

PROFESSIONAL DEVELOPMENT PROGRAM

*GENERAL CONCEPTS OF SALES TAX,
SERVICE TAX (INCLUDING OVERVIEW,
KEY DEFINITIONS, CHARGING OF TAX,
ADJUSTMENT OF INPUT TAX AND
DISCHARGING TAX OBLIGATION)*

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January 15, 2018

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Agenda

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*CONSTITUTIONAL FRAMEWORK
OF TAXATION*

CONSTITUTIONAL FRAMEWORK OF TAXATION

- Article 142 of the Constitution of Pakistan provides that Parliament shall have exclusive power to make laws with respect to any matter specified in Federal Legislative List.
- The said Article also provides that any matter not enumerated in the Federal Legislative List falls exclusively in the provincial domain.
- For any areas not falling within any province (such as Islamabad), Federal Government has exclusive powers to legislate in respect of any matter.
- Entry nos. 47 and 48 of the Federal Legislative List as contained in Part I of the Fourth Schedule to the Constitution of Pakistan, empowers Parliament to make laws with respect to taxes on income (other than agriculture income) and corporations (i.e. Federal Government is empowered to impose tax on income and corporations.)
- Entry no. 44 of the said list also empowers Federal Government to levy duties of excise.
- Entry no. 49 of the said list also empowers Federal Government to levy taxes on sales and purchases of goods imported, exported, produced, manufactured or consumed except sales tax on services.

CONSTITUTIONAL FRAMEWORK OF TAXATION

- Entry no. 49 was amended by the 18th Amendment in 2010 and the words “except sales tax on services” were included in the said Entry.
- Subject to what is stated below, the 18th Amendment shifted and transferred the power to impose a levy on the providing or rendering of services exclusively to the Provinces.
- Clause 7 of the Article 270AA (as substituted by the 18th Amendment) allowed the relevant provisions of the Federal Law (e.g. Federal Excise Act, 2005 to remain in field till such time as the Provinces enacted their respective laws.
- For example, in Sindh the Sindh Sales Tax on Services, 2011 was enacted with effect from July 1, 2011 and, therefore, from that date onwards, the relevant provisions of the Federal Excise Act, 2005 became ultra vires the Constitution with respect to Sindh.

***CERTAIN RELEVANT JUDGEMENTS
OF HIGHER COURTS ON THE
DISTRIBUTION OF POWERS
BETWEEN FEDERAL AND
PROVINCIAL GOVERNMENTS***

CERTAIN RELEVANT JUDGEMENTS OF HIGHER COURTS ON THE DISTRIBUTION OF POWERS BETWEEN FEDERAL AND PROVINCIAL GOVERNMENTS

- **Judgement of High Court of Sindh with respect to CP D-3184 of 2014 and others.**
 - FED after July 1, 2011 in respect of Sindh held as ultra vires
 - Sindh Sales tax on Services Act 2011 held as intra vires except in relation to certain shipping agents related services which were held to be covered by Entry 53 of Federal legislative list

Current status: Leave granted to SRB. Judgement suspended

- **Judgement of Islamabad High Court with respect to W.P. No. 1618/2015 (Telenor & others)**
 - Issue under consideration: Duplicate levy of FED on telecommunication services as well as Provincial sales tax after 18th amendment
 - Judgement: Excise Duty and Sales tax are two distinct taxes and hence even after 18th amendment, Federal Government is empowered to charge Excise Duty on same services which are subject to Provincial Sales Tax on services.

Current status: Intra Court appeal pending in Islamabad High Court.

CERTAIN RELEVANT JUDGEMENTS OF HIGHER COURTS ON THE DISTRIBUTION OF POWERS BETWEEN FEDERAL AND PROVINCIAL GOVERNMENTS

Judgement of Supreme Court of Pakistan in Civil Aviation Authority

- The matter related to legislative competence of Provincial Government to tax services in the context of Civil Aviation Authority (CAA) owned and controlled by Federal Government, which was also examined first by the Sindh High Court and then subsequently by the Supreme Court.
- Although, the Supreme Court was more concerned with the question regarding the Provincial legislature's competence to impose sales tax on purported services rendered by a Federal Regulatory Authority and in this regard, discussed the activities of the Authority under the delegation of Federal government, the Supreme Court very elaborately discussed the last entry of the Federal legislative list which states '**matters incidental or ancillary to any matter enumerated in this part**'.
- In this regard, various judgements from US Courts were cited and applied by the Supreme Court to answer the controversy involved in that case.
- If the principles laid down by the Supreme Court in CAA's case are applied in their literal sense, it would imply that Provincial legislative competence to impose sales tax on services is subject to the restriction that the same should not be in conflict with the matters enumerated in the Federal legislative list for which the Federal Government has exclusive powers not only in respect of the items but also has incidental or ancillary powers for such matter.

DIRECT TAX
VS.
INDIRECT TAX

DIRECT TAX VS. INDIRECT TAX

- Direct tax means a tax, such as income tax, which is levied on the income or profits of the person who pays it, rather than on goods or services (Oxford Dictionary).
- Indirect tax means a tax levied on goods and services rather than on income or profits (Oxford Dictionary).
- The tax, which is paid by the person on whom it is levied is known as the Direct tax while the tax, which is paid by the taxpayer indirectly is known as the Indirect tax. The direct tax is levied on person's income and wealth whereas the indirect tax is levied on a person who consumes the goods and services.
- The main difference between the direct and indirect tax is that the burden of direct tax cannot be shifted whereas the burden of indirect tax can be shifted.
- The nature of a direct tax is progressive, but the nature of the indirect tax is regressive.

VALUE ADDED TAX (VAT)

***INTRODUCTION,
HISTORY AND EVOLUTION OF VAT***

HISTORY AND EVOLUTION OF VAT

- Ever since 1954, when the tax on value added was introduced in France it has spread to a large number of countries.
- This tax was proposed for the first time by Dr. Wilhelm Von Siemens for Germany in 1919 as an improved turnover tax.
- In 1921, VAT was suggested by Professor Thomas S. Adams for the United States of America who recommended "sales-tax with a credit or refund for taxes paid by the producer or dealer (as purchaser) on goods bought for resale or for necessary use in the production of goods for sales."
- VAT was also recommended by the Shoup Mission for the reconstruction of the Japanese Economy in 1949. However, the tax was not introduced by any country till 1953.

HISTORY AND EVOLUTION OF VAT

- France led the way in 1954 by adopting a VAT that covered the industrial sector alone and the tax was limited up to the wholesale level. The tax was limited to the boundaries of France until the fifties.
- VAT has, however, been spreading rapidly since the sixties. The Ivory Coast followed France by adopting VAT in 1960. The tax was introduced by Senegal in 1961 and by Brazil and Denmark in 1967.
- The tax has gathered further momentum as it was made a standard form of sales-tax required for the countries of the European Union (then European Economic Community).
- In 1968, France extended VAT to the retail level while the Federal Republic of Germany introduced it in its tax system.

HISTORY AND EVOLUTION OF VAT

- The Netherlands and Sweden imposed this tax in 1969 while Luxembourg adopted it in 1970, Belgium in 1971, Ireland in 1972, and Italy, the United Kingdom, and Austria in 1973.
- Of the other members of the European Union, Portugal and Spain introduced VAT in 1986, Greece in 1987, while this tax was adopted by Finland in 1994. Many other European countries have adopted VAT. Similarly, many countries in the North and South America, Africa and Oceania have introduced VAT.
- VAT has been spreading in the Asian region as well. The Republic of Vietnam adopted VAT briefly in 1973. (VAT was abolished soon but it was reintroduced in 1999 in Vietnam.) South Korea introduced VAT in 1977, China in 1984, Indonesia in 1985, Taiwan in 1986, Philippines in 1988, Japan in 1989, Thailand in 1992, and Singapore in 1994 while Mongolia has been implementing this tax since 1998.

INTRODUCTION TO VAT

- In the South Asian Association for Regional Cooperation (SMARC) region, VAT has been considered in great depth in India. In 1986, India introduced VAT in a different way under the name of Modified Value Added Tax (MODVAT). Unlike the VAT system of other countries, the Indian MODVAT system was designed to cover manufacturing of goods by giving credit of excise duty paid on inputs. The scope of MODVAT has been extended over the years and has since been renamed as Central Value Added Tax (CENVAT), which covers services also. Pakistan adopted VAT in 1990, Bangladesh in 1991, and Nepal in 1997 while Sri Lanka introduced VAT in 1998. As VAT is less distortive and more revenue-productive, it has been spreading all over the world.
- As on today, about 150 countries have adopted the same.
- Value-added taxes are utilized in approximately 150 countries worldwide.
- A VAT is a tax imposed and collected on the value added at each stage in the production and distribution of a good or service.

INTRODUCTION TO VAT

- It is, in effect, levied on the difference between the sales and production inputs of a business.
- The VAT is generally thought of as a consumption tax, similar to a retail sales tax.
- One important difference, however, is that the VAT is collected in stages as the goods and services are produced and sold, whereas the retail sales tax is collected at once upon the final sale.
- The tax may be calculated in a number of ways.
- The two most prevalent methods are the credit-invoice method and the subtraction method, also known as a business transfer tax

***TYPES OF VAT (CREDIT INVOICE &
SUBTRACTION METHODS)***

TYPES OF VAT (CREDIT INVOICE METHOD)

- Under the credit-invoice method, a tax is imposed on the business for all of its sales. The VAT applies the tax rate to the sales price of the good or service (“output”) and the tax is disclosed on the sales invoice.
- As such, the credit-invoice method is considered to be a “transaction-based” tax, as it is imposed on each sale.
- A business credit is provided for all VAT on purchases of taxable goods and services (“inputs”) used in the business. Accordingly, the net tax paid at a stage of production or distribution is computed on the value added by that business at that particular stage.

TYPES OF VAT (CREDIT INVOICE METHOD)

- In order to receive a credit for VAT on inputs purchased, the business is required to possess an invoice from a seller that identifies the purchaser and the tax collected on that sale or transaction. At the end of a reporting period, the business calculates its tax liability by subtracting the cumulative amount of VAT stated on its purchase invoices from the cumulative amount of VAT stated on its sales invoices.

Example: Credit-Invoice Method VAT with 10% rate applied

- Assume Wheat Farmer grows, harvests, and sells wheat to Miller for Rs 50, paying a Rs 5 VAT (10% x Rs 50 sale price).
- Miller processes the wheat into flour and sells it to Baker for Rs 150, paying a VAT of Rs 10 [(10% x Rs 150 sales price = Rs 15) minus credit of Rs 5 paid on previous business inputs by Wheat Farmer, as reflected on the invoice received].

TYPES OF VAT (CREDIT INVOICE & SUBTRACTION METHODS)

- Baker bakes the wheat into bread and sells it to Retailer for Rs 300, paying a VAT of Rs 15 [(10% x Rs 300 sales price = Rs 30) minus inputs credit of Rs 15 paid on previous business inputs paid by Wheat Farmer and Miller].
- Retailer sells the bread to consumers for Rs 500, paying a VAT of Rs 20 [(10% x Rs 500 sales price = Rs 50) minus inputs credit of Rs 30 paid on previous business inputs paid by Wheat Farmer, Miller, and Baker]
- In this example, a total of Rs 50 VAT has been paid to the government in four stages.

Business	Purchases	Sales	Credit for business inputs	Tax on Sales of outputs	VAT Liability
Wheat farmer	0	50	0	5	5
Miller	50	150	5	15	10
Baker	150	300	15	30	15
Retailer	300	500	30	50	20

- **TOTAL VAT PAID TO THE GOVERNMENT = Rs 50 (5+10+15+20)**

TYPES OF VAT (SUBTRACTION METHOD)

- Of the approximately 150 countries with a VAT, only Japan uses the subtraction method VAT.
- Under this method of VAT, the tax base is computed as the difference between the business's taxable sales and its purchases of taxable goods and services.
- At the end of the reporting period, the tax rate is applied to the difference.
- The subtraction method VAT is considered to be "account-based," as it is computed from the business's books and records of account.

Example: Subtraction Method VAT with 10% rate applied

- Assume that each business only purchases from the business listed above it, and that each purchase amount is the total for the period.

TYPES OF VAT (SUBTRACTION METHOD)

- Each business takes its total sales for the period and subtracts its total purchases for the period.
- It then multiplies the result by 10% to calculate its VAT.
- In this example, a total of Rs 50 VAT has been paid to the government in four stages by the businesses, but has been calculated based on total transactions for the period, rather than individually on single transactions as was done with the credit invoice method.

TYPES OF VAT (SUBTRACTION METHOD)

Business	Total Purchases	Total Sales	Sales - Purchases	VAT Liability
Wheat Farmer	0	50	50	5
Miller	50	150	100	10
Baker	150	300	150	15
Retailer	300	500	200	20

TOTAL VAT PAID TO THE GOVERNMENT = Rs 50 (5+10+15+20)

PREFERRED TYPE OF VAT

PREFERRED TYPE OF VAT

THE CREDIT-INVOICE METHOD IS GENERALLY PREFERRED

A. Documentation and Calculation Considerations:

- The credit-invoice method VAT has a number of inherent advantages over the subtraction method attributable to its required reporting of VAT on invoices generated at each stage of production and distribution.
- This provides documentary evidence of each transaction including the tax liability arising from it, thus promoting the ability to verify credits taken by tracing the credits at each stage to tax paid on invoices for business inputs.
- This detail provides a strong audit trail and, with the limitation of allowing input credits only to registered businesses, renders the credit invoice method VAT less vulnerable to evasion than the subtraction method, which is calculated using gross accounts without itemization by transaction.

PREFERRED TYPE OF VAT

THE CREDIT-INVOICE METHOD IS GENERALLY PREFERRED

A. Documentation and Calculation Considerations:

- The credit-invoice method VAT provides the easier, more direct way to calculate and verify the tax as it is applied to individual transactions.
- It can more easily be calculated closer to the time of the transaction, as it is calculated without resorting to the compilation of summary accounts.
- It is more practical because it can be calculated on a more frequent basis than the subtraction method. Because of its calculation and documentation at each step of the production and supply chain, it is more flexible in its ability to be tailored or fine-tuned through the use of various devices.

PREFERRED TYPE OF VAT

B. Revenue Considerations

- The credit-invoice method VAT provides a more stable, dependable source of revenue because this VAT imposes the tax on the final consumer and not on business inputs and is perceived as transaction-based, rather than company-based.
- Therefore, it is considered less apt to draw political pressure for preferential tax treatment by businesses, industries, and sectors providing certain goods or services.
- The subtraction method VAT would be more likely to draw pressure for special tax rates.

PREFERRED TYPE OF VAT

C. Border Adjustability Considerations

- The credit-invoice method VAT can more effectively be levied as a destination based tax on personal consumption in a neutral fashion as it is more easily border adjustable than the subtraction method.
- This means it can be better calibrated to make our goods and services more competitive around the world, wherever they are consumed.
- Since this method taxes a country's consumption, rather than its production, it tends to minimize distortions in production and consumption decisions.
- The credit-invoice method clearly adds the VAT to the price of the good or service, so it can simply exclude the tax from the export by applying a tax rate of zero and allow a credit for tax levied on production inputs.

PREFERRED TYPE OF VAT

- Its more extensive recordkeeping makes it easier to both determine the tax to be rebated on purchased inputs and whether reported exports reconcile with actual exports.
- This is because the credit-invoice method requires businesses to keep track of transactions, which the subtraction method relies on sales and purchase information at a more aggregate level. Importers, on the other hand, would be subject to tax on the full value of imported goods because their inputs would not have been subject to VAT.
- Border-adjustability is more problematic with the subtraction method.
- If the value-added tax rate at each of the pre-export stages is not the same, it would be difficult for the exporting country to determine the correct amount of VAT to allow

*GENERAL CONCEPTS OF SALES
TAX ON GOODS*

LEGAL FRAMEWORK

LEGAL FRAMEWORK

- As discussed earlier, Entry no. 49 of the Federal Legislative List as contained in Part I of the Fourth Schedule to the Constitution of Pakistan empowers Federal Government to levy taxes on sales and purchases of goods imported, exported, produced, manufactured or consumed.
- In order to exercise the aforesaid power and levy taxes on import and supply of taxable goods, Federal Government promulgated the Sales Tax Act, 1990 (alongwith Rules made thereunder).
- Federal Board of Revenue is authorised for administration and collection of Sales Tax levied under the abovementioned Act.
- The said Act prescribed a VAT type system in which the value added component at each stage of business transaction could be taxed. The sales tax is chargeable from a registered person at import and sale of taxable goods. Tax credit or input tax is allowed when the registered person fulfills the conditions referred in the said Act.

KEY DEFINITIONS

KEY DEFINITIONS

Section 2 (33)

“supply” means a sale or other transfer of the right to dispose of goods as owner, including such sale or transfer under a hire purchase agreement, and also includes –

- (a) putting to private, business or non-business use of goods produced or manufactured in the course of taxable activity for purposes other than those of making a taxable supply;
- (b) auction or disposal of goods to satisfy a debt owed by a person;
- (c) possession of taxable goods held immediately before a person ceases to be a registered person; and
- (d) in case of manufacture of goods belonging to another person, the transfer or delivery of such goods to the owner or to a person nominated by him.

Provided that the Federal Government may, by notification in the official Gazette, specify such other transactions which shall or shall not constitute supply.

KEY DEFINITIONS

Section 2 (41)

"taxable supply" means a supply of taxable goods made by an importer, manufacturer, wholesaler (including dealer), distributor or retailer other than a supply of goods which is exempt under section 13 and includes a supply of goods chargeable to tax at the rate of zero per cent under section 4.

Section 2 (39)

"taxable goods" means all goods other than those which have been exempted under section 13.

Section 2 (46)

"value of supply" means:

- (a) in respect of a taxable supply, the consideration in money including all Federal and Provincial duties and taxes, if any, which the supplier receives from the recipient for that supply but excluding the amount of tax:

KEY DEFINITIONS

Section 2 (46) – cont'd.

Provided that –

- (i) in case the consideration for a supply is in kind or is partly in kind and partly in money, the value of the supply shall mean the open market price of the supply excluding the amount of tax;
 - (ii) in case the supplier and recipient are associated persons and the supply is made for no consideration or for a consideration which is lower than the open market price, the value of supply shall mean the open market price of the supply excluding the amount of tax; and
 - (iii) in case a taxable supply is made to a consumer from general public on installment basis on a price inclusive of mark up or surcharge rendering it higher than open market price, the value of supply shall mean the open market price of the supply excluding the amount of tax.
- (b) in case of trade discounts, the discounted price excluding the amount of tax; provided that the tax invoice shows the discounted price and the related tax and the discount allowed is in conformity with the normal business practices;

KEY DEFINITIONS

Section 2 (46) – cont'd.

- (c) in case where for any special nature of a transaction it is difficult to ascertain the value of a supply, the open market price;
- (d) in case of imported goods, the value determined under section 25 of the Customs Act, including the amount of customs-duties and central excise duty levied thereon;
- (e) in case where there is sufficient reason to believe that the value of a supply has not been correctly declared in the invoice, the value determined by the Valuation Committee comprising representatives of trade and the Inland Revenue constituted by the Commissioner; and
- (f) in case the goods other than taxable goods are supplied to a registered person for processing, the value of supply of such processed goods shall mean the price excluding the amount of sales tax which such goods will fetch on sale in the market:
- (g) in case of a taxable supply, with reference to retail tax, the price of taxable goods excluding the amount of retail tax, which a supplier will charge at the time of making taxable supply by him, or such other price as the Board may, by a notification in the official Gazette, specify.

KEY DEFINITIONS

Section 2 (46) – cont'd.

Provided that, where the Board deems it necessary it may, by notification in the official Gazette, fix the value of any imported goods or taxable supplies or class of supplies and for that purpose fix different values for different classes or description of same type of imported goods or supplies:

Provided further that where the value at which import or supply is made is higher than the value fixed by the Board, the value of goods shall, unless otherwise directed by the Board, be the value at which the import or supply is made.

Section 2 (44)

“time of supply”, in relation to,—

- (a) a supply of goods, other than under hire purchase agreement, means the time at which the goods are delivered or made available to the recipient of the supply or the time when any payment is received by the supplier in respect of that supply, whichever is earlier;
- (b) a supply of goods under a hire purchase agreement, means the time at which the agreement is entered into; and

KEY DEFINITIONS

Section 2 (44) – cont'd.

(c) services, means the time at which the services are rendered or provided;

Provided that in respect of sub clause (a), (b) or (c), where any part payment is received, –

(i) for the supply in a tax period, it shall be accounted for in the return for that tax period; and

(ii) in respect of exempt supply, it shall be accounted for in the return for the tax period during which the exemption is withdrawn from such supply.

Section 2 (14)

“input tax”, in relation to a registered person, means –

(a) tax levied under this Act on supply of goods to the person;

(b) tax levied under this Act on the import of goods by the person;

KEY DEFINITIONS

Section 2 (14) – cont'd.

- (c) in relation to goods or services acquired by the person, tax levied under the Federal Excise Act, 2005 in sales tax mode as a duty of excise on the manufacture or production of the goods, or the rendering or providing of the services;
- (d) Provincial Sales Tax levied on services rendered or provided to the person; and
- (e) levied under the Sales Tax Act, 1990 as adapted in the State of Azad Jammu and Kashmir, on the supply of goods received by the person.

SCOPE OF SALES TAX
SECTION 3 (OUTPUT TAX)

SCOPE OF SALES TAX – SECTION 3 (OUTPUT TAX)

- Sales tax is required to be charged, levied and paid at the rate of **seventeen per cent** of the value of:
 - taxable supplies made by a registered person in the course or furtherance of any taxable activity; and
 - goods imported into Pakistan.
- Further tax at rate of **two per cent** is applicable on supply of taxable goods to person who has not obtained registration.
- The liability to pay the tax is –
 - in the case of supply of goods, of the person making the supply, and
 - in the case of goods imported into Pakistan, of the person importing the goods.

SCOPE OF SALES TAX – SECTION 3 (OUTPUT TAX)

- Taxable supplies specified in the Third Schedule to the Sales Tax Act is required to be charged to tax at the rate of **seventeen per cent** of the retail price.

- **Section 2 (27)**

“retail price”, with reference to the Third Schedule, means the price fixed by the manufacturer, inclusive of all duties, charges and taxes (other than sales tax) at which any particular brand or variety of any article should be sold to the general body of consumers or, if more than one such price is so fixed for the same brand or variety, the highest of such price.

Provided that the Board may through a general order specify zones or areas for the purpose of determination of highest retail price for any brand or variety of goods.

- Goods specified in the **Eighth schedule** to the Sales Tax Act is required to be charged to tax at such rates and subject to such conditions and limitations as specified therein.
- Supply of goods or import of goods specified in the Sixth Schedule to the Sales Tax Act is exempt from tax.

SCOPE OF SALES TAX

- Subject to certain conditions, the following goods shall be charged to tax at the rate of **zero per cent** (Section 4):--
 - goods exported, or the goods specified in the **Fifth Schedule**;
 - supply of stores and provisions for consumption aboard a conveyance proceeding to a destination outside Pakistan as specified in section 24 of the Customs Act, 1969; or
 - such other goods as the Board with the approval of the Federal Minister-in-charge may, by Notification in the Official Gazette, specify.

***DETERMINATION OF
TAX LIABILITY***

DETERMINATION OF TAX LIABILITY

- **Section 7:** For the purpose of determining tax liability in respect of taxable supplies made during a tax period, a registered person is entitled to deduct **input tax** paid or payable during the tax period **for the purpose of taxable supplies made or to be made** from the output tax excluding the amount of further tax that is due from him in respect of that tax period and to make such other adjustments as are specified in Section 9 – provisions regarding debit and credit note. (Refer *Mayfair Spinning Mills Ltd Vs Customs, Excise and Sales Appellate Tribunal [PTCL 2002 CL. 115]*)
- Where a registered person did not deduct input tax within the relevant period, he can claim such tax in any of the **six succeeding tax periods**.
- A registered person can not deduct input tax from output tax unless,-
 - in case of a claim for input tax in respect of a taxable supply made, he holds a tax invoice in his name and bearing his registration number in respect of such supply for which a return is furnished;
 - in case of goods imported into Pakistan, he holds bill of entry or goods declaration in his name and showing his sales tax registration number, duly cleared by the customs under section 79, section 81 or section 104 of the Customs Act, 1969; or
 - in case of goods purchased in auction, he holds a treasury challan, in his name and bearing his registration number, showing payment of sales tax.

DETERMINATION OF TAX LIABILITY

- **Section 8:** A registered person will **not** be entitled to reclaim or deduct input tax paid on—
 - the goods or services used or to be used for any purpose other than for taxable supplies made or to be made by him;
 - any other goods or services which the Board with the approval of the Federal Minister-in-charge may, by a notification in the official Gazette, specify;
 - the goods subject to extra tax specified under Section 3(5);
 - the goods or services in respect of which sales tax has not been deposited in the Government treasury by the respective supplier;
 - purchases, in respect of which a discrepancy is indicated by CREST or input tax of which is not verifiable in the supply chain;
 - fake invoices;
 - purchases made by such registered person, in case he fails to furnish the information required by the Board through a notification issued under sub-section 26(5);
 - goods and services not related to the taxable supplies made by the registered person;

DETERMINATION OF TAX LIABILITY

- goods and services acquired for personal or non-business consumption;
- goods used in, or permanently attached to, immovable property, such as building and construction materials, paints, electrical and sanitary fittings, pipes, wires and cables, but excluding pre-fabricated buildings and such goods acquired for sale or re-sale or for direct use in the production or manufacture of taxable goods;
- vehicles falling in Chapter 87 of the First Schedule to the Customs Act, 1969, parts of such vehicles, electrical and gas appliances, furniture furnishings, office equipment (excluding electronic cash registers), but excluding such goods acquired for sale or re-sale;
- services in respect of which input tax adjustment is barred under the respective provincial sales tax law; and
- import or purchase of agricultural machinery or equipment subject to sales tax at the rate of 7% under Eighth Schedule to this Act.
- such goods and services which, at the time of filing of return by the buyer, have not been declared by the supplier in his return or he has not paid amount of tax due as indicated in his return.

DETERMINATION OF TAX LIABILITY

- In exercise of the powers conferred to the Federal Government, the Federal Government vide SRO 490(I)/2004 dated June 12, 2004 has specified that the following goods (acquired otherwise than as stock in trade by a registered person) to be the goods in respect of which input tax can not be claimed, namely:
 - i. Vehicles falling in chapter 87 of the First Schedule to the Customs Act, 1969;
 - ii. Food, beverages, garments, fabrics, etcetera and consumption on entertainment;
 - iii. Gifts and give-aways;
 - iv. Supply of electricity and gas to residential colonies of registered persons;
 - v. Building material including cement, bricks, paints, varnishes, distempers etc;
 - vi. Office equipment and machines (excluding electronic fiscal cash registers), furniture, structure, fixture and furnishings excluding those directly used in taxable activity;
 - vii. Electrical and gas appliances, pipes, fittings excluding those directly used in taxable activity;
 - viii. Wires, cables, ordinary electrical fittings and sanitary fittings, excluding those directly used in taxable activity; and
 - ix. Crockery, cutlery, utensils etc., excluding those directly used in taxable activity.

DETERMINATION OF TAX LIABILITY

- With respect to SRO 490(I)/2004 dated June 12, 2004, the term “stock in trade” means goods purchased by a registered person in the course of business for sale as such or after further processing or manufacture.
- **Section 8B:** in relation to a tax period, a registered person is not entitled to adjust input tax in excess of **ninety per cent of the output tax** for that tax period. The said restriction, however, is not applicable in case of fixed assets or Capital goods.
- The Board may by notification in the official Gazette, exclude any person or class of persons from the purview of above referred provisions.
- The Board by exercising the abovementioned powers has excluded the following registered persons from the purview of the said provisions [SRO 647(I)2007 dated June 27, 2007]:
 - Persons registered in electrical energy sector;
 - Oil marketing companies and petroleum refineries;
 - Fertilizers manufacturers;

DETERMINATION OF TAX LIABILITY

- Manufacturers consuming raw materials chargeable to sales tax at the rate of 18.5% or 21% subject to a condition that value of such raw materials exceeds 50% of value of all taxable purchases in a tax period;
- Wholesalers-cum-retailers operating in Chapter XII of the Sales Tax Special Procedures Rules, 2007;
- Commercial importers subject to a condition that the value of imports subject to 2% value addition tax exceeds 50% of the value of all taxable purchases in a tax period;
- Person making zero rated supplies and the supplies charged to reduced rate subject to a condition that value of such supplies exceeds 50% of value of all taxable supplies in a tax period;
- Distributors;
- Gas distribution companies;
- Solvent extracting units of edible oils;
- Telecommunication Services; and
- Pakistan Steel, Bin Qasim, Karachi.

***TIME AND MANNER OF
PAYMENT (SECTION 6)***

TIME AND MANNER OF PAYMENT (SECTION 6)

- The **tax in respect of goods imported into Pakistan** is required to be charged and paid in the same manner and at the same time as if it were a duty of customs payable under the Customs Act, 1969 and the provisions of the said Act including section 31A thereof, shall, so far as they relate to collection, payment and enforcement including recovery of tax under the Sales Tax Act, 1990 on such goods where no specific provision exists in the Act, apply.
- The tax in respect of taxable supplies made during a tax period is required to be paid by the registered person by the date as prescribed in this respect.

As per Sales Tax Rules, the monthly payment of liability is to be made by 15th.

- The tax due on taxable supplies is required to be paid by any of the following modes, namely:-
 - (i) through deposit in a bank designated by the Board; and
 - (ii) through such other mode and manner as may be specified by the Board.

*GENERAL CONCEPTS OF SALES
TAX ON SERVICES*

***OVERVIEW OF SALES TAX ON
SERVICES IN PAKISTAN***

OVERVIEW OF SALES TAX ON SERVICES IN PAKISTAN

- Sales Tax on Services is governed through the following Acts / Ordinance

<i>Territories</i>	<i>Act / Ordinance</i>
Province of Sindh	Sindh Sales Tax on Services Act, 2011
Province of Punjab	Punjab Sales Tax on Services Act, 2012
Province of Khyber Pakhtunkhwa (KPK)	KPK Sales Tax on Services Act, 2013
Province of Balochistan	Balochistan Sales Tax on Services Act, 2015
Islamabad Capital Territory	Islamabad Capital Territory (Tax on Services) Ordinance, 2001

OVERVIEW OF SALES TAX ON SERVICES IN PAKISTAN

- Under the Provincial Sales Tax laws, a person engaged in rendering / providing of certain taxable services is required to get itself registered with the respective Provincial Sales Tax authorities. Generally, the Sales Tax laws operate under Value Added Tax / VAT regime whereby input tax is adjustable against the output tax subject to certain conditions and restrictions.
- Separate registration is required for the providing / rendering of services with the respective Sales Tax authorities in the following manner:

<i>Territories</i>	<i>Authorities</i>
Province of Sindh	Sindh Revenue Board
Province of Punjab	Punjab Revenue Authority
Province of Khyber Pakhtunkhwa	KPK Revenue Authority
Province of Balochistan	Balochistan Revenue Authority
Islamabad Capital Territory	Federal Board of Revenue

OVERVIEW OF SALES TAX ON SERVICES IN PAKISTAN

- Prior to July 1, 2011, Sales tax on services was collected by the Federal Board of Revenue under the head of “Federal Excise Duty” for all provinces, however, since July 1, 2011, Sindh Revenue Board has started collecting Sindh Sales Tax with respect to taxable services rendered in the province of Sindh itself whereas Punjab, KPK and Balochistan Revenue Authorities have started similar collection with effect from July 1, 2012, July 1, 2013 and July 1, 2015 respectively.

KEY DEFINITIONS

KEY DEFINITIONS

Section 2(79) of Sindh Sales Tax Act, Section 2(38) of Punjab Sales Tax Act, Section 2(48) of KPK Sales Tax Act and Section 2(39) of Balochistan Sales Tax Act

“service” or **“services”** means anything which is not goods or providing of which is not a supply of goods and shall include but not limited to the services listed in the First Schedule.

Explanation: A service shall remain and continue to be treated as service regardless whether or not the providing thereof involves any use, supply, disposition or consumption of any goods either as an essential or as an incidental aspect of such providing of service;

These words are not included in the KPK and Balochistan Sales Tax Acts

These words are not included in the Sindh Sales Tax Act

Sindh Sales Tax Act also includes the following explanation:

Explanation II: Unless otherwise specified by the Board, the service or services involved in the supply of goods shall remain and continue to be treated as service or services.

KEY DEFINITIONS

Section 2(63) of Sindh Sales Tax Act, Section 2(29) of Punjab Sales Tax Act, Section 2(36) of KPK Sales Tax Act and Section 2(30) of Balochistan Sales Tax Act

“**person**” means –

- (a) an individual;
- (b) a company or an association of persons;
- (c) the Federal Government;
- (d) a Provincial Government;
- (e) a Local Authority or Local Government in Pakistan; or
- (f) a foreign Government, a political sub-division of a foreign Government, or a public international organization;

These words are not included in the Balochistan Sales Tax Act

Explanation: The use of the word “he” in this Act shall be taken to refer to any or all of the persons mentioned in sub-clauses (a) to (f) above.

KEY DEFINITIONS

Section 2(71) of Sindh Sales Tax Act

“registered person” means a person who is registered or is liable to be registered under this Act or any other person or class of persons notified by the Board in the official Gazette:

Provided that a person liable to be registered but not registered under this Act shall not be entitled to any benefit available to a registered person under any of the provisions of this Act or the rules made thereunder;

Section 2(33) of Punjab Sales Tax Act, Section 2(42) of KPK Sales Tax Act and Section 2(34) of Balochistan Sales Tax Act.

“registered person” means a person who is registered or is liable to be registered under the Act but the person liable to be registered and has not registered shall not be entitled to any benefit available to a registered person under any of the provisions of the Act or the Rules.

KEY DEFINITIONS

Section 2(73) of Sindh Sales Tax Act, Section 2(35) of Punjab Sales Tax Act, Section 2(44) of KPK Sales Tax Act and Section 2(36) of Balochistan Sales Tax Act

“resident” means—

- (a) an individual who, in a financial year, has -
 - (i) a place of business, whether whole or part thereof, in Sindh / Punjab / KPK / Balochistan (as the case may be) in any mode, style or manner; or
 - (ii) his permanent address, as listed in the individual’s national identity card, in Sindh / Punjab / KPK / Balochistan (as the case may be); or
 - (iii) a permanent representative to act on his behalf or to provide service on his behalf in Sindh / Punjab / KPK / Balochistan (as the case may be);
- (b) an association of persons or a company which, in a financial year, has --
 - (i) its registered office is in Sindh / Punjab / KPK / Balochistan (as the case may be); or
 - (ii) its place of business, whether whole or part thereof, in Sindh / Punjab / KPK / Balochistan (as the case may be) in any mode, style or manner; or

KEY DEFINITIONS

“resident” means (cont’d.) –

(b) an association of persons or a company which, in a financial year, has --

- (iii) a permanent representative to act on its behalf or to provide service on its behalf in Sindh / Punjab / KPK / Balochistan (as the case may be); or
- (iv) the control and management of the association of persons or the company, whether whole or part thereof, situated in Sindh / Punjab / KPK / Balochistan (as the case may be) at any time during the financial year.

These words are not included in Punjab, KPK and Balochistan Sales Tax Acts.

TAXABLE SERVICES

TAXABLE SERVICES

- A taxable service is a service listed in the Second Schedule to respective Acts, which is provided:
 - by a registered person from his registered office or place of business in Sindh / Punjab / KPK / Balochistan (as the case may be);
 - in the course of an economic activity, including in the commencement or termination of the activity.
- *The aboveresferred provision deals with services provided by registered persons, regardless of whether those services are provided to resident persons or non-resident persons.*
- A service that is not provided by a registered person is required to be treated as a taxable service if the service is listed in the Second Schedule and is provided to a resident person by a non-resident person in the course of an economic activity.
- Where a person has a registered office or place of business in Sindh / Punjab / KPK / Balochistan (as the case may be) and another outside the respective province, the registered office or place of business in each province shall be treated as separate legal persons.

***VALUE, RATES AND TIME OF PROVIDING
OF TAXABLE SERVICES***

VALUE, RATES AND TIME OF PROVIDING OF TAXABLE SERVICES

RATE OF TAX

- Section 8 of Sindh Sales Tax Act, Section 10 of Punjab Sales Tax Act, Section 26 of KPK Sales Tax Act, Section 10 of Balochistan Sales Tax Act and Islamabad Capital Territory (Tax on Services) Ordinance provides sales tax on services shall be charged at the rate specified in the Second Schedule.
 - General rate for of sales tax in **Sindh** is **13%**
 - General rate for of sales tax in **Punjab** and **Islamabad Capital Territory** is **16%**
 - General rate for of sales tax in **KPK** and **Balochistan** is **15%**

VALUE OF TAXABLE SERVICE

- The value of a taxable service is:
 - **the consideration in money** (including all Federal and Provincial duties and taxes) which the person providing a service receives from the recipient of the service (excluding the amount of sales tax on services under respective Acts);

VALUE, RATES AND TIME OF PROVIDING OF TAXABLE SERVICES

VALUE OF TAXABLE SERVICE – Cont'd.

- **in case the consideration for a service is in kind**, the value of the service shall mean the open market price (excluding the amount of sales tax on services under respective Acts);
- in case the person provides the service and the recipient of the service are **associated persons** and the service is supplied **for no consideration or for a consideration which is lower than the price** at which the person provides the service to other persons who are not associated persons, the value of the service shall mean the price at which the service is provided to such other persons who are not associated persons (excluding the amount of sales tax on services under respective Acts);
- in case a person provides a service for **no consideration or for a consideration which is lower than the price** at which such a service is provided by other persons, the value of the service shall mean the open market price for such a service;
- in case **of trade discounts**, the discounted price (excluding the amount of sales tax under respective Acts). In this regard, it is required that the tax invoice shows the discounted price and the related tax and the discount allowed is in conformity with customary business practice; or

VALUE, RATES AND TIME OF PROVIDING OF TAXABLE SERVICES

VALUE OF TAXABLE SERVICE – Cont'd.

- in case there is **reason to believe that the value of a service has not been correctly declared** in the invoice or for any special nature of transaction it is difficult to ascertain the value of a service, the open market price.

PROVISION OF SERVICES OVER A PERIOD OF TIME

Where a service is provided over a period of time and payment for the same is made on a periodic basis, the service is required to be treated as comprising two or more separate and distinct services each corresponding to the part of the service to which each separate part of the consideration relates.

INPUT TAX

INPUT TAX

- A registered person who holds a **tax invoice** (for the purchase of goods or services used or consumed in providing or rendering of taxable services) in his name, bearing his sales tax registration/NTN, can deduct/adjust input tax paid during the relevant tax period.
- Where the registered person did not deduct or adjust the input tax in the relevant period, he may claim such input tax deduction or adjustment in the tax returns for any of the **six succeeding tax periods (as per Sindh Sales Tax laws) and four succeeding tax periods (as per Punjab Sales Tax laws)**.
- The Input tax paid on goods and services used in providing or rendering non-taxable or exempt services and also on the services provided or rendered outside the respective province will not be admissible.

INPUT TAX

- In case an input is used in providing or rendering taxable services and also non-taxable or exempt services and the services provided or rendered outside the respective province, the input tax shall be apportioned according to the following formula for availing of input tax adjustment/deduction:

As per Punjab Sales Tax on Services (Adjustment of Tax) Rules, 2012:

Adjustable Input Tax = Value of Taxable Supplies / Value of Taxable and exempt x Total Input Tax

As per Sindh Sales Tax on Services Rules, 2011

Residual input tax credit on taxable services = value of taxable services / (value of taxable + value of non-taxable/exempt services/reduced rate/specific rate) x admissible input tax.

INPUT TAX

- As per Punjab Sales Tax on Services (Adjustment of Tax) Rules, 2012 (**Rule 4**)

A registered person shall not be entitled to claim input adjustment in respect of :

- capital goods (plant, machinery, equipment and others) not exclusively useable or used in providing of taxable services;
- goods and services already in use on which the tax is not paid,
- utility bills not in the name of registered person with reference to his registered premises unless evidence of consumption is produced in the matter of such claims;
- the tax claimed as input tax on services where such tax amount has not been deposited by the supplier or the service provider or where the evidence of such payment is not produced;
- goods and services received against false, fake, forged, flying untrue, unreal or unrelated invoices or against purchases from the persons black listed or suspended by the Authority or by the Federal Board of Revenue or by any other Provincial authority;

INPUT TAX

- goods and services used or consumed in a service liable to a rate of tax lesser than the 16% of the charges or to a specific rate of tax not based on value;
 - vehicles including three and two wheelers;
 - food, beverages, garments, fabrics or others and consumption on entertainment, amusements, recreation or enjoyments; and
 - gifts and give-aways.
- As per Sindh Sales Tax on Services Act, 2011 (**Section 15A**)

A registered person shall not be entitled to claim input adjustment in respect of :

- the goods or services used or to be used for any purpose other than for the taxable services provided (or to be provided);
- the goods in respect of which sales tax has not been deposited in the Federal Government treasury by the respective suppliers of goods;

INPUT TAX

- the services in respect of which the Provincial sales tax has not been deposited in the treasury of the respective Provincial Government, and the services in respect of which the Islamabad Capital Territory sales tax has not been deposited in the treasury of the Federal Government;
- further tax, extra tax or value addition tax levied under the Sales Tax Act, 1990, and the rules or notifications issued thereunder;
- fake, false, forged, flying or fraudulent invoices;
- the invoices issued by persons black-listed or suspended by Sindh Revenue Board or FBR or any other Provincial Sales Tax Authority;
- capital goods and fixed assets not exclusively used in providing or rendering of taxable services;
- the following goods or services, excluding the ones directly used and consumed in the economic activity of a registered person in provision of the services paying sales tax at a rate not less than thirteen per cent ad valorem:
 - vehicles classified under Chapter 87 of the First Schedule to the Customs Act, 1969 and parts (including batteries and tyres and tubes) of such vehicles;

INPUT TAX

- calendars, diaries, gifts, souvenirs and giveaways;
- garments, uniforms, fabrics, footwear, hand wear, headwear for the employees;
- food, beverages and consumptions on entertainments, meetings or seminars or for the consumption of the registered person or his Directors, shareholders, partners, employees or guests;
- electricity, gas and telecommunication services supplied at the residence of the employees or in the residential colonies of the employees;
- building materials including cement, bricks, mild steel products, paints, varnishes, distemper, glass products;
- office equipment and machines (excluding electronic fiscal cash registers), furniture, fixtures or furnishings;
- electrical and gas appliances, pipes and fittings;
- wires, cables, sanitary fittings, ordinary electric fittings, electric fans and electric bulbs and tubes; and
- crockery, cutlery, utensils, kitchen appliances and equipment;

INPUT TAX

- utility bills not in the name of the registered person unless evidence of consumption of such utilities is provided to the satisfaction of the officer of the Sindh Revenue Board not below the rank of an Assistant Commissioner;
- goods or services procured or received by a registered person during a period exceeding six months prior to date of commencement of the provision of taxable services;
- goods or services used or consumed in a service liable to sales tax at ad valorem rate lesser than thirteen per cent or at specific rate at fixed rate or at such other rates not based on value;
- goods or services as are liable to sale tax, whether a federal sales tax or a provincial sales tax, at specific rate or at fixed rate or at such other rates not based on value or at a rate lesser than thirteen per cent ad valorem and are used or consumed as inputs in the provision of a taxable service under the Act.

However, in case of telecommunication services paying sales tax at a rate not less than nineteen and half per cent ad valorem, the amount of sales tax paid on goods and services at ad valorem rates not exceeding seventeen per cent, can be claimed by the person providing the taxable telecommunication services.

INPUT TAX

- the amount of sales tax paid on the telecommunication services in excess of nineteen and a half per cent ad valorem and the amount of sales tax paid on other taxable goods or services in excess of thirteen per cent ad valorem; and
- such goods or services as are notified by the Sindh Revenue Board to be in-admissible for input tax claim or reclaim or credit or adjustment or deduction.

***TIME, MANNER AND MODE
OF PAYMENT***

TIME MANNER AND MODE OF PAYMENT

- The tax in respect of a taxable service provided or rendered during a tax period is required to be paid by a person by the due date prescribed for payment of tax.
 - As per Sindh and Punjab Sales Tax laws, the due date for payment of sales tax is 15th of the month following the tax period to which it relates.
 - As per Balochistan and KPK Sales Tax laws, the tax in respect of a taxable service provided during a tax period is required to be paid by a person at the time of filing the return in respect of that period.
- A taxable service will be considered to have been provided in the tax period during which:
 - it was provided to the recipient;
 - an invoice for the value of taxable service was issued or due to be issued or sent or due to be sent or to the recipient (as per Sindh Sales Tax on Services Act - an invoice for the value of taxable service was sent) ; or
 - the consideration for the same was received, whichever is earlier.

TIME MANNER AND MODE OF PAYMENT

- The tax due on taxable services is required to be paid by any of the following modes, namely:
 - Through deposit in a bank designated by the Sales Tax authority
 - Through such other mode as may be specified by the Sales Tax authority

*AN OVERVIEW OF FEDERAL
EXCISE DUTY*

AN OVERVIEW OF FEDERAL EXCISE DUTY

- As discussed earlier, Entry no. 44 of the Federal Legislative List as contained in Part I of the Fourth Schedule to the Constitution of Pakistan empowers Federal Government to levy duties of excise.
- The duties of excise is levied in Pakistan through the Federal Excise Act, 2005 and Rules made thereunder.
- Prior to July 1, 2011, Sales tax on services was collected by the Federal Board of Revenue under the head of “Federal Excise Duty” for all provinces, however, since July 1, 2011, Sindh Revenue Board has started collecting Sindh Sales Tax with respect to taxable services rendered in the province of Sindh itself whereas Punjab, KPK and Balochistan Revenue Authorities have started similar collection with effect from July 1, 2012, July 1, 2013 and July 1, 2015 respectively.
- However, clause 7 of the Article 270AA (as substituted by the 18th Amendment) allowed the relevant provisions of the Federal Excise Act, 2005 to remain in field till such time as the Provinces enacted their respective laws.
- Section 3 of the Federal Excise Act (read with Section 16 of the said Act) provides that goods and services specified in the **First Schedule** are required to be charged to Federal excise duty at the rates, set-forth therein.

AN OVERVIEW OF FEDERAL EXCISE DUTY

- Federal Excise Act comprise of following Schedules, namely;
 - **First Schedule** with respect to Excisable Goods and Services (Section 3)
 - **Second Schedule** with respect to Goods on which duty is collectible under sales tax mode with entitlement for adjustment with sales tax and vice versa (Section 7)
 - **Third Schedule** with respect to Conditional Exemptions (Section 16(1))
- The liability to pay duty is—
 - in case of goods produced or manufactured in Pakistan, of the person manufacturing or producing such goods;
 - in case of goods imported into Pakistan, of the person importing such goods;
 - in case of services provided or rendered in Pakistan, of the person providing or rendering such service.
 - in case of goods produced or manufactured in nontariff areas and brought to tariff areas for sale or consumption therein, of the person bringing or causing to bring such goods to tariff areas.
- Where services are rendered by the person out of Pakistan, the recipient of such service in Pakistan is required to pay duty.

AN OVERVIEW OF FEDERAL EXCISE DUTY

- For the purpose of determining net liability of duty in respect of any goods, the duty already paid on goods specified in the First Schedule and used directly as input goods for the manufacture or production of such goods is required to be deducted from the amount of duty calculated on such goods.
- The said adjustment is admissible only if a person registered under Federal Excise Act, 2005 holds a valid proof to the effect that he has paid the price of goods purchased by him including the amount of duty and received the price of goods sold by him including the amount of duty through banking channels including online payment whether through credit card or otherwise.
- **Application of the provisions of the Sales Tax Act, 1990 (Section 7)**

In case of goods specified in the Second Schedule or such services as may be specified by the Board through a notification in the official Gazette the duty is required to be payable in **sales tax mode**, whereby,—

- a registered person manufacturing or producing such goods or providing such services shall be entitled to deduct input tax paid during the tax period from the amount of duty of excise due from him on such goods or services in respect of that tax period;

AN OVERVIEW OF FEDERAL EXCISE DUTY

- a registered person shall be entitled to deduct the amount of duty of excise paid or payable by him on such goods or services as are acquired by him during a tax period from the output tax due from him in respect of that tax period;
- a registered person supplying such goods or providing such services shall be entitled to deduct duty of excise paid or payable on such goods or services as are acquired by him during the tax period from the amount of duty of excise due from him on such goods manufactured or produced or services as are provided or rendered by him during that period; and
- a person shall be entitled to deduct duty of excise paid or payable, on such goods or services as are acquired by him during a month, from the amount of duty of excise due from him on such goods manufactured or produced or such services as are provided by him, during that month.

Questions & Answers