



COMMENTS ON PUNJAB FINANCE BILL 2021

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AMENDMENTS IN PUNJAB SALES TAX ON SERVICES ACT, 2012

1. PREAMBLE

The Punjab Finance Bill 2019 [the bill] was promulgated on Monday, 15th June 2020. The bill has proposed certain unprecedented amendments in the Punjab Sales Tax on Service Act, 2012[Act] due to ongoing COVID-19 pandemic to provide financial relief to the Taxpayers in order to achieve economic stability in the province for this fiscal year 2021-22.

2. DEFINITION OF ACTIVE TAXPAYER

The bill proposes to add definition according to which the Active Taxpayer means a registered person.

- i. Whose registration has not been suspended or blacklisted by the PRA; and
- ii. Who has filed his tax return for at least one of the preceding three consecutive tax periods.

3. OPTION TO CHARGE TAX AT STANDARD RATE.

The standard rate now proposed to be defined as sixteen percent. Further a new section 10A is proposed to provide rules for opting standard rate. As per new Section, where any service or class of service is chargeable at a reduced rate under Second Schedule, any person or class of persons providing such services may, with the permission of PRA, opt to charge sales tax at the standard rate. The permission granted by PRA shall be irrevocable except with the permission of the PRA. Where the PRA has reasons to believe that taxpayer has misused the option, the PRA may withdraw the permission granted at any time after giving show cause notice.

4. OFFENCES AND PENALTIES [CHANGES IN RED]

Before Proposed Amendment	After Proposed Amendment
<p>20. OFFENCES</p> <p>Where any person either avoids, defies, fails to comply with electronic invoicing system or issues invoices bypassing the electronic invoicing system.</p>	<p>20. OFFENCES</p> <p>Where any person either avoids, defies, fails to comply with electronic invoicing system or issues invoices bypassing the electronic invoicing system.</p>

PENALTIES

Such person shall be liable to pay a penalty of up to one hundred thousand rupees, but not less than twenty-five thousand rupees. In case of three consecutive defaults, the business premises of such person may further be liable to sealing for a period which may extend to one month.

Section 59A

PENALTIES

Such person shall be liable to pay a penalty of up to one hundred thousand rupees, but not less than twenty-five thousand rupees. In case of three consecutive defaults, the business premises of such person may further be liable to sealing for a period which may extend to one month.

Section 59B

21. OFFENCE

Where a registered person charge charges sales tax in excess to the rate provided in the Second Schedule.

Penalties

Such person shall be liable to pay a penalty of rupees ten thousand per invoice or ten percent of the invoice amount, whichever is higher.

Section 10

5. POSTING OF AN OFFICER TO BUSINESS PREMISES.

Section 59 deals with the rules governing the posting of an officer to business premises which among other things provides that the PRA may post an officer to the premises of a registered person to monitor the **provision of services** by such registered person. Further, if a commissioner, on the basis of material evidence, has reasonable cause to believe that a registered person is involved in evasion of the tax or tax fraud, he may, by recording the grounds in writing, post an officer of the Authority to the premises of such registered person to monitor **provision of services** by such person.

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Now it is proposed that PRA and Commissioner can post an officer for monitoring **receipt of services** by registered person as well.

6. Decision in Appeal

Section 65 provides rules for disposing of appeal by Commissioner (Appeals) which among other things provides follows:

- Where the Commissioner (Appeals) has not made an order before the expiration of one hundred and eighty days from the end of the month in which the appeal was lodged, the Commissioner (Appeals) shall transfer his appeal to the Appellate Tribunal

and the Tribunal shall decide the appeal under this Act as if it has been filed against the order of the Commissioner (Appeals).

- While transferring the undecided appeal to the Appellate Tribunal, the Commissioner (Appeals) shall attach his comprehensive report explaining the circumstances and reasons due to which the appeal could not be decided within time.

These provisions have been proposed to be omitted CIRA will now not be required to transfer cases to ATIR after lapse of prescribe period for passing an order.

7. SECOND SCHEDULE [CHANGES IN RED]

Before Amendment	After Amendment
<p>1. Services provided in respect of insurance to a policy holder by an insurer, including a re-insurer for:</p> <p>a. fire insurance; b. goods insurance; c. health insurance; d. life insurance; e. marine insurance; f. theft insurance; and g. any other insurance.</p> <p>EXCLUDING:</p> <p>(a) marine insurance for export; and (b) crop insurance</p> <p>98.13</p> <p>(a) Zero percent without input tax adjustment for health insurance for individuals; and (b) Sixteen percent of the gross premium paid, for others.</p>	<p>1. Services provided in respect of insurance to a policy holder by an insurer, including a re-insurer for:</p> <p>a. Fire insurance; b. Goods insurance; c. Health insurance; d. Life insurance; e. Marine insurance; f. Theft insurance; and g. Any other insurance.</p> <p>EXCLUDING:</p> <p>(a) marine insurance for export; and (b) crop insurance</p> <p>98.13</p> <p>(a) Zero percent without input tax adjustment for health insurance for individuals; (aa) Five percent for insurance agents and insurance brokers; and (b) Sixteen percent of the gross premium paid, for others.</p>
<p>11. Services provided by restaurants 5 [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.</p> <p>9801.2000 and 9801.9000</p> <p>(a) Five percent without input tax adjustment where payment against services is received through debit or credit cards; and</p>	<p>11. Services provided by restaurants 5 [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.</p> <p>9801.2000 and 9801.9000</p> <p>(a) Five percent without input tax adjustment where payment against services is received through</p>

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(b) Sixteen percent for others.	debit or credit cards, mobile wallets or QR scanning ; and (b) Sixteen percent for others.
18. Services provided for personal care by beauty parlors, salons, clinics, sliming clinics, s, spas (including saunas, Turkish baths and Jacuzzi) and similar other establishments 5 []. 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. (a) Five percent without input tax adjustment where payment against services is received through debit or credit cards; and (b) Sixteen percent for others.	18. Services provided for personal care by beauty parlors, salons, clinics, sliming clinics, s, spas (including saunas, Turkish baths and Jacuzzi) and similar other establishments 5 []. 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. Five percent without input tax adjustment
33. Services provided by fashion designers 1 [including use of brand name, logo or house mark (whether or not registered) in the manufacturing or trading of products] 2 [whether relating to textile, leather, jewellery or other product regimes including allied services such as cutting, stitching, printing, manufacturing, fabrication, assembly, embellishment, adornments, display (including marketing, packing and delivery etc.) Sixteen percent	33. Services provided by fashion designers 1 [including use of brand name, logo or house mark (whether or not registered) in the manufacturing or trading of products] 2 [whether relating to textile, leather, jewellery or other product regimes including allied services such as cutting, stitching, printing, manufacturing, fabrication, assembly, embellishment, adornments, display (including marketing, packing and delivery etc.) Five percent without input adjustment
34. Services provided by architects, town planners landscapers, landscape designers and interior decorators and interior designers. Sixteen percent	34. Services provided by architects, town planners landscapers, landscape designers and interior decorators and interior designers. Five percent without input adjustment
40. Brokerage (other than stock) and indenting services including commission agents, under-writers, and auctioneers. 9829.0000, 9819.1200, 9819.1100, 9819.1300 and 9819.9100 (a) Five percent without input tax adjustment for services provided in respect of agricultural produce; and (b) Sixteen percent for others	40. Brokerage (other than stock) and indenting services including commission agents, under-writers and auctioneers. 9829.0000, 9819.1200, 9819.1100, 9819.1300 and 9819.9100 (a) Five percent without input tax adjustment for services provided in respect of agricultural produce and home chefs ; and (b) Sixteen percent for others
41. Call centres. 9865.0000 Nineteen and a half percent	41. Call centres. 9865.0000 Sixteen percent
44. Services provided by laundries and dry cleaners. Sixteen percent	44. Services provided by laundries and dry cleaners. Five percent without input adjustment

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48. Services provided by persons for inter-city carriage of goods by rail or road. 98.04, 9804.2000, 9804.9000 and respective headings Fifteen percent	48. Services provided by persons for inter-city carriage of goods by rail or road. 98.04, 9804.2000, 9804.9000 and respective headings Fifteen percent
50. Services in relation to supply of tangible goods including machinery, equipment, and appliances for use, without transferring right of possession and effective control of such machinery, equipment, and appliances. Sixteen percent	50. Services in relation to supply of tangible goods including machinery, equipment, and appliances for use, without transferring right of possession and effective control of such machinery, equipment, and appliances. Five percent without input adjustment
61. Services provided by warehouses or depots for storage or cold storages including letting of space for storages. Excluding: Storage of agriculture produce for the person's own consumption. Sixteen percent	61. Services provided by warehouses or depots for storage or cold storages including letting of space for storages. Excluding: Storage of agriculture produce for the person's own consumption. Five percent without input adjustment
64. Dress designing and stitching services. Sixteen percent	64. Dress designing and stitching services. Five percent without input adjustment
65. Rental of bulldozers, excavators, cranes, construction equipment, scaffolding, framework and shuttering, generators, storage containers, Refrigerator, shelf, or rack renting, etc. Sixteen percent	65. Rental of bulldozers, excavators, cranes, construction equipment, scaffolding, framework and shuttering, generators, storage containers, Refrigerator, shelf or rack renting, etc. Five percent without input tax adjustment
	70. Entertainment services (including cinemas, theatres, concerts, circus, sports, events, races, film, fashion shows and mobile stage shows Zero percent without input tax adjustment

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