



# **OVERSEAS INVESTORS CHAMBER OF COMMERCE AND INDUSTRY**

## **TAXATION PROPOSALS**

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**Sindh Provincial  
Budget 2023-2024**



June 2023

## OICCI Comprehensive Taxation Proposals 2023-24

### 1. Coordination Between Federal/Inter-Provincial Sales Tax Authorities

#### Recommendation

A policy board to be formed to ensure synchronization of the policies, standard taxable services, basis of apportionment of revenues and removal of all anomalies/ conflicts between the laws of the different revenue boards. The proposed body to decide on matters including, but not limited to:

- i. Sales tax rates and policies, both on goods and services should be harmonized across all jurisdictions and sectors throughout the country.
- ii. Single Sales Tax return should be launched for filing of single return.
- iii. Single Taxation platform shall be maintained under the name "Pakistan Revenue Authority", to provide single window solution to all businesses.
- iv. Defining the basis for taxing the services on uniform principles considering the economic activity and international best practices.
- v. 'Standard schedule for taxable services' to promote transparency and uniform interpretation across the provinces.
- vi. Suggesting rules for settlement of sales tax wrongly deposited in a jurisdiction, including resolution of issues for the past, post finalization of rules for future.
- vii. Proper mechanism for adjustment of input tax on foreign services payable in reverse charge mode.

### 2. Sales tax on reverse charge mode on services received from foreign service provider

On 8th March 2023, section 15A of Sindh Sales Tax Act on Services was amended via Sindh Sales Tax on Services (Amendment) Act, 2021, a new clause (bb) has been inserted which debar input tax adjustment to registered persons in relation to services acquired from unregistered service provider which has made effective from July 1, 2016 i.e. from last six years.

#### Recommendation

We recommend that:

- i. Taxable services received from foreign service provider should be excluded from the above amendment as the foreign service providers are not required to registered under their statute in the Sindh Sales Tax and sales tax paid on services received from foreign service providers should be allowed as input tax credit as per Circular 6 of 2020 dated 10th July 2020.
- ii. Sales tax applicable on foreign services received should be allowed on reverse charge mode for payment to SRB.
- iii. Any amendment including newly inserted clause (bb) in Section 15A(1) should not apply retrospectively specially applicable for past seven years. Therefore, consequent amendment in Section 1(2) of Sindh Sales Tax on Services (Amendment) Act, 2021 and Section 84 of Sindh Sales Tax on Services Act, 2011 should be deleted.

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### 3. Deletion of Newly inserted Proviso after Section 4(3)(a) of Sindh Sales Tax on Services Act, 2011

The Secretariat of the Provincial Assembly of Sindh in its official Gazette dated March 14, 2023, promulgated the Sindh Sales Tax on Services Amendment Act, 2001 and amongst other amendments, the scope of "Economic Activity" is now widened and the activities/services of the employee for which he earns any fee or commission from the employer, will now be treated as an economic activity. In this connection, we recommend deleting proviso added after Section 4(3)(a) inserted through Sindh Sales Tax on Services (Amendment) Act, 2021 due to following reasons.

#### Recommendation

- i. The fee and commission paid under employment agreement should be excluded from the scope of section 4(3)(a).
- ii. Bonus, whether based on performance or otherwise, would be paid for the services provided in terms of the employment contract (and not going beyond that) it shall constitute the salary of the employee and not "fee" or "commission" for a particular transaction.
- iii. In India there is no indirect tax on the salary covered under the employment contract. Further there is no concept of taxing the performance-based emoluments as well that are covered within the normal employment contract. The various deductions that are made from the salary includes income tax deduction at source; professional taxes; and contributions to various schemes such as health insurance, pension and gratuity plans - that are akin to social security. Under the Indian indirect tax law certain transactions are specified to be neither treated as a supply of goods nor supply of services, thus making them non subject to Indian GST. Such transactions include services by an employee to the employer in the course of employment.  
  
In the UK and in Singapore as well, there is no indirect tax on the provision of employment services in any form. Thus, it appears that globally employment related services are not taken to be subject to indirect tax.
- iv. With respect to the provision of services in the normal course of employment by an employee in respect of which he may be paid a performance-based emolument, it may also be considered that in provision of these services the employee does not own, rents or occupies a "place of business" nor does he occupy his own branch, office or other place of business. An employee is merely occupying the employer's place of business to perform functions as under the employment contract. Therefore, the provision of any such service shall not constitute a taxable service within the meaning of section 3 of Sindh Sales Tax on Services Act, 2011.
- v. Practically it would be difficult for such people to obtain registration from SRB and charge sales tax by issuing invoices. In such case, employers may be required to act as withholding agent to collect and pay the tax to the government on behalf of the employees.

### 4. Alignment of Sindh Withholding Sales tax rules/ procedures with FBR

As the taxation system is moving towards harmonization and heading towards single sales tax return, therefore, alignment with other provinces is essential. Therefore, there is a need for simplifying and harmonizing withholding Sales Tax rules and procedures.

#### Recommendation

- i. Currently, registered people receiving taxable services from unregistered person is required to withholding 100% of the applicable sales tax while making payment. We

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recommend that the sales tax withholding rate on taxable services received from unregistered person should be reduced to 5% in line with the rate applicable in FBR.

- ii. Withholding of sales tax paid to registered person should be withdrawn to be consistent with the withholding sales tax rules/procedure of FBR.

### **5. Allowance of input sales tax adjustment on services subject to reduced sales tax rates**

#### **Recommendation**

- i. Amendments be made in provincial laws to allow claim of input sales tax, irrespective of the fact that the services are subject to standard 13% rate or reduced rate, as claiming input sales tax is basic feature of VAT mode of taxation.

Alternatively,

- ii. In line with Punjab Revenue Authority (PRA) and Khyber Pakhtunkhwa Authority (KPK) laws, Sindh Revenue Board (SRB) should provide the option to all service providers, who are subject to reduce rates, to charge standard rate of sales tax with input tax adjustment allowability for service recipient. Sectors affected may include automobile dealers, security services providers etc.

### **6. Zero Rating for Exports of Services**

#### **Recommendation**

The exports made by a registered person should be made zero-rated, to harmonize with KPK and PRA. This will also help in promotion of exports and documentation as the Proceeds are realized through authorized dealer/ bank.

### **7. Reduction in Sales Tax on Telecommunication Services**

#### **Recommendation**

Currently, sales tax rate on telecommunication services is 19.5%. This should be brought at par with other services - sales tax on telecom services be equivalent to general Sales Tax rate on services, in order to harmonize all sales tax on services rates.

### **8. Time, manner and mode of Payment**

#### **Recommendation**

As per clause (iii) of Sub section 2 of section 17, a taxable service shall be considered to have been provided in the tax period during which whichever is earlier:

- a. it was provided to the recipient.
- b. an invoice for the value of the taxable service was sent to the recipient or
- c. consideration for the same was received.

The payment of sales tax on consideration received in advance should be withdrawn in line with sales tax applicable in FBR. This will help the compliant and registered taxpayer to reduce the cost of documentation, administration and reporting.

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### 9. Assessment of Tax - Section 23(5)

The powers under this section for amendment of assessment order by the tax officer on the basis of any subsequent information, etc are arbitrary and unjust and may lead to harassment and corruption.

#### **Recommendation**

**The taxpayer should first be confronted with a show-cause notice with substantial reasons/evidence(s) that warrant reopening or amending the assessment order. Further, the powers to amend any assessment order should only vest with the Commissioner or the Board.**

### 10. Obligation to Produce Documents and Provide Information - Section 52(1)

The tax officer is empowered to solicit any information or record from any person without specifying any reason and without specifying the reference of any case being investigated by him.

#### **Recommendation**

- i. **Scope of Section 52(1) should be restricted to specific parties and transactions already identified by SRB instead of a mere exploratory enquiry.**

## OTHER TAXES AND LEVIES

### 11. Stamp Duty – The definition of the term 'instrument'

The definition of the term 'instrument' as contained within the Stamp Act 1889, applicable for the province of Sindh, was amended in 2006 to broaden its scope. Subsequently through an amendment in the Sindh Finance Act of 2009, the term Purchase Order (PO) was included to the stamp schedule for purposes of levy of the stamp duty on POs generated at the rate of 0.25% of the amount of the PO.

The above stamp duty is levied in Sindh Province only and its progressive nature has resulted in increase in cost of doing business in Sindh Province only which is in addition to direct and indirect taxes i.e. Income and Sales Tax respectively. As the taxation system is moving towards harmonization and heading towards single sales tax return, therefore, alignment with other provinces is essential. Increased cost of doing business negatively impacts sales as well as the same products/services are available from other provinces at comparatively lower price.

#### Recommendation

**It is recommended that the Stamp Duty on Purchase Order @ 0.25% should be eliminated, or the duty should be fixed per purchase order.**

### 12. Avoidance of Duplication of Registration Charges, Stamp Duty, Capital Value Tax, Municipal and Town Taxes etc. on Islamic Financing Transactions for purchase of Immovable Properties

Under Islamic financing transaction executed by Islamic banks for purchase of immovable property, the property should be kept in Bank's name and upon expiry/termination of financing agreement property should be transferred in the name of borrower. In this scenario, the registration fee, stamp duties, district, municipal or town taxes, capital value tax, etc. are applicable twice. i.e. at the time of execution and also at the time of maturity/termination of financing agreement. Therefore, in order to avoid duplication of these duties and taxes, the Islamic banks just like conventional banks keep the property in the name of borrower.

The proposed amendment would have no adverse impact on revenue collection as the duties/municipal taxes will be paid once by Islamic banks just like conventional banks.

#### Recommendation

**Under the powers delegated through Section 9A of Stamp Act 1899 and Section 7(10) of the Finance Act, 1989, the provincial government may issue the following SRO/notification and publish in their respective official gazette.**

**"The registration of sale or purchase of immovable property by banks or financial institutions, in their name, under any Islamic mode of financing arrangement approved by State Bank of Pakistan or Securities and Exchange Commission of Pakistan shall be exempt from the levy of registration fee, stamp duty, district, municipal/ town taxes, capital value tax or any other related taxes."**