales Tax Special Procedure (Withholding) Rules, 2014	Notification No. SRB-3-4/28/2024 dated 29 June 2024
Sindh Sales Tax on Services Rules 2011	Notification No. SRB-3-4/27/2024 dated 29 June 2024

### Introduction of New Taxable Services under Reduced Rate Regime

*Section 2, Second Schedule & Notification No. SRB-3-4/24/2024 dated 29 June 2024*

The following services have been brought into the ambit of Sindh Sales Tax at rate of 3% without input tax adjustment facility, by making the amendments in Section 2, Second Schedule, and the captioned notification:

Services	Tariff Heading	Clause under Section 2	Exemption upto
Education Services	9857.0000	37A	Rs. 500,000 per annum per student
Hospital and Clinics	9858.0000	50A	Rs. 25,000 per room / bed
Medical Practitioners and Consultants ( <i>other than services of cosmetic and plastic surgery covered under Tariff Heading 9842.0000</i> )	9815.1000	59A	Rs. 3,000 per consultation / visit

New Rules such as Rule 42FF, Rule 42K and Rule 42L under Sindh Sales Tax on Services Rules, 2011 are prescribed for registration, collection, payment, issuance of tax invoice, maintenance of records and filing of return.

The important provisions are briefly discussed as follows:

### **Medical Practitioners & Consultants**

#### *Rule 42FF*

The Sindh Government has imposed Sindh Sales Tax @ 3% on charges in excess of Rs. 3,000 per visit / consultation per patient against services provided by Medical Practitioners and Consultants at any place including a hospital or a clinic.

Hospitals, Clinics, or any other entity who provide the facility of consulting rooms are made as collecting agent for purpose of charging and depositing Sindh sales tax into Government Treasury. Besides registration requirement on service providers like Medical Practitioners and Consultants, such Hospitals & Clinics are also required to obtain registration with SRB as collecting agent.

### **Hospital & Clinics**

#### *Rule 42K*

The Sindh Government has also imposed Sindh Sales Tax @ 3% on charges in excess of Rs. 25,000 per bed / room against services provided by Hospitals and Clinics. Such Hospitals and Clinics are required to its liability in capacity of service provider as well as collecting agents.

### **Education Services**

#### *Rule 42L*

The Sindh Government has imposed Sindh Sales Tax @ 3% on fee / charges exceeding Rs. 500,000 per annum per student against education services.

The said threshold Rs.500,000 per annum will be proportionately applied for purpose of determining taxability of services. It appears that tax on education services exceeding Rs.500,000 is required to charge Sindh sales tax on periodic basis (monthly, quarterly, etc) instead when fee exceeds threshold of Rs. 500,000.

Refundable security deposit has been exempted from Sindh Sales Tax.

### ***Introduction of New Taxable Services under Standard Rate Regime***

By virtue of amendments made through Sindh Finance Act 2024, Farmhouse services are made subject to Sindh Sales Tax at standard rate i.e. 15%. Further, the scope of such services is defined in Section 2(41A).

By virtue of amendments made in Notification No. SRB-3-4/7/2024 dated 29 June 2024, Farmhouse (whose turnover does not exceed Rs.2.5 Million in a financial year) is entitled to claim exemption from payment of Sindh sales tax subject the conditions as prescribed under Notification No. SRB-3-4/7/2013 dated 18 June 2013. By virtue of amendments in Sindh Sales Tax on Services Rules 2011, existing Rule 42 will also be applicable on services provided by Farmhouse.



***Introduction of Reduced Rate Facility for Existing Taxable Services***

*Notification No. SRB-3-4/24/2024 dated 29 June 2024*

The following taxable services has now made subject to reduced rate without facility of input tax adjustment

<b>Tariff Heading</b>	<b>Services provided by</b>	<b>Old Rate</b>	<b>New Rate</b>
<b>9801.2000</b>	Restaurant <i>(where payment is received through debit or credit cards, mobile wallets or QR scanning)</i>	13%	8%
<b>9813.9000</b>	Foreign Exchange Dealer, Exchange Company, or Money Changer	Conditional Exemption	3%
<b>9819.2000</b>	Money Exchanger	Conditional Exemption	3%
<b>9819.9000</b>	Stand-alone Cable TV Operators	10%	2%
<b>9845.0000</b>	Distribution Services, in relation to drugs registered under the Drugs Act, 1976	13%	5%

**Change in Scope of Existing Taxable Services**
***Transportation or Carriage of Goods***

*Tariff Heading 9836.0000*

Presently, inter-city transportation or carriage of goods are merely taxable.

Now Second Schedule of the Act has been amended by removing the phrase ‘*inter-city*’ from the entry. By virtue of the said amendment, all kind of transportation of goods (inter-city as well as intra-city) will subject to Sindh sales tax as prescribed for different regimes.

Corresponding amendments have been made in Sindh Sales Tax Special Procedure (Transportation or Carriage of Petroleum Oils Through Oil Tankers) Rules, 2018 through amending Notification No. SRB-3-4/26/2024 dated 29 June 2024.

***Vehicle towing, parking and valet services***

*Tariff Heading 9853.0000*

Vehicle towing services are to taken into ambit of taxable services. By virtue of amendments through Notification No. SRB-3-4/24/2024 dated 29 June 2024, the said services is subject to reduced rate i.e. 5% without facility of input tax adjustments.

**DEFINITIONS**
**Section 2**
***New Taxable Services***

The following new terms have been defined in Section 2:

Clause	Term	Definition
<b>37A</b>	Education Services	Pre-primary, primary, elementary, secondary, higher secondary, General Certificate of Education, General Certificate of Secondary Education, International General Certificate of Secondary Education, college or university education and also includes vocational, professional, instructional, technical and continuing education services and trainings rendered or provided by institutions like schools, colleges, universities, academia, institutes, teaching hospitals, or such other degree, diploma or certificate awarding institutions but does not include special education for the children with special needs and education under adult literacy programme.
<b>41A</b>	Farmhouse	Facility or a resort located on a farm which or a part of which is used for providing or rendering accommodation or entertainment or swimming or games or recreation, or camping opportunities.
<b>50A</b>	Hospital and Clinics	Hospitals or institutions, as defined in clause (a) of section 2 of the Pakistan Medical and Dental Council Act, 2022 (Act No. IV of 2023), and also includes a person or an establishment or an institution or an organization or a facility engaged in providing or rendering the services like medical, surgical, psychiatric, obstetric, dental or ophthalmological and similar treatment and care, whether preventive, prophylactic or curative, of persons including patients or sick or injured persons.
<b>59A</b>	Medical Practitioners & Consultants	Registered medical practitioners and the registered dental practitioners, as defined in clauses (w) and (x), respectively, of Section 2 of the Pakistan Medical and Dental Council Act, 2022 (Act No. IV of 2023)

### Change in Scope of Services

Clause	Term	Comments
20B	Car or Automobile Dealer	Words of 'Automobile' mentioned in clause 20B has been provided to substitute the with the phrase 'other motor vehicles' i.e. more inclusive term than 'Automobile'.
29A	Cosmetic and Plastic Surgery	Explanation in Clause 29A has been added to clarify that term 'surgery' includes 'procedure'.
51	Hotel	Scope of term 'Hotel' is enhanced to include 'hut', 'resorts', 'lodges, and 'facilities'. The term 'events' is also inserted in the captioned clause.
67B	Programme	Existing definition of term 'Programme' has been substituted with new definition. Existing definition is restricted to transmission of programme through cable, telecommunication or relay stations by general public.  The new definition has widened the scope by including any kind of programme transmission through internet, radio, television, cinema, or theatre.
72	Renting of Immovable Property	Definition of 'Renting of Immovable Property' excludes, inter alia, 'renting of land or premises solely used for outdoor games and sports'.  Through this Finance Act, exclusion is made for those renting of land or premises which are used in rendering games and sports services covered under Tariff Heading 9821.2000.
72A	Rent-a-car and automobile rental service	The word 'passenger' has been deleted it from the definition to enchase the scope.
87A	Sports and Games Center	The definition of term 'indoor sports and games center' has been re-numbered at new Clause 87A from old Clause 51B with deletion of term 'Indoor'.
91	Surveyor	Scope of term 'Surveyor' has been enhanced by including any kind of specialized or special purpose survey, geological or geophysical survey, surface or sub-surface survey, survey for exploration of minerals.

## **LEGAL COVER FOR CHARGING SINDH SALES TAX ON SALARIES / REIMBURSABLE EXPENSES AFTER SUPREME COURT'S JUDGEMENT**

### ***Economic Activity*** ***Section 4(3)***

The term of 'economic activity' is an integral element for charging service tax. Presently, the definition of economic activity excludes the activities of employee providing services to an employer except those activities for which employee earns any fee or commission from employer. In sum, the activity of employee is not subject to Sindh sales tax where neither fee nor commission is paid by the employer to employee.

The scope of economic activity has been enhanced and excludes only those employees from purview of taxability which are under direct relationship under employment contract with employer. By virtue of the amendments, contractual employees hired through contractors or labour & manpower service providers is taken into tax net.

Secondly, a proviso has been added to include the performance of activity by employee for a person other than the employer. Such activity will also be considered as economic activity and subject to Sindh sales tax.

### ***Value of Taxable Service*** ***Section 5(a)(iii)***

A proviso has been added for defining 'consideration' and 'consideration in money' as gross amount including reimbursable expenditure or cost charged by service provider. However, SRB is also empowered to prescribe the conditions in such circumstances just like it has prescribed in rules related to custom agents services.

We understand the aforesaid amendments under Section 4(3) & Section 5(a)(iii) are attempted to reserve the impact the Supreme Court [SCP]'s Judgement wherein it was held that Sindh sales tax can only be levied on consideration paid for services and salaries paid by the employer to the employees are not part of services. While issuing the said judgment, SCP observed that salaries paid through contractor / labour manpower service provider neither part of economic activity nor part of consideration.

Apart from above measures, the question will be still alive whether salaries, being reimbursement expenses, involve any element of services and are subject to Sindh sales tax in essence.

It is notable that the issue before SCP was to interpret term 'value of taxable services' as provided under Section 5 and 'gross amount charged' as provided under Rules 42D and 42E of the Sindh Sales Tax on Services Rules, 2011.

We understand that such amendments may provide room for another round of litigation as it happened in the cases of renting of immovable property services where legislature adopted similar legal cover strategy.



## **INPUT TAX CREDIT NOT ALLOWED**

*Section 15A(1)*

The proviso under Clause (jj) is transposed under Clause (k) of Section 15.

Besides transposition and increase in standard tax rate to 15%, threshold of input tax adjustment by telecommunication service provider paying sales tax @ 19.5% or more has been enhanced to the extent of 18% from current limit of 17%. It appears that it is beneficial amendment for telecommunication sectors.

## **ASSESSMENT OF TAX / RECOVERY OF TAX NOT LEVIED NOR SHORT LEVIED**

*Section 23(2) / Section 47(1)*

Time limitation for passing the order has changed by reducing to five years from eight years for the tax periods from starting on 1 July 2025. Time limitation of eight years will continue for tax periods till 30 June 2025. This amendment aims to achieve harmony among other provincial and federal laws.

## **DE-REGISTRATION**

*Section 25(2)*

The Finance Act has framed an electronic system for de-registration in place of manual system.

## **RECORDS**

*Section 26(1)*

The legislature has made it obligatory for taxpayers to maintain and keep similar records relating to areas outside Sindh as are required under Sindh Sales Tax Laws. By virtue of the said amendment, SRB is now empowered to call for records relating to other areas outside Sindh.

## **RETENTION AND PRODUCTION OF RECORDS & DOCUMENTS**

*Section 27(1)*

Time limitation for maintaining records is changed by reducing to six years from ten years for the tax periods from starting on 1 July 2025. Time limitation of ten years will continue for tax periods before 1 July 2025. This amendment aims to achieve harmony among other provincial and federal laws.

## PENALTY

### Section 43

#### *Change in Scope of Penalty Clauses 2B & 7B*

While merging Clause 7B with Clause 2B, penalty has been enhanced in the following manner:

Previous Offence	Previous Penalty	New Offence	New Penalty
Where any person either avoids, defies, fails to comply with e-invoicing system or issues Invoices outside the e-invoicing system.	Such person shall be liable to pay a penalty of up to one hundred thousand rupees, but not less than twenty five thousand rupees.  In case of three consecutive defaults, the place of business of such person may further be liable to sealing.	Where a person avoids, defies, fails to comply with the e-invoicing system or issues invoices outside the e-invoicing system or refuses, denies, or obstructs the enforcement of provisions of section 54A in any manner.	Such person shall be liable to pay a penalty of upto one million rupees, but not less than one hundred thousand rupees. In case of repetition of the offence, the business premises of such person shall further be liable to sealing.  Such person shall further be liable, upon conviction by a Special Judge, to imprisonment which may extend to one year or with fine which may extend to one hundred thousand rupees or with both.

#### *New Penalty Clause 2C*

Offence	Penalty
Where a person avoids, defies, delays or fails to deposit the amount of service fee levied under the Sindh Sales Tax Special Procedure (Online Integration of Business) Rules, 2022 or fails to report the service fee in the sales tax return in the prescribed manner.	Such person shall be liable to a penalty of rupees one hundred thousand or twice the amount of service fee involved, whichever is higher.  Such person shall further be liable, upon conviction by the Special Judge, to imprisonment which may extend to one year or with fine which may extend to one hundred thousand rupees, or with both.

## **INCREASE IN PERIOD OF STAY GRANT BY THE COMMISSIONER APPEALS**

*Section 58(4)*

The Finance Act has increased power of Commissioner (Appeals) for granting stay against tax demand upto 180 days from existing 120 days.

## **APPOINTMENT OF THE APPELLATE TRIBUNAL**

*Section 60(5) & 60(11)*

The Sindh Government's power for Appointment of Member, SRB Appellate Tribunal from FBR or Provincial Excise & Taxation Department has been abolished.

Besides the above proposal, the monetary limit of adjudicating the case by the Single Tribunal Member has been reduced upto Rupees One Million from Rupees Five Million.

## **RECOVERY OF ARREARS OF TAX**

*Section 66(1)*

In order to keep the recovery of tax liability in abeyance during pendency of case before Commissioner (Appeals), the monetary limit for payment of minimum 25% of tax liability has been reduced to 10%.

## **COMPUTERIZED SYSTEM**

*Section 73(4)*

SRB will be empowered to share electronic data of tax returns filed with Federal & Provincial Tax Authorities. The said amendment is made to implement National Sales Tax Return.

## **ONLINE INTEGRATION OF BUSINESS**

*Amending Notification No. SRB-3-4/29/2024 dated 29 June 2024*

Through captioned Notification, the following amendments have been made in the Sindh Sales Tax Special Procedure (Online Integration of Business) Rules, 2022

- Tax authority may conduct an inquiry and investigation or require integrated person to provide information and documents for checking transactions made through digital modes to ensure functioning and operation of the Point of Sale [PoS].
- Sales invoices in Annexure C to Sales Tax Return are automatically generated from Sales Data Controller [SDC]. By virtue of amendments through the captioned notification and in Sindh Sales Tax on Services Rules 2011, it is required to report separate invoices against each different tax rates.

## **CHANGES IN SINDH SALES TAX ON SERVICES RULES 2011**

Amending Notification No. SRB-3-4/27/2024 dated 29 June 2024

### ***Transposition of Options***

*Rules 36, 42B, 42BB, and 42G*

In the following cases, service provider is required to file option for payment of Sindh Sales Tax at standard rate instead of reduced rate:

- Franchise Services / Intellectual Property Services
- Construction Services
- Ready Mix Concrete Services
- Transport Services

By virtue of the amendments, such options, which were already filed for payment sales tax @ 13% before July 2024, will be considered at par for charging Sindh Sales Tax @ 15% and no further option is required to be filed with SRB.

### ***Foreign Exchange Companies, Forex Dealer & Money Changer***

*Rule 40D*

Presently, the value of service is restricted to Rs. 20 paisa for every Rs.100 for payment of Sindh Sales Tax under Rule 40D(3). Such threshold has been increased to Rs. 25 paisa for every Rs. 100.

### ***Restaurant***

*Rule 42(1)(b)*

From July 2024 onwards, restaurants are required to charge Sindh Sales Tax @ 15% against cash consideration with facility of input tax adjustment & Sindh Sales Tax @ 8% on digital mode payments without facility of input tax adjustment. However, restaurant can apply with SRB for charging Sindh sales tax @ 15% instead @ 8%.

### ***Distribution Services***

*Rule 42M*

Sindh Sales Tax @ 13% on Supply chain management or distribution (including delivery) services was imposed under Tariff Heading 9845.0000 with effect from July 2016.

After imposition of the said tax, SRB started issuing notices for registration under Sindh Sales Tax on Services Act, 2011 which were passed through the process of lengthy litigation upto Supreme Court of Pakistan [SCP]. Before appellate forums, Distributors contended that they are engaged in supply of goods and registered under Sales Tax Act, 1990.

During the process of litigation, the SCP upheld the Sindh High Court [SHC]'s judgment without any further deliberation.

While deciding the case in favor of SRB, the SHC had noted that distributor undertakes all activities on behalf of the manufacturer (principal) against inexplicit consideration and Manufacturer retains control post-sale events.

After SCP judgments, the representations were filed by distributors with SRB to resolve the practical issues.

To resolve such issues, SRB has prescribed Rule 42M whereby eight percent of 'gross margin' will be assumed as the 'value of taxable services' for purpose of charging Sindh Sales Tax @ 15% by distributors with facility of input tax adjustment. In case of distribution services rendered to pharms companies, the rate of tax shall be 5% without facility of input tax adjustment.

The term 'gross margin' is defined and include trade margin, trade discount, trade offer, commission, rebate or any other incentive in relation to the distribution services.

Sale / Purchase Agreements, which do not involve distributors' any other activities, may not be subject to Sindh Sales Tax.

We understand the prescribed rules are silent about taxation of the distribution agreement where explicit consideration has been fixed against distribution services. Secondly, we are afraid, another round of litigation may initiate in case when SRB starts recovery Sindh Sales Tax for the periods from July 2016 to June 2024.

## **EMPLOYER AS WITHHOLDING AGENT**

### ***Sindh Sales Tax Withholding***

*Notification No. SRB-3-4/19/2024 dated 10 May 2024*

*Rule 1(2)(ha)*

Employers registered with FBR or SRB who receives commission agents services (covered under Tariff Heading 9819.1300) from their employees are categorized as Withholding Agent for purpose of deducting Sindh Sales Tax from payment to employees on account of commission agent services.

### ***Sindh Sales Tax on Services Rules 2011***

*Notification No. SRB-3-4/18/2024 dated 10 May 2024*

*Rule 41B(2)*

The said Rule absolves employee, being commission agent service provider, from the requirement of registration in case when employer fulfills the conditions for signing up as withholding agent and depositing of Sindh Sales Tax into Government Treasury.

Amendments through above Notifications are effective from 10 May 2024.



### **SINDH SALES TAX WITHHOLDING**

*Amending Notifications No. SRB-3-4/28/2024 dated 29 June 2024*

The following amendments have been made in the Sindh Sales Tax Special Procedure (Withholding) Rules, 2014 through the captioned amending Notifications:

- The category Withholding agents mentioned in Rule 1(2)(c) has been redefined and merged with Rule 1(2)(b). After the amendment, autonomous bodies, state-owned enterprises and regulatory bodies and authorities as are not incorporated under the Companies Act, 2017 are categorized as Withholding Agent. Earlier, the general phrases were used as 'public sector organization, including public corporations, state-owned enterprises and regulatory bodies and authorities.
- Time limitation for maintaining records has been changed by reducing to six years from eight years for the tax periods from starting on 1 July 2025. Time limitation of eight years will continue for tax periods before 1 July 2025. This amendment aims to achieve harmony among other provincial and federal laws.

### **EXTENSION IN REDUCED RATE FACILITY FOR SPECIFIED RECRUITING AGENTS**

*Amending Notification No. SRB-3-4/25/2024 dated 29 June 2024*

Till June 2024, Sindh Sales Tax @ 5% on services provided or rendered by recruiting agents (Tariff Heading 9805.6000) who are involved in recruitment of persons or group of persons for employment outside Pakistan was applicable till 30 June 2024.

Through the captioned notification, the facility of reduced rate for such recruiting agents has been extended till 30 June 2026.



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