

# Brief on Amendments in the Sindh Sales Tax on Services Act, 2011 through the Sindh Finance Act, 2019.

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## Amendments in the Sindh Sales Tax on Services Act, 2011

### *New definitions introduced:*

The Sindh Finance Act, 2019 (herein after referred to as 'the Act') has introduced the following new definitions:

1. Online Marketplace - Section 2(60B)
2. Cab Aggregator - Section 2(19A)
3. Insurance Agent - Section 2(53A)
4. Renting of Machinery, Equipment, Appliances and other Tangible Goods - Section 2(72CC)
5. Warehouses or Depots for Storage or Cold Storages - Section 2(100)
6. Training Services - Section 2(98AA)
7. Waste Collection Transportation, Processing and Management Services- Section 2(101)

*(Discussed in detail in ensuing paragraphs at the end)*

### *Withholding Agent to be personally liable for any noncompliance:*

The Act has imposed upon the withholding agent; as his personal liability, in situations where such a withholding agent either fails to deduct/withhold sales tax on services or deposit tax withheld in the Provincial Government's treasury.

Personal liability of the withholding agent in this case includes related penalties and default surcharge as well.

### *Additional minimum record keeping requirements:*

The Act has imposed the requirement to maintain additional minimum records by every person registered under the Sindh Services on Sales Tax Act, 2011 (herein after referred to as 'the SST Act') which are as follows:

- Records of tax invoices and debit and credit notes issued by the person;

- Records of tax invoices and debit and credit notes received by the person and
- Records of customs documents (goods declaration and its ancillary documents under the Customs Act, 1969) along with any other document specified by the Sindh Revenue Board (herein after referred to as SRB).

### *Additional authority of the Auditor SRB or Sindh Sales Tax Officer SRB:*

The Act has authorized a person not below the rank of the Auditor SRB and Sindh Sales Tax Officer SRB to require any registered person to produce any documents which are required to be maintained under the SST Act.

Before the above amendment, only a person having at least the rank of Assistant Commissioner SRB was authorized to require such documents.

Furthermore, the Act has increased the jurisdiction of an officer not below the rank of Auditor SRB to conduct an audit of a registered person under the SST Act. Before the said amendment only an officer not below the rank of Assistant Commissioner was authorized to conduct an audit of a registered person.

### *Time period for recovery of tax:*

The Act has provided a grace period to a registered person of thirty days for recovery of tax payable upon finalization of assessment or where the tax has been short levied/not levied (including penalties and default surcharge).

This amendment was necessary as it prevents harassment of a registered person and provides a time period to arrange for the amount of tax payable including any penalties and default surcharge.

## Amendments in the Sindh Sales Tax on Services Act, 2011

### ***Notifications and orders issued by or with the approval of the Provincial Government:***

Through an amendment, the legislature has provided a shield to all orders and notifications issued by the Government or with the approval of the Government before the commencement of the Act. Such orders and notifications have been regarded as valid and to be in force.

### ***Amendment in eligibility to act as a technical member in the Appellate Tribunal:***

The Act has restricted the eligibility criteria of a person to be appointed as a technical member (in the age bracket falling between 45 years and 65 years) of the Appellate Tribunal. Through this amendment the following persons are eligible to be appointed as a technical member in the Appellate Tribunal:

A person equal to the rank of Commissioner (Appeals) SRB/FBR having at least five years of experience as Commissioner (Appeals) SRB; or a person equivalent to the rank of Commissioner SRB/FBR having at least five years of experience as Commissioner SRB (including three years as Commissioner (Appeals - SRB) shall be eligible to be appointed as a technical member in the Appellate Tribunal.

### ***Method of appointment of additional member in the Appellate Tribunal:***

In a democratic country, the Appellate forums also follow the rule of majority being the authority. Where the decision of any appeal is split equally between the members of the Appellate Tribunal an additional member may be appointed by the Provincial Government in order to be the deciding vote. The Act has amended the methodology of such appointment as now only a person nominated by the chairperson would be appointed as an

additional member by the Provincial Government.

In addition, the Act also places restriction for such nominations/appointments so that such officers should not be below BS20 rank.

### ***Introduction of new penalties:***

The Act has introduced the penalties of varying magnitude including ceasing of office premises in case of the following defaults:

- Where any person fails or refuses to issue a tax invoice as required under sub-rule (1) of rule 2g of the SST Act and
- Where any person either avoids, defies, fails to comply with e-invoicing system or issues invoices outstanding in the e-invoicing system.

### ***Commissioner's power to grant stay:***

A very important amendment from the point of view of the tax payer which has been made through the Act i.e. The Commissioner (Appeals) is now entitled to grant stay of recovery of the whole or any part of sales tax due for a period of 120 days. Previously the stay to be granted was only for a period of 60 days.

### ***Removal of certain services from the First Schedule of the SST Act:***

The Act has removed the following services from the First Schedule (list of services) of the SST Act:

- Data processing and provision of information, services of engineers, handling and storage of goods;
- Packaging services;
- Coaching Centres;
- Vocational Centres and
- Film and Drama studios.

## Amendments in the Sindh Sales Tax on Services Act, 2011

### *Additional services rendered taxable under the SST Act:*

The Act has introduced the following services being taxable at the rate of 13%.

S.No.	Description
1.	Renting of machinery, equipment, appliances and other tangible goods (Leasing, hire purchase leasing and rent a car services shall continue to be taxable under their existing tariff headings and excluded from the purview of this tariff heading)
2.	Indoor sports and games center
3.	Services provider or rendered by cab aggregator and the services provided or rendered by the owners or drivers of the motor vehicles using the cab aggregator services
4.	Warehouses or depots for storage or cold storages
5.	Training services
6.	Actuarial services
7.	Services of mining of minerals and allied and ancillary services in relation thereto
8.	Site preparation and clearance, excavation and earth moving and demolition services
9.	Waste collection, transportation, processing and management services
10.	Vehicle parking and valet services
11.	Electric power transmission services
12.	Insurance Agents
13.	Tailoring and stitching services.

### *Taxability of banking services*

The Act has amended the First and Second schedule in order to render taxable the following banking services at the rate of 13%:

S.No.	Description
1.	Issuance of cheque books
2.	Commission earned on all sorts of banking services
3.	Any other banking service not specified elsewhere in the SST Act.

The “Tariff Headings” have been amended accordingly in order to incorporate the above mentioned changes

### *Introduction of cab aggregator, indoor sports and games center and online market places*

The Provincial Government through the Act has amongst others introduced the concepts of the following taxable services:

- Cab Aggregator;
- Indoor sports and games center and
- Online market place

### *Cab Aggregator*

Through this amendment, the Act aims to introduce the concept of facilitators, operators, intermediaries or online market places which are involved in facilitating customers with transportation services through vehicles including cab, car, van, motorcycle and rickshaw. For a person to be defined as a cab aggregator, it is essential that such the customers and drivers of the vehicle are connected through telephone, cellular phone, internet, web-based services, GPRS or any other digital means.

Keeping in view of the market of such transportation services in the province of Sindh, it would create an imperfect competition in the market considering there is a huge chunk of cab service vehicles which are not connected to the customer through digital means as described above.

## Amendments in the Sindh Sales Tax on Services Act, 2011

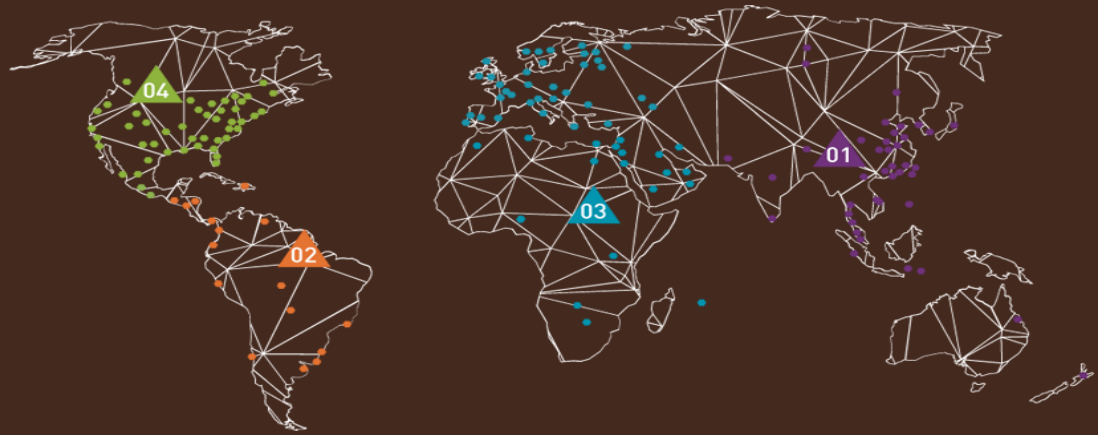
### *Indoor sports and games center*

Through this amendment, the Act aims to introduce the concept of persons involved in providing indoor sports and games facilities against a consideration on premises for which such a person has a legal right over.

### *Online market places*

Through this amendment, the Act aims to introduce the concept of businesses which act as a facilitator to bring buyers and sellers together in an online market through the use of information technology. The transaction being facilitated over this online market may be of a tangible nature or of the nature of services.

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