

## The

### **KHYBER PAKHTUNKHWA SALES TAXON SERVICES (WITHHOLDING) REGULATIONS, 2024**

**Notification / WH / dated .....** In exercise of the powers conferred under sub-section (2) of section 81 read with sub-sections (2) and (3) of section 10, sub-sections (2) and (3) of section 14, section 27, section 29 section 37 and section 39 of the Khyber Pakhtunkhwa Sales Tax on Services Act, 2022 (the “Act”) read with all relevant provisions thereof, the Policy Board of the Khyber Pakhtunkhwa Revenue Authority is pleased to make the following regulations, namely:

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**1. Short title, application and commencement.--** (1) These regulations may be called as Khyber Pakhtunkhwa Sales Tax on Services (Withholding) Regulations, 2024.

(2) These regulations shall apply to the withholding agents receiving taxable services in, for or in respect of the Province of Khyber Pakhtunkhwa (for use, consumption, enjoyment or for any other purpose therein).

(3) They shall come into force at once:

Provided that the Policy Board may, through a notification in the official gazette, specify a different date on which these regulations shall take effect.

**2. Definitions.--** ( The words and expressions used in these regulations but not defined herein shall have the same meaning as assigned to them in the Act or the Khyber Pakhtunkhwa Sales Tax on Services (Definitions) Rules, 2024 made thereunder.

**3. Withholding agents and their responsibility.--** (1) For the purposes of these regulations, all recipients of taxable services, falling in any of the following categories are declared as withholding agents:

- i. All Federal Government Departments and offices etc., who submit their bills (including payments made in respect of projects) for pre-audit to the Accountant General Pakistan Revenues (AGPR), its Sub-office in Peshawar and District Accounts Offices in the Province;
- ii. The Departments and Offices of the Ministry of Defence who either submit their bills (including bills in respect of projects) for pre-audit or compiled accounts of the Service Controllers and Regional Controllers of the Military Accountant General;
- iii. All other Federal Government Departments, i.e., Director Budget and Accounts (PAK PWD), Chief Accounts Officer (Pakistan Railways), Director Accounts (Pakistan Post Office), Central Directorate of National Savings who submit their monthly compiled accounts to AGPR.
- iv. All Departments and Offices of the Government including District

Government Departments who submit their bills for pre-audit to the Accountant General Khyber Pakhtunkhwa or the District Accounts Offices in the Province.

- v. Environment Department of the Government who submits compiled accounts to the Accountant General Khyber Pakhtunkhwa.
- vi. All Divisional Engineers of the Departments of Irrigation, Public Health Engineering and Communication & Works including the Local and District Government Departments who submit accounts on the prescribed form to the Accountant General Khyber Pakhtunkhwa.
- vii. All public sector organizations, institutes, corporations, universities, bodies, boards, projects, ventures, entities, enterprises, institutions, authorities of the Federal, Provincial, District or Local Government including special purpose institutions, whether their official status, character or position is pure government, semi-government, public, semi-public, autonomous, semi-autonomous, commercial, semi-Commercial or non-commercial who are making such payments directly at their own level through their internal accounting systems or offices.
- viii. Companies as defined under clause (r) of section 2 of the Act including those located in the jurisdiction of or registered with any other tax authority for the purposes of payment of sales tax in respect of goods or services rendered or provided in the Province.
- ix. Any other person or class of persons specified, declared or confirmed by the Policy Board as a withholding agent through a notification in the official gazette.

(2) The withholding agent, intending to purchase, acquire or receive taxable services in or for the Province, shall invariably indicate in the relevant advertisement, notices including prequalification or tender notices, booking order or any other similar document, made or given in any mode or form, for such purpose, that sales tax to the extent as provided in this regulation shall be deducted and withheld from the payment to be made to the service provider and deposited in the Government Head of Account No. B-02386--Sales Tax on Services, Khyber Pakhtunkhwa.

**4. Services not subject to withholding.**— The following services shall not be subjected to withholding:

- a. The telecommunication services (excluding such services as are provided or received by telecom companies to or from each other); and
- b. Such other services or class of services either with reference to description, service provider or service recipient or class or classes thereof or otherwise, as may be specified by the Management Committee conditionally or otherwise.

**5. Compulsory application of full withholding.--** The following services shall be compulsorily liable to full withholding at applicable tax rates across the board:

- c. Advertisement services of all descriptions, categories and types,
- d. Services provided by persons either not registered with the Management Committee or if registered, are inactive/non-active as per Active Taxpayers' List of the Management Committee as available on its official website or portal,
- e. Services provided or rendered to Federal or Provincial Government Departments or public sector institutions, organizations, entities and projects etc. regardless of the rate of tax on such services,
- f. Services provided in the Province by persons from outside the Province if such persons are not registered with the Management Committee of the Authority; and
- g. Services liable to tax under the Act at reduced rate (less than the standard rate of 15%).

**Clarification:** For the purpose of removal of any doubt, it is clarified that every person classified as withholding agent under this regulation shall invariably withhold and deposit with the Government, the whole amount of tax in respect of a service received by him in the Province from a person registered in other provincial sales tax jurisdictions, including Islamabad Capital Territory but not registered with the Management Committee of the Authority.

**6. Extent of withholding in other cases.--** In all other cases not covered under regulations 4 or 5 of these regulations, only fifty percent (50%) of the amount of leviable tax shall be withheld by the withholding agent and deposited with the Government as provided under these regulations.

**7. Input tax adjustment under withholding regime.--** (1) The persons who are registered with the Management Committee of the Authority as regular taxpayer and are compliantly paying the provincial sales tax on services at standard rate of 15% or at higher rate shall be entitled to take admissible input tax adjustment in their monthly tax returns in case of services received by them from persons other than unregistered or inactive registered persons subjected to full withholding under these regulations.

(2) Under no circumstances shall the tax adjustment be admissible in case of withholding made on services chargeable to reduced rate of tax or received from unregistered persons or inactive registered persons:

**Clarification:** For removal of doubt, it is clarified that reduced rate of tax includes the fixed rate of tax or the tax paid or payable on fixed basis.

**8. Deposit time of withheld tax amounts.--** (1) Where the withholding agent is registered

exclusively with the Management Committee of the Authority as a service provider under the Act, the withheld tax amount shall be deposited by the prescribed due date of the month in which he claims input tax credit/adjustment against services received in Annex-A of his monthly sales tax return or the date on which payment is made to the service provider, whichever is earlier:

Provided that where such a withholding agent does not claim input tax credit for a period of six months succeeding the month in which the tax invoice was issued or is otherwise not entitled to claim input tax credit/adjustment for the reasons of non-availability of proof of payment, he shall deposit the withheld or withholdable amount of tax on the date on which he makes the payment to the service provider or by the last day of the said six months from the date of invoice, whichever is earlier.

(2) If a withholding agent is not registered with the Management Committee of the Authority as a service provider under the Act but is registered with Federal Board of Revenue (FBR) under the Sales Tax Act 1990, the withheld tax amount shall be deposited by the prescribed due date of the month in which he claims input tax credit/adjustment in Annex-A of his monthly salestax return as prescribed by the FBR, or the date on which payment is made to the service provider, whichever is earlier:

Provided that where such a withholding agent does not claim input tax credit/adjustment for a period of six months succeeding the month in which the tax invoice was issued or is not otherwise entitled to claim input tax credit/ adjustment for thereasons of non-availability of proof of payment, he shall depositthe withheld amount of tax by the last day of the said six months from the date of the tax invoice or the date when he makes a payment to the service provider, whichever is earlier.

(3) In case of other withholding agents, not covered by sub-paragraphs (1) and (2) above, the withheld tax amount shall be deposited by the 15<sup>th</sup> day of the following month in which payment is made to the service provider.

**9. Registration of withholding agents of different categories.--** (1) The persons who are already registered exclusively with the Management Committee of the Authority as regular taxpayers in the capacity of service providers, shall not be required to obtain any separate registration as withholding agent. If not already done, they will only request the Authority through online means to make necessaryadditional insertion as withholding agent in the relevant category box of their original registration application available in the Management Committee's database.

(2) Subject to sub-regulation (4), a person who is not already registered with the Management Committee of the Authority as a regular taxpayer but is required to comply as withholding agent, shall apply (for registration as withholding agent) with the Management Committee upon which he shall be electronically allocated user identification, password and personal identification number for the provincial sales tax withholding purposes.

(3) Such person may subsequently, if legally or otherwise legitimately required for any valid reasons, apply to the Management Committee of the Authority for de-registration as

withholding agent and every such de-registration shall be subject to due completion of the legal requirements, if any:

Provided that under no circumstances shall the responsibility of any person as withholding agent be affected or mitigated in the absence of registration or other system user-related particulars as aforesaid and any amount of tax withheld by such person shall be deposited with the Government in the manner prescribed in these regulations.

(4) The public sector withholding agents making tax payments through competent in-house accounting offices (self- accounting entities), shall obtain FTN from FBR (if not already obtained) and online apply to the Management Committee of the Authority for enrolment as withholding agent to get user ID, password for the purposes of payment of tax through PSID and CPR and fore-filing of the withholding statements to the Management Committee of the Authority.

(5) The public sector withholding agents making payments through accounting offices working under the control of Controller General of Accounts, shall obtain FTN in terms of sub-paragraph (4) only for the purpose of e-filing of withholding statements after enrolment with and after obtaining or issuance of password from the Management Committee of the Authority.

(6) The provisions of section 31 read with all other relevant provisions of the Act or rules or regulations made thereunder shall *mutatis mutandis* apply to the cases where withholding agent is required to be registered (including enrolled) has not complied with the registration or other identical requirements under these regulations.

**10. Procedure for accounting and deposit of withheld amount of sales tax on services under different accounting systems of the Federal and Provincial Government.--** (1)

The Drawing and Disbursing Officer (DDO), while preparing the bill for payment by the accounting office, shall indicate the amount of sales tax to be withheld in terms of this regulation. The accounting office, responsible for making the payment shall adopt the procedure as specified below:

- i. In case of acquisition of taxable services by the withholding agents falling in paragraph 3 (1) (i) of this regulation, the Accountant General Pakistan Revenue (AGPR), its sub-office Peshawar or District Account offices in the Province, while making payment, shall deduct from the payable amount, the amount of provincial sales tax at the prescribed rate and credit the amount so deducted during a calendar month to the head of Account "G-05122" Sales Tax on Services (Khyber Pakhtunkhwa).
  - a. On the last date of each month, AGPR sub-office Peshawar shall issue an advice to the Central Accounts Section of State Bank of Pakistan (SBP) authorizing payment from Central Account-I into the Provincial Account-I of the Government equal to the amount as credited in the said head of account. A copy of the advice shall also be furnished to KPRA.

- b. On receipt of clearance memo from SBP, AGPR sub-office Peshawar will incorporate Journal Entry in the Federal Account as under:

Debit G-05122 – Sales Tax on Services (Khyber Pakhtunkhwa) Credit  
F01101- Non- Food Account (Central Account-1)

- c. On receipt of Clearance Memo from SBP, the Accountant General Khyber Pakhtunkhwa shall incorporate Journal Entry;

Debit F01101- Non- Food Account (Provincial Account-1)

Credit B-02386 Sales Tax on Services (Khyber Pakhtunkhwa).

Intimation thereof shall be sent to KPRA by 15<sup>th</sup> of the following month.

- ii. In case of acquisition of taxable services by the withholding agents falling in paragraph 3 (1) {(ii) & (iii)} of this regulation, the Military Accountant General (including the Service Controllers and Regional Controllers) and other federal departmentalized (self-accounting entities) while making payment (federal transaction), shall deduct from the payable amount, the amount of sales tax on services Khyber Pakhtunkhwa and credit to the Head of Account “G-05122” Sales Tax on Services (Khyber Pakhtunkhwa).

- a. On the last date of each month, each departmentalized accounts office shall issue a cheque in favor of “Director General KPRA” and deposit the same along with a Challan form in the NBP/SBP. The head of account B-02386 Sales Tax on Services (Khyber Pakhtunkhwa) shall be mentioned on the Challan form. A stamped copy of the same shall also be furnished to Authority by 15<sup>th</sup> of the following month.
- b. The National Bank of Pakistan/SBP will credit the amount in the Provincial Non-Food Account-I and Debit the Non-Food (Central Account-1)
- c. On Issuance of Cheques departmentalized entity will pass the Journal entry:

Debit G-05122 – Sales Tax on Services (Khyber Pakhtunkhwa);

Credit G10419 - Exchange Account Between Civil and Defence; or

Credit G104 - Remittance Account (relevant Code)

- d. On receipt of paid cheques from NBP/SBP, concerned District Accounts office, in the Federal Account shall:

Debit G10419- Exchange Account between Civil and Defence; or

Debit G104- Remittance Account (relevant Code);

Credit F01101- Non-Food Account (Central Account-1);

- e. On receipt of Challan From the NBP/SBP, concerned district account office/Treasury office Peshawar in the provincial accounts will pass the journal entry:

Debit F01101- Non-Food Account (Provincial Account-1);

Credit G10419- Exchange Account between Civil and Defence; or

Credit G104- Remittance Account (relevant Code)

Intimation thereof shall be sent to KPRA by 15<sup>th</sup> of the following month.

- iii. In case of acquisition of taxable services by withholding agents falling in paragraph 3 (1) (iv) of this regulation, the Accountant General Khyber Pakhtunkhwa or the District Accounts Officers while making payment, shall deduct from the payable amount, the amount of provincial sales tax and account for the amount deducted at source during a month to the Head of Account "B-02386 Sales Tax on Services Khyber Pakhtunkhwa". The Accountant General Khyber Pakhtunkhwa shall send an intimation in this regard to the Authority by 15<sup>th</sup> of the following month.
- iv. In case of acquisition of taxable services by withholding agent falling under paragraphs 3 (1) (v) and 3 (1) (vi) of this regulation, the concerned Drawing and Disbursing Officer, while making payment, shall deduct from the payable amount, the amount of provincial sales tax and account for in the monthly account. The amount so deducted shall be accounted for to the Head of Account "B-02386 Sales Tax on Services Khyber Pakhtunkhwa".
- v. In case of acquisition of taxable services by the withholding agents falling in paragraph 3 (1) (vii) of this regulation, who are making payments directly at their own level through their internal accounting systems, the concerned Drawing and Disbursing Officer shall be responsible to deduct and deposit the amount of sales tax in time with Government through CPR (after first generating PSID as per system-based process).
- vi. In case of acquisition of taxable services by federal government departments, organizations, institutes, bodies, projects, ventures, entities, bodies, authorities etc. which are using assignment accounts, the concerned Drawing and Disbursing Officer shall be responsible to deduct and deposit the amount of sales tax in time with Government through CPR (after first generating PSID as per system-based process).

(2) Where under any emergency or exceptional circumstances, any accounting office finds it difficult or impractical to make payment as aforesaid, it may deposit the tax through a cheque or cheques with the authorized bank branch (National Bank of Pakistan) in the relevant head of account at its own level under intimation to the Director General of the Authority or alternatively it may send such cheque either to the withholding agent for direct deposit, or to the Director General of the Authority for deposit purposes.

(3) Each of the accounting office or as the case may be, withholding agent referred to in sub-para (1) of this paragraph, shall within fifteen days of the issuance of this regulation inform the Collector of the Authority about the name, designation and official telephone number (besides mobile number, if available) of its/his officer/official responsible or deputed to make deductions and deposits of provincial sales tax amounts on its/his behalf so that the Collector of the Authority may maintain a regular facilitative coordination with such officer/official for smooth compliance to this regulation.

(4) For each month, the concerned Drawing and Disbursing Officer of the withholding agent shall electronically prepare and file a withholding statement by the 20<sup>th</sup> of the following month.

**REITERATION NOTE:** For the purpose of clarity and emphasis, it is reiterated that the head of account for the purpose of payment or deposit of Khyber Pakhtunkhwa sales tax on services with the Government of Khyber Pakhtunkhwa is "*detailed object B-02386--- Sales Tax on Services, Khyber Pakhtunkhwa*" wherein all the withheld tax amounts are to be deposited with the Government as prescribed under this regulation.

**11. Monthly withholding statements by other withholding agents.--** The withholding agents other than those covered under regulation 10 or those who are registered with the Management Committee of the Authority as regular taxpayer shall, for each month, electronically prepare and file a statement by 18<sup>th</sup> of the following month as specified and available on Authority's official website and in case no withholding transaction has taken place in any month, a nil statement shall be filed.

**12. Conditions for withholding from unregistered service providers.--** (1) Where any withholding agent procures taxable service from a person not registered with the Management Committee of the Authority as a service provider, he shall, besides deducting leviable Provincial sales tax, invariably take:

- a. a copy of the National Identity Card (CNIC) from an unregistered individual service provider, or
- b. National Tax Number (NTN) issued under the Income Tax Ordinance, 2001 (XLIX of 2001) in case the unregistered service provider is partnership or a company.

(2) The information about the NIC and NTN shall be provided to the Management Committee of the Authority through the very next statement, declaration, return filed under or in pursuance of or for the purposes of these regulations.

**13. Issuance of withholding certificates.--** On request by the service provider from whom tax withholding has been made, the withholding agent shall issue a withholding certificate and one copy of every such certificate shall invariably be sent to the Deputy Collector (Withholding) of the Authority:

Provided that if the service provider is not registered with the Management Committee of the Authority, he shall be stated as unregistered and where such service



provider is not registered with the Management Committee of the Authority but is registered with other sales tax jurisdictions, the number of the registration and the name of the registering tax authority shall be mentioned.

**14. Adjudication for failure or default in tax withholding.--** (1) Where any person or withholding agent or as the case may be, Drawing & Disbursing Officer whether registered as such or not, has failed to comply with the withholding obligation under the Act, including section 14 thereof, or these regulations or has failed to withhold the due tax payable to the Government or has withheld such tax but has failed to timely deposit the tax so withheld, the officer of the Authority, authorized under the Act shall proceed against such person for assessment and recovery of tax due under section 27 of the Act.:

Provided that where during the pendency of the adjudication, it is reported, found or ascertained that the tax amount covered in the show cause notice has been deposited with the Government, the proceedings shall abate to the extent of the amount so deposited without prejudice to the liability, full or part, on account of default surcharge or penalty as may be payable or otherwise determined under the Act.

(2) For the purpose of this regulation, the failure to file a monthly statement thereunder shall be treated as failure to file a monthly return and shall be liable to penal action or penalty accordingly.

(3) The audit provisions of the Act shall *mutatis mutandis* apply for the purposes of audit of withholding agents.

**15. Miscellaneous matters.--** (1) The Drawing & Disbursing Officer of the public sector withholding agents shall be personally responsible to ensure that all due and withholdable tax amounts are duly withheld and deposited or caused to be deposited with Government as prescribed under these regulations and the required statements are duly and timely filed with the Authority.

(2) The registered taxpayers (service providers) of the Authority who have provided taxable services to the withholding agents and their tax has been withheld and deposited by such agents, shall be entitled to avail admissible credit/adjustment of the tax, so deducted only on the basis of withholding certificates issued to them by the concerned withholding agents.

(3) While the obligation of the registered taxpayers of the Authority for the maintenance of records is principally governed under section 35 of the Act, the withholding agents shall similarly maintain all relevant records and documents of all their withholding transactions including invoices, proofs of tax payments, statements and withholding certificates etc. for a period of five years.

(4) Every withholding agent shall be under legal obligation to cooperate with and provide free access to the records and documents maintained or kept by him under these regulations to the authorized officer of the Authority not below the rank of Assistant Collector, for the purpose of any verification, inspection, audit or for any other official purpose and produce copies thereof as and if so, required by such Officer.

(5) Where any difficulty arises in giving effect to any of the provisions of these regulations, the Management Committee of Authority may direct such solution-oriented actions to be done as may be considered appropriate, plausible and necessary to remove such difficulty.

(6) Where any special or exceptional circumstances so warrant, the Policy Board of the Authority may, for reasons to be recorded in writing, exempt any service provider or class of service providers from the application of this regulation and allow the collection and payment of tax directly by the concerned service provider or as the case may be, service providers.

(7) The provisions of the rules, regulations, notifications, general orders or notices or clarifications issued under the Act, shall apply to the extent of matters and issues not specifically covered under these regulations.