

# SALES TAX BRIEF

## Amendments in Sindh Sales Tax on Services Rules 2011 *SRB-3-4/13/2011 dated 24 November 2011*

The Sindh Revenue Board (the SRB) has amended Sindh Sales Tax on Services Rules 2011 (the rules) vide its Notification No. SRB-3-4/13/2011 dated 24 November 2011. The salient features of such amendments are as follows:

### **Terminal Operator**

The SRB has broadened the scope of services rendered by 'Terminal Operators'. Accordingly, the following services rendered by Terminal Operators have also become liable to sales tax:

- (a) Off-Dock Terminal; and
- (b) Cargo or baggage shed operators, licensed or appointed by the Customs authorities at any airport

### **Club**

Previously, the term 'club' was not defined in the rules. This anomaly has now been rectified by insertion of clause (va) in Rule 2 of the rules.

In line with the amended rules, the term 'club' would include a 'membership club' and a 'proprietary club' and means an establishment, organization or place whose membership is restricted to a particular class of people, which is run on the basis of

mutuality and which provides various services, facilities, utilities or advantages for an amount of fee, subscription or charges, whether or not it provides food or drinks or has any arrangement for boarding or lodging or games. However, a hotel, motel, guesthouse or restaurant shall not be classified as a 'club'.

Further, the following receipts have also been held to be outside the purview of sales tax:

- a) voluntarily deposited receipts on account of staff welfare like eid gifts, bonuses;
- b) gratuity distributed among club staff; and
- c) donations received for charitable causes subject to the condition that the amounts, so received for these purposes, are used, entirely and exclusively, for the purpose for which it was received.

### **Inadmissible Input Tax**

Previously sales tax paid or payable on certain items is also admissible as input tax under Section 8(1)(b) of Sales Tax Act 1990 read with FBR's SRO 490(I)/2004 dated 05 June 2004.

Vide amendments made in Rule 22A of the rules, the SRB has also specified identical goods and services, acquired otherwise than

as stock in trade by the taxpayer, into “negative list” against which a registered person shall not be entitled to claim sales tax paid at the time of acquisition thereof. At the same time, the SRB has also disallowed certain additional goods / services which are not specified in SRO 490(I)/2004 dated 05 June 2004. Such list is as follows:

- a) vehicles falling under Chapter 87 of the First Schedule to the Customs Act, 1969;
- b) calendars, diaries, gifts, souvenirs and giveaways;
- c) garments, uniforms, fabrics, footwear, headwear, etc., for employees;
- d) food, beverages and consumptions on entertainments; and
- e) electricity, gas and telecommunication services supplied at the residence of the employees or in the residential colonies of the employees.

The SRB has also restricted sales tax paid on services which are taxed at a rate lesser than standard rate of tax, i.e., 16%. Besides, any specific rate of tax not based on value has also been classified as an inadmissible input tax. Currently, following services are included under this category;

- Freight Forwarder
- Property Developers or Promoters
- Franchise Services

### **Refunds**

Previously Sindh Sales Tax on Services Act 2011 (the Act) and rules did not prescribe any specific procedures for refund and input tax, carried forward in excess of output tax. This anomaly has been catered with by SRB whereby ‘Chapter-VA’ has been added in the rules which now provides a mechanism for refunds.

However, subject to certain conditions as has been specified therein, the mechanism of refunds shall apply to processing and

sanction of refund claims filed by a registered person in respect of following cases:

- Amount of sales tax erroneously or inadvertently deposited, in excess of tax due; and
- Amount deposited by or recovered from the registered person, is held to be not payable under the Act, as result of an order of a Court or an Appellate Forum

### **Tax Invoice**

The SRB has prescribed the format of sales tax invoice which is required to be issued against services rendered and provided by registered service providers falling under the Act.

Accordingly, the registered service provider is now required to mention following details on the face of his invoice:

- Name, address and SNTN (Sindh Sales Tax Registration Number) of the service provider;
- Name, address and NTN or SNTN or CNIC number of the service recipient;
- Serial number and date of issue of the tax invoice;
- Description, tariff heading and other details of the service provided;
- Value exclusive of Sindh Sales Tax;
- Rate of Sindh Sales Tax;
- Amount of Sindh Sales Tax; and
- Value inclusive of Sindh Sales Tax.

It is pertinent to note that the aforesaid particulars are almost the same as has been prescribed under Section 23 of Federal Sales Tax Act 1990. We are of the view that disclosure of SNTN on the face of tax invoice would largely facilitate the recipients of

services to determine regarding withholding tax implications.

*For more details on sales tax withholding rules, kindly refer to our earlier Tax Brief dated 25 November 2011.*

### **Banking Companies, Financial Institution and Non Banking Finance Companies**

Presently, Entry No. 98.13 of Second Schedule to the Act includes services of cooperative financing societies, modarabas, musharikas, leasing companies, foreign exchange dealers, non-banking financial institutions, companies providing management services including fund and asset management services and other persons dealing in any such services in the list of taxable services.

However, while issuing the procedures under Rule 30 for collection and payment of sales tax on aforesaid services, the SRB had not included the word “cooperative financing societies, modarabas, musharikas, leasing companies, foreign exchange dealers, non-banking financial institutions, companies providing management services including fund and asset management services and other persons dealing in any such services such services”.

To remove the apparent ambiguity and to bring harmony in the statute, the SRB has amended Rule 30 and included reference of aforesaid taxable services into the rules.

### **Quarterly Statement**

Banking companies, financial institutions and non-banking financial institutions are required to file quarterly statement with SRB by 15<sup>th</sup> day of the month following the end of every quarter. Such filing date has now been extended upto 24<sup>th</sup> day of the month following the end of every quarter.

### **Telecommunication services**

The SRB has extended the due date for submission of monthly statement upto 24<sup>th</sup>

day of the month following the tax period. Besides, the statutory form of monthly statement also has been modified and new format has been introduced for all person engaged in rendering telecommunication services.

### **Services provided by Airports Operators and Airport Terminal Operators**

In terms of Sindh Sales Tax on Services (Amendment) Ordinance, 2011, the Government of Sindh has brought services of Airports Operators and Airport Terminal Operators into the sales tax net.

In line with aforesaid amendment, the SRB has also amended the ancillary rules and has prescribed procedures for collection and payment of sales tax on services of Airports Operators and Airport Terminal Operators.

Accordingly, in term of Rule 40A of the rules, all charges on account of the following services provided or rendered by an airport operator and an airport terminal operator shall be leviable to sales tax:

- Landing, housing, hangarage and parking;
- Aerobridge facility;
- Aircraft power supply;
- Ground handling;
- Commercial licenses in respect of various services provided or rendered at an airport;
- Royalties including those on meal uplift;
- Cargo throughput and the cargo and baggage storage services.

However, charges on account of aforesaid services provided or rendered to the aircrafts of armed forces, using an airport belonging to or operated by the armed forces of Pakistan, shall remain exempt from sales tax.

Further, in terms of Rule 2(ivb) of the rules, Airport Operator has been defined to include Civil Aviation Authority (CAA) and other

authority or organization or office managing or operating a customs airport, as notified under section 9 of the Customs Act, 1969.

### **Airport Ground Service Providers and Airport Service Providers**

In terms of Sindh Sales Tax on Services (Amendment) Ordinance, 2011, the Government of Sindh has brought the services rendered by Airport Ground Service providers and Airport Service providers into the sales tax net.

In line with aforesaid amendments, the SRB has also amended allied rules and introduced procedures for collection and payment of sales tax on services of Airports Operators and Airport Terminal Operators.

Rule 40B has been added in the rules whereby all charges on account of the following services provided or rendered to airlines by airport ground service providers and other airport services providers at an airport shall be leviable to sales tax:

- (i) aircraft handling;
- (ii) passenger and baggage handling;
- (iii) cargo and mail handling;
- (iv) cabin services and maintenance;
- (v) ramp handling; and
- (vi) services like Airport Connect Open.

However, charges on account of aforesaid services provided or rendered to the aircrafts of armed forces, using an airport belonging to or operated by the armed forces of Pakistan, shall remain exempt from sales tax.

Further, in term of Rule 2(iva) of the rules, Airport Ground Service Provider and Airport Service Provider shall include Shaheen Airport Services, Gerry's Dnata, Royal Airport Services and other such operators and airlines providing or rendering ground or ramp services or passenger and cargo handling services to other airlines or to aircraft operators of scheduled or non-scheduled flights.

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