

*June 24, 2021*

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## *Note on KPK Finance Bill, 2021*



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**PROVINCIAL BUDGET 2021 - KHYBER PAKHTUNKHWA (KPK)**

This Memorandum summarizes salient features of the provincial budget and the Finance Bill presented in the Provincial Assembly of KPK. All changes proposed through the Provincial Bill are effective July 1, 2021, subject to approval by the Provincial Assembly of KPK.

Proposed modifications in certain other Provincial laws are also summarised in this Memorandum.

This Memorandum can also be accessed on our website [www.pwc.com/pk](http://www.pwc.com/pk)

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# KPK FINANCE BILL, 2021

## **KPK SALES TAX ON SERVICES**

### **WITHHOLDING AGENT**

The term 'withholding agent' is proposed to be defined to mean any person who as recipient of taxable services or otherwise withholds or deducts and pays or deposits tax directly to Government.

The limitation for assessment of tax not / short withheld or not deposited is proposed to be equated with the limitation provided for assessment in other cases in respect of the following

- Issuing of show cause notice;
- Passing of order after issuing a show cause notice.

Earlier no time limitation was provided for assessment of a withholding agent under section 40.

The period of adjournments otherwise ordered by the officer for any bona fide or genuine reasons or factors beyond normal human control of the person, on the date fixed for hearing is proposed to be excluded from the computation of such time limitation.

The Bill also proposes that an order for recovery of withholding tax can be further amended by the officer or by the Collector.

The recovery of non / short withholding of tax or failure to deposit such withheld tax is proposed to be personal liability of the withholding agent.

An explanation has also been added to clarify that tax not paid or short paid includes non / short withholding of tax and non / short deposit of tax withheld. The intention of such clarification appears to circumvent decisions of appellate authorities that assessment of short payment of tax due to non / short withholding or non /short deposit of tax withheld was beyond the scope of section 40 prior to Finance Act, 2019.

The bill proposes to treat withholding agents at par with other persons liable to penalty for the following offences

- Failure to make registration application;
- Failure to file return within the due date;
- Failure to deposit the amount of tax due;
- Failure to maintain record;
- Failure to produce any record or to furnish requisite information;
- Obstruct access to business premises or any other record; and
- Commits or attempts to commit tax fraud.

The Bill also proposes an explanation for the purposes of levying penalty on withholding agent whereby reference to service providers in section 64 shall be construed as service recipient or if so required as withholding agent.

### **STANDARD OR GENERAL TAX RATE**

The registered person providing services subject to reduced rate is allowed to obtain permission of Authority to opt to pay sales tax at standard or general rate with input tax adjustment.

Now it is proposed that prior permission of Authority will not be required in the case of service provider being a company subject to the following:

- One-month prior intimation will be filed with the Authority; and
- Prior permission of the Authority will be required to revert to the reduced rate.



## POWERS OF AUTHORITIES

Authority is empowered to restrict the extent of adjustment or deduction of tax payable under any other law through a notification. The Bill proposes to empower the Authority to make such restriction with effect from a specified date. In the absence of such date in the notification, the date of coming into effect of such notification is proposed to be the specified date.

The Authority is proposed to be empowered to issue a notification / order allowing exemption from tax, after taking concurrence from the Finance department of Government, in compliance to any commitment of the Federal Government or Government of KPK either under any international convention, protocol, treaty or agreement or any agreement or arrangement for foreign grant-in-aid assistance including free technical assistance to the province of KPK or elsewhere in the country.

## JOINT AND SEVERAL LIABILITY

The scope of joint and several liability was earlier restricted to registered persons. The Bill proposes to extend such liability to any other person receiving taxable services.

It is also due being clarified that the recipient of a taxable service shall be responsible to take all possible measures to ensure that the person from whom he has received taxable services, deposits the due tax relating to such transaction in accordance with the relevant provisions.

## ASSESSMENT OF TAX

The Bill further proposes to provide for following explanations in respect of assessment of tax:

- (i) Short payment of tax includes claim of inadmissible input tax. The intention of such clarification appears to circumvent decisions of appellate authorities that assessment of short payment of tax due to claim of inadmissible input tax was beyond the scope of section 40 prior to Finance Act, 2020. Another consequence of such explanation appears to include the claim of inadmissible input within the scope of the term short paid as contained in section 68(2)(a).
- (ii) The term 'audit' to include department audit, external audit, special audit, or any other scrutiny of the records, facts and tax affairs in any manner, style or mode, resembling audit or appearing like audit.

## DEFAULT SURCHARGE

The Bill proposes that in cases other than tax fraud, the monthly rate of default surcharge shall be the quarterly average of inter-bank rate of State Bank of Pakistan.

The bill also proposes that calculation of default surcharge shall not be calculated on compound basis and in case of short fall of days in the month during which the tax is paid, the amount of default surcharge shall be prorated in terms of days in the relevant month.

## RECOVERY OF TAX NOT / SHORT LEVIED

The bill proposes to extend the time limitation from three years to five years in cases where tax was not / short levied by reason of inadvertence, error, misconstruction or any other reasons.

The bill also proposes exclusion of the period of adjournment availed by the taxpayer for the purpose of computation of limitation period to pass an order after issuance of show cause notice under section 68. Earlier, such exclusion was restricted to thirty days.

## POWERS OF ADJUDICATION

The bill proposes to empower the Authority to make changes in pecuniary limits of its officers and condoning time limits for passing an order.

## DECISION IN APPEAL

The bill proposes to empower the Collector (Appeals) to remand the cases for de-novo consideration in special circumstances for reasons and purposes to be recorded in writing.

## RECOVERY OF ARREARS OF TAX

The bill proposes to authorise the recovery office to make recovery directly from a person holding or is otherwise in custody of any money, owned by or payable to defaulter, in consequence of recovery notice issued under section 87(1).

## CONDONATION OF TIME LIMIT

The Authority is empowered to condone a time limitation resulting in increase in tax payable, penalty or default surcharge after providing an opportunity of hearing to the taxpayer. The bill proposes to do away the requirement of providing such opportunity in case resulting in increase in penalty or default surcharge.

The bills also proposes to empower the Authority to delegate power to the Collector or an officer of the Authority to condone any time or period specified under the Act or the rules. However, in such cases the Collector or the officer of Authority shall not have power to condone the cases falling in the jurisdiction of any officer with designation or rank higher than the Collector or such officer.

The bill further proposes to clarify the scope of condonation.

### **AMENDMENTS IN SECOND SCHEDULE**

Second Schedule to the KPK Sales Tax Act lists down services taxable under the Act and the applicable rate of tax. The below-referred changes are proposed in the Second Schedule to the Act:

Description	S. No.	Existing	Proposed
Local non-corporate standalone hotels and clubs	1	15%	8% or 5% where RIMS is installed
Non-corporate hospitality business located in the tourist spots of Galiyat and Kaghan valleys	1	8%	5%
Companies providing labor or manpower supplies including recruitment for overseas jobs or employment	5	8%	15%
Companies providing business support services	5	5%	15% (with input adjustment)
Advertisements on or through print media of all types and forms	6	5%	1%
Non-corporate automobile dealers	8	15%	2% (without input tax adjustment)
Stand alone car wash (car wash station) services	9	2%	1%
Health related franchise services	10	10%	Exempt
Franchise services	10	10%	15% (with input adjustment)
Cleaning (9822.2000), fumigation and decontamination (9822.1000)	13	Not taxable	5% (without input tax adjustment)
Construction work of the projects of Public Sector Development Programme as were undertaken and completed before June 30, 2021	14	2%	Exempt

Description	S. No.	Existing	Proposed
Construction services, including allied works, provided or rendered, in respect of low-cost housing projects and schemes of the Provincial Housing Authority of KPK	14	2%	Exempt
Land development and commercial construction for areas allocated, fixed or used exclusively for school, medical dispensaries, mosque, graveyards, parks, public toilets, corridors (insight passages of building) and stair provided that these facilities are meant for common use of the public at large without the involvement of any commercial projects including intention or purpose for sale, leasing or renting	14	Rs 100 per square yard, or Rs 50 per square foot	Not taxable
Construction services <i>(It is proposed to clarify that construction services include construction of power generation projects chargeable to tax at 2%</i>  <i>Moreover, exemption to project initiated or undertaken under Government's Annual Development Programme (which expired on June 30, 2019) is proposed to be extended till June 30, 2021)</i>	14	2%	5%
Leases and licenses granted, or fees and royalties received by Government department or as the case may be, by the lessees or licensees. Provided that no tax shall be demanded in case of the charges for such leases, licenses, fees or royalties etc., received upto June 30, 2021 if tax thereon has not been already withheld, paid or recovered (no refund or waiver of any such tax amount shall be admissible under any circumstances)	16	15%	2% (without input tax adjustment)
Management services including fund and asset management services (9826.000) provided by non-corporate entities	19	Not taxable	5% (without input tax adjustment)

Description	S. No.	Existing	Proposed
Services specified in S. No 19 if provided by corporate entities and to such entities as are operating in collaboration or subsidiary or branch of foreign services providers	19	5%	15% (with input tax adjustment)
Cinematographic production, photographic services, recording services and telecasting or broadcasting services	20	2%	1%
Life insurance	26	Exempt	15%
Health insurance and Services in respect of Government sponsored Sehat Card Plus program	26	Exempt	1%
Cold storage services (including other form of warehousing of agricultural produce)	27	10%	1%
Services provided by underwriters including sponsorship services	34	2%	1%
Services provided or rendered by auctioneers	36	2%	1%
Services provided or rendered in respect of quality assurance, quality control, quality inspection (including pre-inspection), quality verification or certification including verification or certification of quality or standards under ISO regime	39	2%	1%
Services relating to or in respect of the installation, erection, commissioning or other permanent structure-affixed/linked/tied placement (whether full or in part) of any industrial, mechanical or electrical plant, machinery or equipment excluding installation of domestic equipment etc for residential use)	44	2%	1%

Apart from the above changes proposed in the Second Schedule, another significant amendment proposed in Second Schedule is to enhance the scope of taxable entry at S. No. 47 (which covers all those allied, ancillary, auxiliary, related, substitutive, comparable or matchable services which despite not being specifically, directly or indirectly mentioned in the *Second Schedule* fall in or are linked with any service covered in the *Second Schedule*) so as to include all such allied, ancillary, auxiliary, related, substitutive, comparable or matchable services within the scope of S. No. 47 **regardless of by whom or to whom such services are provided.**

### REDUCED RATE OF SERVICES

No input tax adjustment is available in respect of services subject to reduced rate of tax if received by a service provider. Now it is proposed to extend such restriction to any person receiving such services. The intention of the proposed amendment appears to restrict input tax adjustment of reduced rate services to person receiving such services for the purposes of making taxable supplies of goods.

Any reduced rate service is proposed to be charged at standard rate upon the request of corporate service recipient. The proposed amendment appears to be going beyond the scope of section 26A whereby a prior permission / intimation is required to opt for standard rate of tax in respect of services subject to reduced rate.

It is proposed that services tabulated below liable to reduced rate of tax shall not attract reduced rate if provided by corporate sector entities unless otherwise specified under Second Schedule or a notification issued under the Act. The rate of tax in such cases is proposed to be standard rate of 15% and all benefits of admissible input tax adjustment will be available:

S. No.	Description	Existing Rate of Tax
9	Services provided by specialised workshops or undertaking	2 -10%
10	Franchise service	10%
11	Services provided or rendered by specialised agencies	10%
13	Services provided by person engaged in contractual execution or performance of work	5%
17	Airport services	10%
18	Dry port services	10%
21	Event management services	8%
22	Exhibition, convention or carnival services	8%
27	Storage and warehousing services	10%
28	Container terminal services (other than public sector entities)	10%
39	Services provided or rendered in respect of quality assurance, quality control, quality inspection etc.	2%
44	Services relating to or in respect of installation, erection, commissioning	2%

It is proposed that rate of tax for the following services if provided by person other than corporate entities shall be 2% without any input tax adjustment:

- Services provided by or relating to dealers of agriculture machinery and equipment;
- Commission agents of agriculture produce;
- Agriculture specific market research;
- Human resource development or management in agriculture fields;
- Exhibitions of agricultural products or products usable exclusively in agriculture sector.

### **STAMP ACT, 1899**

#### **VALUATION OF URBAN LAND**

The value of land computed under section 27A shall be according to the valuation table notified by the Collector or as the Provincial Government may determine. It is now proposed that such valuation shall in no case be less than ninety percent (90%) of the rates determined by the Federal Board of Revenue (FBR).

#### **STAMP DUTY ON ALLOTMENT ORDER OR TRANSFER OF ALLOTMENT ORDER**

The stamp duty on allotment order or transfer of allotment order is proposed to be increased as follows:

Description	Existing Duty	Proposed duty
In respect of residential open plots	Rs 300 / marla	Rs 600 / marla
In respect of commercial open plots	Rs 600 / marla	Rs 1,200 / marla

#### **STAMP DUTY ON CONTRACT**

The monetary limits along with respective stamp duties on contracts entered into by a contractor with Government, a Corporation, Local Body, Local Authority, Agency or Organization set up or controlled by Federal Government or Provincial Government for the execution of work have been proposed to be revised as follows:

Proposed Limits	Proposed Duty
Where the amount does not exceed Rs 100,000	Rs. 250
Where the amount exceeds Rs 100,000 but does not exceed Rs 1,000,000	Rs. 1,250
Where the amount exceeds Rs 1,000,000 but does not exceed Rs 5,000,000	Rs. 4,000
Where the amount exceeds Rs 5,000,000 but does not exceed Rs 10,000,000	Rs. 9,000
Where the amount exceeds Rs 10,000,000	Rs. 40,000

#### **STAMP DUTY ON RECEIPT ACKNOWLEDGEMENTS**

The stamp duty on receipt acknowledgements as defined in section 2(23) has been proposed to be increased as follows:

Description	Existing Duty	Proposed Duty
Where such amount does not exceed Rs. 2,000	Rs. 2	Rs. 5
Where such amount exceeds Rs.2,000 but does not exceed Rs. 10,000	Rs. 3	Rs. 6
Where such amount exceeds Rs. 10,000	Rs. 7	Rs. 15

### **THE REGISTRATION ACT, 1908**

#### **INTRODUCTION OF ONLINE FACILITIES**

Online repository facility of registered instruments and electronic verification of registered property is proposed to be established.

It is also proposed that all documents, books, instruments, decrees, deeds, assignments, endorsements, debentures, orders, certificates, counterpart of lease, signatures would be processed through digitized means of registration.

**THE WEST PAKISTAN URBAN  
IMMOVABLE PROPERTY TAX ACT,  
1958**

It is proposed to amend the date of payment of advance tax to be 31st day of December instead of 28th day of February. Further, rebate of 35 percent allowed to persons on timely payment of their tax in the preceding five years is proposed to be withdrawn.

At present, the building acquired for use by petrol pumps and CNG stations were assessed and taxed at the rate of 15% of the actual annual rent. It is now proposed to tax Petrol pumps and CNG stations at a flat rate of 45,000 per annum with effect from July 1, 2020.

**THE KHYBER PAKHTUNKHWA  
FINANCE ACT, 1990**

It is proposed that professional tax shall not be levied for the financial year 2021 – 2022.

**THE KHYBER PAKHTUNKHWA LAND  
TAX AND AGRICULTURE INCOME TAX  
ORDINANCE, 2000**

It has been proposed to exempt land tax in respect of cultivated land of an owner for the financial year 2021 – 2022.

It has also been proposed to revise the agriculture income tax rates specified in Second Schedule as follows:

<b>Taxable Limit</b>	<b>Tax Rate</b>
Where the taxable limit does not exceed Rs.600,000/-	No tax
Where the taxable limit exceeds Rs.600,000/- but does not exceed Rs.850,000/-;	5% of amount exceeding Rs. 600,000/-
Where the taxable limit exceeds Rs.850,000/- but does not exceed Rs.1000,000/-;	Rs.12,500/- plus 7.5% of the amount exceeding Rs.850,000/-
Where the taxable limit exceeds Rs.1000,000/- but does not exceed Rs.1250,000/-;	Rs.23,750/- plus 10% of the amount exceeding Rs.1000,000/
Where the taxable limit exceeds Rs.1250,000/- but does not exceed Rs.1500,000/-; and	Rs.48,750/- plus 15% of the amount exceeding Rs.1250,000/-
Where the taxable limit exceeds Rs.1500,000/-.	Rs.92,500/- plus 17.5% of the amount exceeding Rs.1,500,000/-

Revenue generated by them which shall be utilized through Hospital Management Committees or Primary Care Management Committees for improvement of service delivery.