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**& Co.**

**Tax Memorandum**

**Punjab Finance**

**Bill, 2020**

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and staff of ZA& Co.*

## TAX MEMORANDUM

### PUNJAB FINANCE BILL, 2020

This memo highlighted the important changes proposed through Punjab Finance Bill, 2020 [**the Bill**] which was presented in Punjab Assembly on June 15, 2020 which includes amendments to Provincial Laws and Regulations. For considering the precise effect of a particular change, reference should be made to the specific wordings in the relevant statute.

All proposed changes through the Bill, which will be effective from July 1, 2020, until unless specified elsewhere, with subject to approval by the Punjab Assembly and with the assent of the Governor of Punjab.

The commentary is copyright of **M/s Zulfiqar Ahmad & Co., Chartered Accountants** and should not be copied/ used for any personal purposes. The commentary involves our interpretation of salient features proposed through the Bill and we highly recommend not to make any business judgements based on any understanding by solely relying on this document, instead, we recommend to obtain specific professional advice.

**We, ZA, do not take any responsibility for any comments made therein.**

## Table of Contents

	Page No.
Punjab Sales Tax on Services Act, 2012	3 – 9
Other Laws	10 – 12

# Punjab Sales Tax on Services Act, 2012

### BAR ON ADJUSTMENT OF INPUT TAXES

*(Section 16)*

Before the proposed amendment, there was no bar on adjustment of input tax paid in respect of all activities done under any other laws (either be it a service from any other province or goods or imports) if the service provider holds valid invoice/ GD bearing its NTN, in its name. The service providers were able to adjust input tax on such activities without any restriction of time period.

Contrary to this, bar was placed on adjustment of input tax paid under the Punjab Sales Tax on Services Act, 2012 [**the PSTSA**], if the invoice is older than 6 tax periods.

Through the proposed amendment, equality has been introduced and Provincial Government has proposed to restrict the claimability of input tax paid under other laws, if the invoice date is not older than 6 tax periods.

### INPUT TAX ON CAPITAL GOODS

*(Repealed section 16C)*

*(New section 16C)*

Through the Bill, Provincial Government has proposed to withdraw the allow-ability of input tax paid in respect of Capital Goods, Plant & Machinery under chapter XVI, Chapters 84 & 85 of First Schedule to the Customs Act, 1969, for 12 equal monthly installments.

Instead, a new section has been proposed, nurture concept from section 8B of the Sales Tax Act, 1990, to restrict adjustment of input taxes to the extent of 80% of output tax. Punjab Revenue Authority [**PRA**] has also been empowered to exclude any person or class of persons from its applicability.

This step is expected to hurt service providers operating under “Advertisement Regimes” which are, on the one hand, been suffering from complete withholding of Punjab Sales Tax and now, on the other hand, will also be getting their input carried forward, to the tune of 20% of output tax, to next tax period.

### REFUNDS

*(New Section 16D)*

A long lasting lacuna, which has caused damaging cash flow concerns to various service providers, has now been proposed to be addressed through conferment of powers to PRA or any other person authorized by it, for allowing refund of tax claimed inadvertently, erroneously or through misconception.

Once the proposal is approved by the Punjab Assembly, PRA will regulate the provision through proper rules and regulations.

### DE-REGISTRATION

*(Section 29)*

The powers already conferred to PRA, on account of de-registration of registered persons, has now been proposed to be shifted towards Commissioner.

### DOCUMENTATION

*(Section 31)*

Through the Bill, major amendments have been proposed to increase the maintenance of record requirements by the Service Providers.

Before the proposed amendment, only record of services being rendered by the registered person, was required to be maintained. Consequent to this proposed amendment, the requirement for maintenance of record will be nearly similar to those already obligated on taxpayers under other fiscal laws.

## Punjab Sales Tax on Services Act, 2012

Major inclusions pertain to record of purchases, imports, baking transactions, double entry accounts, salary, rental agreements and inventory records.

### AUDITS THROUGH VIDEO LINKS

(Section 33)

In line with amendments proposed by Federation through recently presented Finance Bill, 2020 before Parliament, the Provincial Government has also proposed to empower its officers who may conduct audits through video link facilities to improve Audit Efficiency and conclude proceedings on time, in current situation of uncertainty due to pandemic.

This may prove to be an excellent initiative by legislatures which are focused to move towards revolution of taxation system by using technology and innovative tactics.

### POWER TO CALL FOR RECORD

(Section 57)

Through the proposed amendment, Punjab Government has proposed to empower any officer of the PRA, as enlisted in section 39 of the PSTSA, to exercise powers available under section 57 of the PSTSA.

Such powers include requiring record for examination, taking extracts from such records and any kind of inquiry from registered person in respect above inspections.

This empowerment is directed towards allowing every officer, which are engaged in planning and concluding majority of proceedings under the PSTSA, to call for record without hesitation.

### ADJUDICATION LIMITS REDEFINED

(Section 60)

Revision of minimum limits of amount of tax involved prescribed, for adjudication of cases, for Assistant Commissioner, Deputy Commissioner and Enforcement Officer/Audit-cum-Risk Compliance Officer as follows;

Designation	Previous Limit	Proposed Limit
Assistant Commissioner	Upto Rs. 1 million	Upto Rs. 10 million
Deputy Commissioner	Upto Rs. 2.5 million	
Enforcement Officer/ Audit-cum-Risk Compliance Officer	No powers	Upto Rs. 5 million

Further, powers have been proposed for PRA to assign a case of class of cases to any officer of PRA.

### APPEAL BEFORE COMMISSIONER (APPEALS)

(Section 63)

It has been proposed to allow registered persons to prefer appeals before Commissioner (Appeals) electronically. The facility was already announced by PRA through its notification No.PRA/Order.06/2019 dated March 25, 2020 and the current act is proposed to legalize this channel.

This proposed amendment will act as a huge facilitation to registered persons in this era of uncertainties due to spread of COVID-19.

Another relief measure has been proposed by Provincial Government on account of decrease in the limit of demand paid to PRA for obtaining automatic stay in respect of appeals before Commissioner (Appeals). The said limit has been reduced from 25% of tax demand to 10%.

## Punjab Sales Tax on Services Act, 2012

### APPEAL BEFORE APPELLATE TRIBUNAL

(Section 66)

As a corrective measure, through the proposed amendment, the Provincial Government has rectified the conflict present under the PSTSA on account of time period for preferring an appeal before Appellate Tribunal as contained under sub-section 1 & 2 of section 66 of PSTSA.

After the proposed amendment, the registered persons would be entitled to prefer appeal before Appellate Tribunal within 60 days of receipt of order passed by Commissioner (Appeals).

Further, the power of Appellate Tribunal to condone and accept preferment of appeals before this forum, in case the registered person could not file appeal within 60 days, has been proposed to be abolished.

### RECOVERY OF TAX

(Section 70)

Through the proposed amendment, PRA will be authorized to recover taxes due under the PSTSA from "running and demand finance facilities" of the registered persons, entered into with Financial Institutions.

Further, power to arrest or detain a defaulter upto six months period to recover tax due, where the adjudged amount has been upheld by the Appellate Tribunal, has also been proposed.

### AMENDMENTS IN SECOND SCHEDULE

A huge relief measure, specifically directed towards general public and sectors highly effected due to wide spread of COVID-19, has been proposed by the Provincial Government through proposed reduction in Punjab Sales Tax rates in respect of many services.

Majorly, relief already passed through PRA's earlier notification no.so(tax)1-110/2020(COVID-19) dated April 2, 2020 has been proposed to be continued with slight modifications.

The proposed changes have been explained as follows;

#### A. Serial # 1 – Services provided by Hotels, Motels and guest houses – HS Code 9801.1000

**EXISTING:** Taxable at 0% without input tax adjustment for non-corporate, non-franchise and non-chain business & 16% for others as per notification no.so(tax)1-110/2020(COVID-19) dated April 2, 2020.

**PROPOSED:** Proposed at 5% without input tax adjustment for non-corporate, non-franchise and non-chain business & 16% for others.

**This proposed amendment is directed towards grant of relief to such hotels which are operating at medium to low scale. Huge chain of hotels will not be getting this benefit.**

#### B. Serial # 1 – Marriage halls and lawns (by whatever name called) including pandal and shamiana services – HS Code 9801.3000

**EXISTING:** Taxable at 0% without input tax adjustment as per notification no.so(tax)1-110/2020(COVID-19) dated April 2, 2020.

**PROPOSED:** Proposed at 5% without input tax adjustment.

#### C. Serial # 1 – 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) – HS Code 9801.5000

**EXISTING:** Taxable at 0% without input tax adjustment as per notification no.so(tax)1-110/2020(COVID-19) dated April 2, 2020.

**PROPOSED:** Proposed at 5%.

## Punjab Sales Tax on Services Act, 2012

### D. Serial # 7 – Services provided in respect of insurance to a policy holder by an insurer, including a re-insurer for:

- (a) Fire insurance;
- (b) Goods insurance;
- (c) Health insurance;
- (d) Life insurance;
- (e) Marine insurance;
- (f) Theft insurance; and
- (g) Any other insurance.

#### EXCLUDING:

- (a) Marine insurance for export; and
- (b) Crop insurance – HS Code 98.13

**EXISTING:** Taxable at 0% without input tax adjustment for health and life insurance and 16% for others, as per notification no.so(tax)1-110/2020(COVID-19) dated April 2, 2020.

**PROPOSED:** Proposed at 0% without input tax adjustment for health insurance for individuals and 16% for others.

**The proposed amendment, post COVID-19 scenarios, will only bring relief for individuals. Support for corporate sector has not been proposed, thereby, giving a direct relief to general public.**

### E. Serial # 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 outlets etc – HS Code 9801.2000 & 9801.9000

&

### F. Serial # 18 – Services provided for personal care by beauty parlors, salons, clinics, sliming clinics, spas (including saunas, Turkish baths and Jacuzzi) and similar other establishments.

#### EXCLUDING:

Services provided in a parlour, 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 – Respective Headings

**EXISTING:** Taxable at 16% under Second Schedule. [Clause E]

Taxable at 0% without input tax adjustment as per notification no.so(tax)1-110/2020(COVID-19) dated April 2, 2020. [Clause F]

**PROPOSED:** Proposed at 5% without input tax adjustment where payment against services is received through debit or credit cards and 16% in other cases.

**This a huge boost for general public who will be getting this substantial relief in their hoteling bills. Plus, Provincial Government has also planned to improve documentation of economy by allowing this relief only to those customers who prefer documenting their bills via banking channel.**

### G. Serial # 13 – Franchise service [including intellectual property rights services and licensing services – Respective Headings

**EXISTING:** Taxable at 16% under Second Schedule.

**PROPOSED:** Proposed at 5% without input tax adjustment where payment against services is received through debit or credit cards and 16% in other cases.

### H. Serial # 14 – Construction Services – 9824.0000 & 9814.2000

**EXISTING:** Taxable at 0% without input tax adjustment, as per notification no.so(tax)1-110/2020(COVID-19) dated April 2, 2020.

**PROPOSED:** No relief provided through the Bill and original status of 5% without input tax credit/adjustment in respect of Government civil works and sixteen percent with input tax credit/adjustment for others, has been restored.

Further, application of Punjab Sales Tax has been proposed to be withdrawn if Construction Services are provided to those registered persons who are otherwise liable to pay sales tax as a property developer, builder and promoter.



## Punjab Sales Tax on Services Act, 2012

### I. Serial # 15 – Property Developers and Builders – Respective Headings

**EXISTING:** Taxable at 8% without input tax adjustment or 16% with input tax adjustment, as per Second Schedule.

**PROPOSED:** Fixed tax scheme of Rs. 100 per square yard for land development and Rs. 50 per square feet for building construction.

Further, affordable housing services provided under Government sponsored housing scheme have been excluded from the ambit of PRA.

### J. Serial # 22 – Respective Headings

**EXISTING:** Taxable at 0% without input tax adjustment for services provided by digital platforms and 16% for other cases as per notification no.so(tax)1-110/2020(COVID-19) dated April 2, 2020.

**PROPOSED:** Proposed at 5% without input tax adjustment.

### K. Serial # 26 – Manpower recruitment agents including labour and manpower supplies – HS Code 9805.6000

**EXISTING:** Taxable at 16% as per Second Schedule.

**PROPOSED:** Proposed at 5% without input tax adjustment for services where the value of service is fixed by the Bureau of Emigration and Overseas Employment and 16% in other cases.

### L. Serial # 35 – Services provided in respect of rent-a-car [(including renting of all categories of vehicles meant for transportation of persons) – Respective Headings

**EXISTING:** Taxable at 0% without input tax adjustment as per notification no.so(tax)1-110/2020(COVID-19) dated April 2, 2020.

**PROPOSED:** Proposed at 5% without input tax adjustment for services provided to end consumers and 16% in other cases.

### M. Serial # 36 – Services provided by car/automobile dealers – HS Codes 9806.3000 & 9845.0000

**EXISTING:** Taxable at 0% without input tax adjustment as per notification no.so(tax)1-110/2020(COVID-19) dated April 2, 2020.

**PROPOSED:** Proposed at 16% for services provided by companies and authorized dealers and 5% without input tax adjustment for services other cases.

### N. Serial # 40 – Brokerage (other than stock) and indenting services including commission agents, under-writers and auctioneers – Respective Headings

**EXISTING:** Taxable at 16% as per Second Schedule.

**PROPOSED:** Proposed at 5% without input tax adjustment for services provided in respect of agricultural produce and 16% in other cases.

### O. Serial # 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 – Respective Headings

**EXISTING:** Taxable at 16% as per Second Schedule.

**PROPOSED:** Proposed at 5% without input tax adjustment for services relating to accountancy, audit, tax or corporate law consultancy and 16% in other cases.

## Punjab Sales Tax on Services Act, 2012

### P. Serial # 68 – Medical Consultants/ Hospitals invoicing over and above the prescribed thresholds – Respective Headings

The term has not been defined as yet, but the same is expected to be added in Sales Tax on Services (Definition) Rules, 2012.

**EXISTING:** Taxable at 0% without input tax adjustment as per notification no.so(tax)1-110/2020(COVID-19) dated April 2, 2020.

**PROPOSED:** Same change has been proposed to be continued.

### Q. Serial # 25 [Tour Operators] Serial # 32 [Property Dealers] Serial # 43 [Physical Fitness Activities] Serial # 45 [Cable TV Operators] Serial # 66 [Textile Processing Services] & Serial # 67 [Real Estate Management Services] – Respective Headings

**EXISTING:** Taxable at 0% without input tax adjustment as per notification no.so(tax)1-110/2020(COVID-19) dated April 2, 2020.

**PROPOSED:** Proposed at 5% without input tax adjustment.

### R. Serial # 37 [Toll Manufacturing] Serial # 58 [Photography] Serial # 60 [Cosmetic Services] & Serial # 63 [Parking Services] – Respective Headings

**EXISTING:** Taxable at 16% as per Second Schedule.

**PROPOSED:** Proposed at 5% without input tax adjustment.

### S. Serial # 69 – Ride Hailing Services

**PROPOSED:** This is a new insertion under PSTSA proposed at 4% without input tax adjustment. Mainly, the proposed amendments is directed to target the services being provided by Uber and Careem.

# Other Provincial Laws

## Other Provincial Laws

### PUNJAB URBAN IMMOVABLE PROPERTY TAX ACT, 1958

*(Omitted Clause - section 5(b))*

Earlier, an allowance of ten per cent for the cost of repairs and for all other expenses necessary to maintain such building in a state to command such gross annual rent were allowed for deducted against gross annual rent to derive the annual rental value. Now, such deduction is proposed to be omitted. Resultantly, annual rental value would be on the elevated side leading to higher due tax by the residents / occupants of properties.

However, for the Financial Year 2020 – 21, following special relaxation in respect of tax levied under Punjab Urban Immovable Property Tax Act, 1958 on annual value of building and land located in rating areas has been proposed to be provided in the manner laid down as hereunder;

- discount equal to five percent of the tax being paid on payment of tax through e-payment system;
- rebate equal to ten per cent of the amount of annual tax paid in lump sum on or before the 30th day of September 2020;
- tax shall be paid on yearly basis or half yearly basis; and
- late payment surcharge shall not be imposed for the tax amount due.

*(Section 12)*

As a relief measure the Government has extended the due date of payment of tax by one month to 31<sup>st</sup> October 2020 instead of 30<sup>th</sup> September 2020.

### PUNJAB MOTOR VEHICLES TAXATION ACT, 1958

Following Special Relaxation for the Financial Year 2020-21 in respect of tax levied on motor vehicle under Punjab Motor Vehicles Taxation Act, 1958, effective till June 30, 2021;

- discount equal to five percent of the tax being paid on payment of tax through e-payment system;
- a rebate equal to 20 percent of the amount of annual tax paid in lump sum on or before the 30th day of September 2020; and
- late payment surcharge shall not be imposed for the tax amount due;

### PUNJAB INFRASTRUCTURE DEVELOPMENT CESS ACT, 2015

*(Section 6(3))*

Government may exempt goods from levy of Cess from any previous date. This implies that there might have been some untapped sector on which the government now intends to impose the same.

## Other Provincial Laws

### THE STAMP ACT, 1899

As part of the overall relief measures and the directives of the Federal Government announced by the Prime Minister on April 03, 2020, in relation to boosting of activities in the real estate sector, the Government has proposed significant reduction in rates of Stamp Duty in line with the reductions in duties made by the Federal Government.

We have prepared a summary comparison of the existing and proposed rates of Stamp Duty in the below table;

Sr.	Instrument	Previous Rate	Proposed Rate
18	Certificate of sale to purchaser of any property sold through public auction	5%	1%
23	Conveyance Deed of immoveable property		
27 – A	Decree, rule of a Court or an order of a Court involving transfer of an immovable property		
31	Exchange of immovable property – Urban Area	5 % of Highest value 2% of lowest value	1%
	Exchange of immovable property – Other Areas	3%	
33	Gift of immovable property – Urban Other Areas	5% 3%	1%
35.	Immovable property under lease agreement	5.25%	2%
45	Immovable property obtained vide Suit of Partition	2%	1%
55	Release of Claim on Immovable property	5%	1%
58	Immovable property obtained through settlement	3%	1%
63.	Transfer of lease of Immovable property	5%	1%
63 A	Transfer of right or interest in Immovable property	5%	1%