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Provincial Budget 2017 - Sindh

June 6, 2017

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PROVINCIAL BUDGET 2017
- SINDH

This Memorandum summarizes salient features of the provincial budget and the Finance Bill presented in the Provincial Assembly of Sindh. Although it was mentioned in the budget speech that slight amendments are being introduced in Stamp Act and Registration Act, the same do not form part of the Finance Bill laid before the Provincial Assembly. For this reason, this Memorandum deals with amendments proposed in the Sindh Sales Tax on Services Act, 2011.

All changes proposed through the Provincial Bill are effective July 1, 2017, subject to approval by the Provincial Assembly of Sindh.

This Memorandum can also be accessed on our website www.pwc.com/pk

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SINDH FINANCE BILL, 2017

PLACE OF BUSINESS – SECTION 2(64)

The scope of the expression 'place of business' is proposed to be broadened to include persons carrying on economic activity in Sindh through virtual presence, website, web portal or any other form of E-commerce. Through such amendment, responsibility to pay tax is seemingly intended to be shifted on the provider of service.

It is worth mentioning here that similar amendment to expand the definition of 'place of business' has also been proposed in the Punjab Sales Tax on Services Act, 2012 (**'PSTSA 2012'**) through the Punjab Finance Bill, 2017. The only difference is that in Punjab, the exclusion presently available in the definition in respect of liaison offices is also proposed to be withdrawn whereas in Sindh Finance Bill, the exclusion for liaison offices is proposed to remain intact.

PROPOSED EXPANSION IN DEFINITION OF TAXABLE SERVICES – SECTION 2

The services provided or rendered by ***programme*** producers and productions houses are subject to Sindh Sales Tax **('SST')**. Definition of the term ***'programme'*** is contained in the Sindh Sales Tax on Services Act, 2011 (**'SSTSA'**), which is now being amended to include re-recording and other post-production processes (like dubbing, colouring, sub-titling and captioning).

By way of another amendment, definition of the term 'franchise' is being expanded to bring those franchise arrangements into the ambit of SST which do not involve any agreed consideration or fee for such franchise services. The amendment has apparently been made to address the anomaly which arose due to the reason that the relevant rules prescribed by SRB provided for chargeability of SST on franchise services even if no consideration was agreed whereas definition of the term 'franchise' only included reference to franchise services provided against a consideration.

Despite the above amendment, one can argue (particularly in the light of recent judgement of the Supreme Court in the case of Civil Aviation Authority) that value of service cannot be deemed for levying tax where service is rendered without consideration.

JOINT AND SEVERAL LIABILITY OF SERVICE PROVIDER / RECIPIENT – SECTION 9

Under the SSTSA, the liability to pay SST is on the service provider based in Sindh. The SSTSA further requires the prescribed service recipient to withhold tax in respect of such services and deposit the same with SRB.

By way of an amendment, it is now proposed that where the charged tax has not been paid by recipient of service (including those designated as 'withholding agent') within 180 days of invoice date, both the recipient and provider of service will be jointly and severally responsible for payment thereof.

EXTENSION IN TIME LIMIT FOR FINALISATION OF PROCEEDINGS – SECTIONS 23 & 47

Presently, an order under section 23 (for assessment of SST liability) and an order under section 47 (for recovery of tax not levied or short-levied) may be passed only within 120 days from date of issuance of show-cause notice (or within such extended period, not exceeding 60 days, as the officer may fix for reasons to be recorded in writing).It is now proposed to increase the above-referred time limit of 120 days to 180 days.

BAR ON CLAIMINING INPUT TAX ADUSTMENT IN RESPECT OF SERVICES SUBJECT TO REDUCED OR FIXED RATE OR AT A RATE NOT BASED ON VALUE– SECTION 15A

Restriction to claim input tax adjustment by service providers in respect of services subject to reduced or fixed rates is prescribed by SRB in Rule 22A. It is now proposed to make such restriction as part of the main law by moving it to the SSTSA.

It is further proposed that tele-communication services (which trigger SST at the rate of 19.5% ad valorem) will qualify for input tax adjustment for goods and services not exceeding 17%.

INPUT TAX ADUSTMENT ON CAPITAL GOODS – SECTION 15B

A new section 15B is proposed to be inserted in the SSTSA so as to allow claim of input sales tax on capital goods, machinery and fixed assets in twelve equal monthly installments. Such mechanism was available in federal law uptil 2011, however, given to procedural hitches, it was done away with. The proposal may entail cash flow constraints for taxpayers. It is worth mentioning here that similar proposal has also been put forth in the Punjab Finance Bill, 2017 recently laid before the Punjab Assembly.

SHORT PAID TAX RECOVERABLE WITHOUT NOTICE – SECTION 47A

A new section is proposed to be inserted whereby any short-paid SST amount along with default surcharge will be recoverable from the taxpayer by way of attachment of bank account, without issuance of prior show-cause notice. Similar provision is already contained in section 11A of the Federal Sales Tax Act, 1990, the application of which was restricted by High Courts to the extent of undisputed liability declared in the return. Since the e-filing portal does not presently allow filing of SRB return unless the entire SST liability has been discharged; hence, this provision seems to be carrying no practical significance.

POWER TO MONITOR AND TRACK SERVICE PROVIDERS THROUGH ELECTRONIC MEANS – SECTION 54A

A new section is proposed to be inserted empowering SRB to track provision of services or class of services which may be implemented through electronic or other means including electronic submission of invoices on real-time basis to the computer systems of the SRB. The SRB has been empowered to frame rules in this regard.

RECOVERY OF TAX ARREARS – SECTION 66

It is proposed that where a tax demand has been challenged before Commissioner (Appeals) out of which at least 25% has been paid by the taxpayer, no coercive measures could be adopted by SRB until the disposal of appeal by the Commissioner (Appeals).

POWER TO RESTRAIN CERTAIN AUTHORITIES – SECTION 72A

A new provision is proposed to be inserted, to empower SRB, with approval of Government, to restrain any other regulatory authority from renewing or granting any license/ permission to a person, to engage in a taxable economic activity, unless such person obtains registration under the SSTSA.

This proposal is in line with similar proposal included in the Punjab Finance Bill, 2017. Modalities of this proposal need to be sorted out for the reason that corresponding changes will be simultaneously required in the respective laws under which such licenses or permissions are granted by regulatory authorities.

CONDONATION OF TIME LIMIT – SECTION 81

In the context of powers available with the SRB for condonation of time limits, an 'explanation' has been proposed to be inserted in section 81 to clarify that such powers are available with respect to functions of SRB's officials as well. This proposal is in consonance with similar amendment proposed in the PSTSA 2012 through Punjab Finance Bill, 2017.

REVISION IN RATES OF SST

It has been mentioned in the budget speech that the rate of sales tax for tele-communication services which presently trigger SST at 19% is proposed to be increased to 19.5%. Moreover, it is also mentioned in the budget speech that the following reductions in SST rates are proposed:

Description	Present	Proposed
Travel agents and tour operators	10%	8%
Specific class of indenters and call centers	13%	3%
Services of renting immovable property	8%	3%

Notifications to implement the above announcements (including specifying class of indenters eligible for reduced rates) are expected to be issued by SRB in due course.