

The Khyber Pakhtunkhwa Finance Act, 2021



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This commentary highlight the significant changes made through The KPK Finance Act, 2021 as they relate to taxes in the province of the Khyber Pakhtunkhwa.

All changes made through The KPK Finance Act, 2021 are generally applicable from July 1, 2021 unless otherwise specified.

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If you require any information or have any query with regard to the amendments in The KPK Finance Act 2021, feel free to contact us.

Regards;

AliZaib Consultants

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Significant Amendments

1. Amendment in Khyber Pakhtunkhwa Finance Act, 2013

Definition of withholding agent – Section 2(57), 30(3) & 40

Through this act a new definition of the withholding agent has been added. As per the definition;

“withholding agent means any person, who, as a recipients of taxable service or otherwise, withholds or deducts and pays or deposits tax directly to Government in the manner as may be prescribed.”

Now withholding agent shall be personally responsible to withhold and deposit the due tax. And in case of failure, he shall be personally liable to pay such due amount along with default surcharge and penalty. This amendment increases the liability of the withholding agent to strictly follow the withholding tax provisions.

Further the purpose of assessment of tax, definition/scope of audit is enhanced by including departmental audit, external audit, special audit or any other scrutiny of records, facts and tax affairs in any manner, style or mode, resembling audit or appearing like audit.

Through this act, now withholding agent shall be liable to penalty for offences i.e. registration, return filing, record maintain, and tax fraud etc.

Standard Rate – Section 26A

Way back to last budget 2020 the new section 26A was added through the Finance Act, 2020, through the said section the authority had allowed the taxpayer to charge their services at standard rate as Fifteen percent (15%) instead of reduced rate subject to such condition and restriction as deemed fit by the authority. But before exercise above option prior approval was required for all taxpayers,

In April 28, 2021 the authority has granted permission to only nine taxpayers to charge standard tax rate on their services. Further on May 28, 2021, the authority has again issued a notification and update some conditions on adjustment of input tax for the said nine taxpayers.

Now every taxpayer being company registered with the authority shall not be required to take permission from the authority to adopt standard rate option, only one-month prior intimation to authority will serve the purpose.

Adjustments – Section 32(3)

Earlier Authority was empowered to restrict the extent of adjustment or deduction of tax payable under any law through a notification. Now Authority can make such restriction with effect from the date so specified. If no date is mentioned in the notification, the date of coming into effect of such notification is the date to be specified.

Further authority is empowered to issue a notification / order allowing exemption from tax, after consent with the Finance department of Government.

Joint and several liability of registered persons where tax unpaid – Section 35

Earlier only the registered was liable for payment of any unpaid taxes, now every person receiving taxable services shall be jointly or severally liable for non/short payment of taxes in accordance with any provision of the law.

Offences and Penalties – Section 64

To held the withholding agent accountable, authority has imposed penalty on the defaulting withholding agent by adding relevant section in the offence/penalty table. Section 30(2) has been added against Sr. No. 1,2,4,5,6, & 9 of the table. Further following explanation inserted in the section.

Default Surcharge – Section 65

To calculate the amount of default surcharge other than tax fraud monthly rate shall be the quarterly average of inter-bank rate as announced by the state bank of Pakistan. Further default surcharge calculated shall not be calculated on compound basis and in case of short fall of days in the month during which the tax is paid the amount of default surcharge shall be prorated in terms of days in the relevant month.

Exemption from penalty and default surcharge – Section 66

Section 66 empower the provincial govt. to exempt any registered person from payment of default surcharge and penalty through notification. Earlier such notifications were required to present before the council. Now it is approved to present such notification before the Provincial Assembly of the Khyber Pakhtunkhwa.

Recovery of tax not levied or short-levied – Section 68

Through the time limitation has been extended to five years for service of show cause notice against recovery of tax not levied or short levied. Earlier the time limit was three years.

Further time period through which the proceedings are adjourned on account of a stay order or Alternative dispute resolution shall not be included for computation of time limitation for the purpose of passing an order.

Power of Adjudication – Section 76

Now the Authority has the power to make changes in pecuniary limits of its officers and condoning time limits for passing an order.

Decision of Appeal – Section 81

Through this act Collector (Appeals) is empowered to remand the cases for de-novo consideration in special circumstances for reasons and purposes to be recorded in writing.

Recovery of arrears of tax – Section 87

Now the recovery officer is authorized to make recovery directly from a person holding or is otherwise in custody of any money, owned by or payable to defaulter.

Amendment in second schedule – Amendments are in Red

Before Amendment	After Amendment
See Section 19	See Sections 19,21,26, 27 and 28
1 (iii). Service provided or rendered by non-corporate local chains of hotels (including guest houses and lodges etc.) and restaurants shall be charged to tax at the rate of Eight Percent (8%) without input tax adjustment; provided that where in any case of such restaurant, the Restaurant Invoice Management System (RIMS) is installed and working properly on regular basis, the rate of tax shall be further reduced to Five Percent (5%) without any input tax adjustment;	1 (iii). Service provided or rendered by local non-corporate stand-alone hotels or chains of such hotels (including guest houses, Clubs and lodges etc.) and restaurants shall be charged to tax at the rate of Eight Percent (8%) without input tax adjustment; provided that where in any case of such restaurant, the Restaurant Invoice Management System (RIMS) is installed and working properly on regular basis, the rate of tax shall be further reduced to Five Percent (5%) without any input tax adjustment; (vii). In case of non-corporate sector hospitality businesses, including hotels, guest houses, rest houses, lodges, restaurants and similar other accommodations and food serving businesses, located in the tourist spots of Galiyat and Kaghan Valleys, the tax shall be charged and paid at the rate of Five Percent (5%), without any input tax

	adjustment, subject to the compliance to all such conditions and procedures, as may be prescribed by the Authority, in this behalf.”;
5. Reduced Rate of Tax: All services of this entry other than business support services and labour or manpower supply services shall be charged at the rate of Eight Percent (8%) without any input tax adjustment. (ii) Business support services and labor manpower supply services shall be charged to tax at the rate of five percent (5%) without any input tax adjustment.	5. Reduced Rate of Tax: Except the services falling under the categories of labour or manpower supplies including recruitments for overseas jobs or employment and such services of this entry, as are provided by corporate sector entities, all other services of this entry shall be charged at the rate of Eight Percent (8%), without any input tax adjustment; provided that business support services other than those provided by corporate entities shall be charged to tax at the rate five percent (05%). HS Code: 9842.0000
6. Reduced Rate of Tax: In case of advertisements on or through print media of all type of forms, tax shall be charged to the rate of Five Percent (5%) without any input tax adjustment.	6. Reduced Rate of Tax: In case of advertisements on or through print media of all type of forms, tax shall be charged to the rate of One Percent (1%) without any input tax adjustment.
8. Reduced Rate of Tax: All services covered in this entry except services (whole range) of authorized automobile (all categories of automobiles) dealers shall be chargeable to tax at the rate of two percent (2%) without any input tax adjustment.	8. Reduced Rate of Tax: All services covered in this entry except services (whole range) rendered or provided by corporate sector dealers and (all categories of automobiles) dealers shall be chargeable to tax at the rate of two percent (2%) without any input tax adjustment.
9. (iii) Two Percent (2%) without any input tax adjustment in case of standalone car wash (car wash station) services, and	9. (iii) One Percent (1%) without any input tax adjustment in case of standalone car wash (car wash station) services, and
10. Exemption: Full exemption to education-related or education-specific franchise services. Ten Percent (10%) without any input tax Adjustment.	10. Exemption: Full exemption on or in respect of franchises relating to services in the field of health and education. Fifteen Percent (15%)
13. Services provided by persons engaged in contractual execution or performance of works (including repair, maintenance, renovation, up gradation or janitorial works) or furnishing supplies (excluding transactions involving contractual supply of goods only without any component of service relating to such goods). HS Code: 9810.0000, 9810.1000, 9810.2000, 9810.9000	13. Services provided by persons engaged in contractual execution or performance of works (including but not limited to repair, maintenance, renovation, up gradation, cleaning, fumigation and decontamination services or janitorial works) or furnishing supplies (excluding transactions involving contractual supply of goods only without any component of service relating to such goods). HS Code: 9810.0000, 9810.1000, 9810.2000, 9810.9000, 9822.1000, 9822.2000, 9822.3000
14. Full exemption on: (iii) The projects initiated or undertaken under government’s annual development plan (ADP) provided either such projects have been initiated or completed on or before 30th June, 2019 or payments, whether full or in part, in respect thereof have been made on or before the said date (the ongoing projects in respect of which agreements or contracts were signed before the said date, shall be entitled to this	14. Full exemption on: (iii) The projects initiated or undertaken under government’s annual development programme (ADP) provided either such projects have been initiated or completed on or before 30th June, 2021 or payments, whether full or in part, in respect thereof have been made on or before the said date (the ongoing projects in respect of which agreements or contracts were signed before the said date, shall

exemption regardless of the schedule of payments relating thereto).	be entitled to this exemption regardless of the schedule of payments relating thereto). “(iv) Such portion or portions of the construction work of the projects of Public Sector Development Programme (PSDP), as were undertaken and completed before 30th June, 2021, regardless of the dates of their approval or initiation; provided that no such exemption shall be claimed or available on such portion or portions of the work of such project or projects as has/have not been completed before 30th June, 2021. (v) Construction services, including allied works, provided or rendered in respect of low-cost housing projects and schemes of the Provincial Housing Authority of Khyber Pakhtunkhwa.”; and “Condition: The exemption allowed under this part shall not be construed or interpreted in any manner to claim or take any refund, waiver, dispensation or relief of tax already deposited, paid or recovered (including already withheld or deducted but not deposited or paid) on or before 30th June, 2021 on any ground whatsoever. Explanation: For the purpose of this item, the expression “initiated” shall, under no circumstances, be construed to commence prior to the date of actual signing of the agreements for Government sector construction projects.”; Clarification: (iii) Construction services shall include construction works of power (including hydropower) generation projects. (iv) Where fixed rates of rupee one hundred per square yard, or as the case may be, rupees fifty per square foot are applicable in case of land development and commercial construction as per description specified above, tax shall not be charged in respect of the areas allocated, fixed or used exclusively for schools, medical dispensaries, mosques, graveyards, parks, public toilets, corridors (inside passages of buildings) and stairs provided that these facilities are meant for common use of the public at large without the involvement of any commercial aspect including intention or purpose for sale, leasing or renting.”; and.
Two Percent (2%)without any input tax adjustment.	Five Percent (5%) except Government funded construction projects including ADP/PSDP- funded projects and construction of hydropower projects on which the rate of tax shall be Two Percent (2%)

16.	16. Reduced Rate of Tax: The rate of tax on the leases (including re-leasing by the lessees) and licenses (including sub-contracting or license usage permissions by license holder) granted or fees and royalties, received by Government Departments, or as the case may be, by the lessees or licensees, shall be Two Percent (2%) without any input tax adjustment; provided that no tax shall be demanded in case of the charges for such leases, licenses, fees or royalties etc, received up to 30th June, 2021, if tax thereon has not been already withheld, paid or recovered (no refund or waiver of any such tax amount shall be admissible under any circumstances).
19. HS code: 9816.9000 Five Percent (5%) without any input tax adjustment.	19. HS code: 9816.9000, 9826.0000 Five Percent (5%) without any input tax adjustment. “Provided that the above reduced rate shall not be applicable to corporate entities and to such other entities as are operating in collaboration or as subsidiary or branch of foreign service providing entities and all such entities shall pay tax at the rate of Fifteen Percent (15%) and avail admissible input tax adjustment”
20. Two Percent (2%) without any input tax adjustment	20. One Percent (1%) without any input tax adjustment
26.	26. Services of payment system operator or of payment system provider as have always been or are rendered or provided in any manner or mode. Reduced Rate of Tax: In case of health insurance services and services in respect of Government sponsored Sehat Card Plus program, the tax shall be charged at the rate of One Percent (1%) without any input tax adjustment.
27.	27. “Reduced Rate of Tax: The tax on cold storage services (including other forms of warehousing of agriculture produce) regardless of their corporate or non-corporate status shall be charged at the rate of One Percent (1%) without any input tax adjustment.”
34. Services provided or rendered by under writers including sponsorship services. Two Percent without any input tax adjustment.	34. Services provided or rendered by under writers including sponsorship services. One Percent (1%) without any input tax adjustment.
36. Services provided or rendered by auctioneers. Two Percent without any input tax adjustment.	36. Services provided or rendered by auctioneers. One Percent (1%) without any input tax adjustment.
39. Services provided or rendered in respect of quality assurance, quality control, quality inspection (including pre-inspection), quality verification or certification including verification or certification of quality or standards under ISO regime.	39. Services provided or rendered in respect of quality assurance, quality control, quality inspection (including pre-inspection), quality verification or certification including verification or certification of quality or standards under ISO regime. One Percent (1%) without any input tax adjustment.

Two Percent (2%) without any input tax adjustment.	
44. Services relating to or in respect of the installation, erection, commissioning or other permanent structure-affixed/linked/tied placement (whether full or in part) of any industrial, mechanical or electrical plant, machinery or equipment (excluding installation of domestic equipment's etc. for residential use). Two Percent without any input tax adjustment.	44. Services relating to or in respect of the installation, erection, commissioning or other permanent structure-affixed/linked/tied placement (whether full or in part) of any industrial, mechanical or electrical plant, machinery or equipment (excluding installation of domestic equipment's etc. for residential use). One Percent (1%) without any input tax adjustment.
47. All allied, ancillary, auxiliary, related, substitutive, comparable or matchable services not specifically, directly or indirectly mentioned anywhere in this Schedule but fall in or are linked in any manner to the category or categories of services covered in any of the class or classes of services mentioned or included in the Schedule provided that no argument as to variation in description shall be relevant or permissible for the application of this entry.	47. All allied, ancillary, auxiliary, related, substitutive, comparable or matchable services not specifically, directly or indirectly mentioned anywhere in this Schedule but fall in or are linked in any manner to the category or categories of services covered in any of the class or classes of services mentioned or included in the Schedule provided that no argument as to variation in description shall be relevant or permissible for the application of this entry regardless whether such allied and other services are provided by the same person (service provider) whose services are falling under other serial number or numbers or by any other person (service provider) to such same person or to any other person.

PRINCIPLES OF APPLICATION AND INTERPRETATION:

18. Where a registered person is providing services at a reduced rate of tax either under the Second Schedule or otherwise as provided elsewhere in this Act or in any notification issued thereunder and any of his buyers from corporate sector requests such registered person to provide services to him on standard rate, the registered person may provide services to his such buyer on standard rate provided that adjustment of relevant input tax, as and if admissible under standard rate regime, in case of such services shall be proportionately and exclusively confined to the value of such services.

19. Where in compliance to any commitment of the Federal Government or Government of Khyber Pakhtunkhwa either under any international convention, protocol, treaty or agreement, or under any agreement or arrangement for foreign grant-in-aid assistance including free technical assistance to the Province of Khyber Pakhtunkhwa or elsewhere in the country, an exemption from tax is required, the Authority shall issue notification or as the case may be, order for such exemption after taking concurrence from the Finance Department of Government on such conditions, restrictions or limitations as the Authority may deem appropriate to recommend or impose.

20. Unless otherwise specified elsewhere in the Second Schedule or under any notification issued under this Act, the corporate sector entities providing or rendering services liable to reduced rates of tax against serial numbers 9, 10, 11, 13, 17, 18, 21, 22, 27, 28 (other than public sector entities providing services covered therein), 39 and 44 of the said Schedule shall not pay tax at any such reduced rate. Such entities shall mandatorily pay tax at standard rate of 15% and all benefits of the admissible input tax adjustment shall be available to them.

21. Subject to Para 20, the services provided by or relating to dealers of agriculture machinery and equipments, commission agents of agriculture produce, agriculture specific market research, human resource development or management in agricultural fields, and exhibitions of agricultural products or products usable exclusively in agriculture sector shall be charged to tax only at the rate of two percent (2%) without any input tax adjustment.

2. Amendment in The Stamp Act, 1899

Through the said finance act, an amendment has been made for determination of value of land for the purpose of stamp duty. Now the value of land computed under section 27A shall be in no case be less than ninety percent (90%) of the rates determined by the Federal Board of Revenue (FBR). Further, duty on allotment order or transfer of allotment order for open plots has been increase as per rates below;

Before Amendment	After Amendment
For residential open plot; Rupees 300 per Marla	For residential open plot; Rupees 600 per Marla
For commercial open plot; Rupees 600 per Marla	For commercial open plot; Rupees 1,200 per Marla

Further duty has been revised for any instrument of the nature of memorandum of agreement, made or entered into by a contractor with Government, a Corporation, Local Body, Local Authority, Agency or Organization set up or controlled by the Federal or the Provincial Government.

Limited of Contract	Duty Amount
Where the amount does not exceed rupees 0.1 million	Rupees two hundred and fifty.
Where the amount exceeds rupees 0.1 million but does not exceed rupees one million	Rupees one thousand two hundred and fifty.
Where the amount exceeds rupees one million but does not exceed rupees five million	Rupees four thousand.
Where the amount exceeds rupees five million but does not exceed rupees ten million	Rupees nine thousand.
Where the amount exceeds rupees ten million	Rupees forty thousand..
Duty to procure stores and materials	One rupee for every one hundred rupees or part thereof of the amount of contract

Further amount of duty for receipt of acknowledgment under section 2(23) has also been revised as under;

Detail	Before amendment	After Amendment
Where such amount does not exceed Rs. 2,000	Rs. 2	Rs. 5
Where such amount exceeds Rs. 2,000 but does not exceed Rs. 10,000	Rs. 3	Rs. 6
Where such amount exceeds Rs. 10,000	Rs. 7	Rs. 15

3. Amendment in The Registration Act, 1908

It is established that all documents, books, instruments, decrees, deeds, assignments, endorsements, debentures, orders, certificates, counter part of lease, signatures shall be processed through digitized means of registration. For this purpose, online repository facility shall be established.

4. Amendment in The West Pakistan Urban Immovable Property Tax Act, 1958

Date for payment of property tax has been changed from February 28th to December 31st. Further, from July 01, 2020 property tax on building acquired for use by petrol pumps and CNG stations shall be charged Rs. 45,000/- per annum instead of percentage of the actual annual rent.

5. Amendment in The Khyber Pakhtunkhwa Finance Act, 1990

There will be no professional tax in the province for financial year 2021-2022.

6. Khyber Pakhtunkhwa Land Tax and Agriculture Income Tax Ordinance, 2000

It has been approved that there will be no land tax in respect of cultivated land of an owner for the financial year 2021 – 2022.

Further tax rates on Agriculture income has also been revised as under;

Old Rates	New Rates
Where income is not more than Rs. 400,000/-.	Where income is not more than Rs. 600,000/-.
No tax	No tax
Where total taxable income exceeds Rs. 400,000/- but does not exceed Rs. 550,000/-.	Where total taxable income exceeds Rs. 600,000/- but does not exceed Rs. 850,000/-.
5% of amount exceeding Rs.400,000/-.	5% of amount exceeding Rs.600,000/-.
Where total taxable income exceeds Rs. 550,000/- but does not exceed Rs. 750,000/-.	Where total taxable income exceeds Rs. 850,000/- but does not exceed Rs. 1,000,000/-.
Rs.7500/- plus 7.5% on amount exceeding Rs.550,000/-.	Rs. 12,500/- plus 7.5% of the amount exceeding Rs.850,000/-
Where total taxable income exceeds Rs. 750,000/- but does not exceed Rs. 950,000/-.	Where total taxable income exceeds Rs. 1,000,000/- but does not exceed Rs. 1,250,000/-.
Rs.22,500/- plus 10% on amount exceeding Rs.750,000/-.	Rs. 23,750/- plus 10% on amount exceeding Rs. 1,000,000/-.
Where total taxable income exceeds Rs. 950,000/- but does not exceed Rs. 1,100,000/-.	Where total taxable income exceeds Rs. 1,250,000/- but does not exceed Rs. 1,500,000/-.
Rs.42,500/- plus 15% on amount exceeding Rs.950,000/-	Rs. 48,750/- plus 15% on amount exceeding Rs. 1,250,000/-
Where total taxable income exceeds Rs. 1,100,000/-.	Where total taxable income exceeds Rs. 1,500,000/-.
Rs.65,000/- plus 17.5% on amount exceeding Rs.1,100,000/-".	Rs.92,500/- plus 17.5% on amount exceeding Rs.1,500,000/-".

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