



KHYBER PAKHTUNKHWA

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KHYBER PAKHTUNKHWA REVENUE AUTHORITY (KPRA)

NOTIFICATION

Dated Peshawar, the 13th August, 2019.

No.F-16(4)KPRA/Notification/WH/1394-99: In exercise of the powers conferred under section 114 of the Khyber Pakhtunkhwa Finance Act, 2013 (XXI of 2013) read with clause (o) of subsection (2) of section 5, subsections (2) and (3) of section 27, subsection (2) of section 30 and subsection (3) of section 34 and further read with all relevant provisions thereof, the Khyber Pakhtunkhwa Revenue Authority is pleased to make the following regulation, namely. –

1. **Short title, application and commencement.** – (1) This regulation may be called as Khyber Pakhtunkhwa Sales Tax on Services (Withholding) Regulation, 2020.
 - (2) It 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) It shall take effect on and from the first day of September 2020.
2. **Definitions.** – (1) In this regulation, the following words and terms shall have meanings assigned to them hereinafter:
 - (i) **“Act”** means the Khyber Pakhtunkhwa Finance Act, 2013 (XXI of 2013);
 - (ii) **“Authority”** means the Khyber Pakhtunkhwa Revenue Authority citable as KPRA or Authority and includes its officers and officials while performing their official duties as employees of the Authority.
 - (iii) **“Government”** means Government of Khyber Pakhtunkhwa;
 - (iv) **“Head of Account”** means the Head of Account under detailed object B-02386 ---Sales Tax on Services, Khyber Pakhtunkhwa wherein all the withheld tax amounts are to be deposited with or transferred to the Provincial Consolidated Fund (Government);
 - (v) **“Paragraph”** means paragraph of this regulation and sub-paragraphs, clauses or items shall be construed and referred to accordingly;
 - (vi) **“Province”** means the province of Khyber Pakhtunkhwa;
 - (vii) **“Taxable service”** means a service taxable under the Second Schedule of the

Act and includes the service which has been clarified or confirmed as taxable by the Authority through any form of communication;

(viii) **“Withholding”** means an obligatory process involving:

--- *retention* of tax as per tax invoice or

--- *deduction* of tax leviable but not levied on non-tax or commercial invoice,

by a service recipient on or from the value of the **“taxable service”** paid, to be paid or payable to the service provider and deposit thereof with the Government as aforesaid:

provided that in case of non-tax or commercial invoice, tax amount shall be calculated treating the value given in such invoice as exclusive of tax and the tax amount so calculated shall be withheld from within the invoice value and paid to the Government accordingly;

Explanation: Under no circumstances, withholding shall be deemed or treated as reverse charge where non-tax or commercial invoice value is or has been legally allowed to be treated as value inclusive of deductible and payable tax; and

(ix) **“Withholding agent”** means withholding agent as specified in paragraph 3 of this regulation regardless of the location of his or its head office or location of the business premises or jurisdiction of his or its registration or enrolment.

Explanation: For the purposes of this definition, it is clarified that the expression “withholding agents” shall include their respective accounting offices which are responsible for authorizing payments against the taxable services received by them.

(2) The words and terms used but not defined in this regulation shall have the same meanings and interpretations as are assigned to them under the Act and rules or regulations made thereunder so far as they are applicable or relevant to this regulation.

3. **Withholding agents and their responsibility.** – (1) For the purposes of this regulation, all recipients of taxable services, falling in any of the following categories shall be the 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-offices and District Accounts Offices.
- 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.
- v. All Provincial Government Departments including District Government Departments who submit their bills (including payments made in respect of projects) for pre-audit to the respective Accountants General (AG) of the Province and District Accounts Offices.
- vi. Environment Department of the Government who submits compiled accounts to the Accountant General Khyber Pakhtunkhwa.
- vii. 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.
- viii. 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.
- ix. Companies as defined under sub-section (12) 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 of Khyber Pakhtunkhwa.
- x. Any other person specified, declared or confirmed by the Authority as withholding agent.

(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.

Explanation: As and when need arises for the audit of the propriety of due payments of withholding tax amounts by the government departments, public sector organizations or accounts offices etc during any financial year, the Authority may, instead of conducting audit at its own level, require them for their self-audit of such tax amounts and payment thereof and to furnish an audit report along with a certificate to the

Authority as to the propriety of the withholding tax amounts and payments thereof and such audit shall be deemed to be an audit by the Authority provided that nothing shall bar the Authority for any verification, investigation or re-audit on this account;

Provided that nothing shall restrict or bar the Authority to conduct or cause to be conducted audit of any withholding agent and all provisions of the Act and rules,

regulations or other orders, instructions or guidelines issued thereunder, relating to the audit and allied matters, of a registered person shall, mutatis mutandis, apply on the audit of withholding agents.

4. Services not subject to withholding. – The telecommunication services (excluding such services as are provided or received by telecom companies to or from each other) and 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 Authority conditionally or otherwise, shall not be liable to withholding

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

- (i) Advertisement services of all descriptions, categories and types,
- (ii) Services provided by persons either not registered with the Authority or registered, are inactive/non-active as per Active Taxpayers' List of the Authority as available on its official website,
- (iii) 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,
- (iv) Services provided in the province of Khyber Pakhtunkhwa by persons from outside the province if such persons are not registered with the Authority, and
- (v) 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 of Khyber Pakhtunkhwa from a person registered in other provincial sales tax jurisdictions including Islamabad Capital Territory but not registered with the Authority.

6. Extent of withholding in other cases. – (1) In all other cases not covered under paragraph 5, only fifty percent of the amount of leviable tax shall be withheld by the withholding agent and deposited with the Government as provided under this regulation.

7. Input tax adjustment under withholding regime. — (1) The persons who are registered with 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 this regulation.

(2) Under no circumstances, tax adjustment shall 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: 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 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 Authority as a service provider under the Act but is registered with 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 sales tax 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 the reasons of non-availability of proof of payment, he shall deposit the 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 15th 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 Authority as a regular tax payer in capacity as a service provider, 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 necessary additional insertion as withholding agent in the relevant category box of their original registration application available in the Authority's database.

(2) Subject to sub-paragraph (3), a person who is not already registered with the Authority as a regular tax payer but is required to comply as withholding agent, shall apply (for registration as withholding agent) with the Authority upon which he shall be electronically allocated user identification, password and personal identification number for the provincial sales tax withholding purposes and such person may subsequently, if

legally or otherwise legitimately required for any valid reasons, apply to the Authority for deregistration as withholding agent and every such deregistration shall be subject to due completion of the legal requirements, if any:

Provided that under no circumstances, the responsibility of any person as withholding agent shall be effected 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 this regulation.

(3) 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 Authority for enrolment as withholding agent to get user ID, password for the purposes of payment of tax through PSID and CPR and for e-filing of the withholding statements to the Authority.

(4) The public sector withholding agents making payments through external accounting offices, shall obtain FTN in terms of sub-paragraph (3) only for the purpose of e-filing of withholding statements after enrolment with and after obtaining or issuance of password from the Authority.

(5) The provisions of section 43 read with all other relevant provisions of the Act 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 this regulation.

10. Procedure for accounting and deposit of withheld amount of sales tax on services under different accounting systems of the Federal and Provincial Governments. -- (1) The Drawing and Disbursing Officers (DDOs), 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), the Accountant General Pakistan Revenue, its Sub-offices or District Accounts Offices, while making payment, shall deduct from the payable amount, the amount of provincial sales tax and credit the amount so deducted during a calendar month to the Head of Account "G-12777 Sales Tax on Services deduction at source under Khyber Pakhtunkhwa Sales Tax on Services (Withholding) Regulation, 2020". The amount so credited during a month shall be transferred to Accountant General Khyber Pakhtunkhwa through civil exchange account in the following month for credit to the Head of Account B-02386 Sales Tax on Services Khyber Pakhtunkhwa and intimation thereof shall be sent to KPRA by 15th of the following month.

(ii) In case of acquisition of taxable services by withholding agents falling in paragraph 3(1)(ii), the Military Accountant General, the Service Controllers and Regional Controllers, while making payment, shall deduct from the payable amount, the amount of provincial sales tax and credit the amount to the Head of Account "G-12777 Sales Tax on Services deduction at source under Khyber Pakhtunkhwa Sales Tax on Services (Withholding) Regulation, 2020". The amount so credited during a month shall be transferred to Accountant General Khyber Pakhtunkhwa through civil exchange account in the following month for credit to

the Head of Account B-02386 Sales Tax on Services Khyber Pakhtunkhwa and intimation to that effect shall be sent to KPRA by 15th of the following the month.

(iii) In case of the withholding agents falling in paragraph 3(1)(iii), the respective Chief Accounts Officers/ Director Budget & Accounts shall credit the amount deducted by his office to the Head of Account "G-12777 Sales Tax on Services deduction at source under Khyber Pakhtunkhwa Sales Tax on Services (Withholding) Regulation, 2020". The amount so credited during a month shall be transferred to Accountant General Khyber Pakhtunkhwa through civil exchange account in the following month for credit to the Head of Account B-02386 Sales Tax on Services Khyber Pakhtunkhwa and intimation on this account shall be sent to KPRA by 15th of the following month.

(iv) In case of acquisition of taxable services by withholding agents falling in paragraph 3(1)(iv), 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" deduction at source under Khyber Pakhtunkhwa Sales Tax on Services (Withholding) Regulation, 2020". The Accountant General Khyber Pakhtunkhwa shall send an intimation in this regard to the Authority by 15th of the following month.

(v) In case of acquisition of taxable services by withholding agents falling in paragraph 3(1)(v), the Accountant General of the respective province shall credit the amount deducted by his office, to the Head of Account "G-12777 Sales Tax on Services deduction at source under Khyber Pakhtunkhwa Sales Tax on Services (Withholding) Regulation, 2020". The amount so collected, deducted and credited during a month shall be transferred to Accountant General Khyber Pakhtunkhwa through civil exchange account in the following month for credit to the Head of Account B-02386 Sales Tax on Services Khyber Pakhtunkhwa and send intimation on this account shall be sent to KPRA by 15th of the following month.

(vi) In case of acquisition of taxable services by withholding agent falling under paragraphs 3(1)(vi) and 3(1)(vii), 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 deposited to the Head of Account "B-02386 Sales Tax on Services Khyber Pakhtunkhwa".

(vi) In case of acquisition of taxable services by the withholding agents falling in paragraph 3(1)(viii), who are making payments directly at their own level through their internal accounting systems, the concerned Drawing and Disbursing Officers shall be responsible to deduct and deposit the amount of 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 20th 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 paragraph 10 or those who are registered with the Authority as regular taxpayer shall, for each month, electronically prepare and file a statement by 18th 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 Authority as a service provider, he shall, besides deducting leviable provincial sales tax, invariably take:

--- a copy of the National Identity Card (CNIC) from an unregistered individual service provider, or

--- 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 Authority through the very next statement, declaration, return filed under or in pursuance of or for the purposes of this regulation.

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 Authority, he shall be stated as unregistered and where such service provider is not registered with 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 withholding agent or as the case may be, Drawing & Disbursing Officer whether registered as such or not, 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 not below the rank of Assistant Collector may issue show cause notice to such agent, adjudicate the case and determine and recover the tax liability along with default surcharge and penalty in terms of the relevant provisions of the Act and rules and regulations made thereunder:

Provided that where during the currency 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

15. **Miscellaneous matters.** – (1) The Drawing & Disbursing Officers 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 this regulation 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 48 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 this regulation 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 this regulation, the Director General 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 Director General 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 this regulation.

16. **Repeal:** The Khyber Pakhtunkhwa Sales Tax on Services Special Procedure (Withholding) Regulation, 2015 shall stand repealed from the date of coming into effect of this regulation.

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Director General
Khyber Pakhtunkhwa Revenue Authority

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