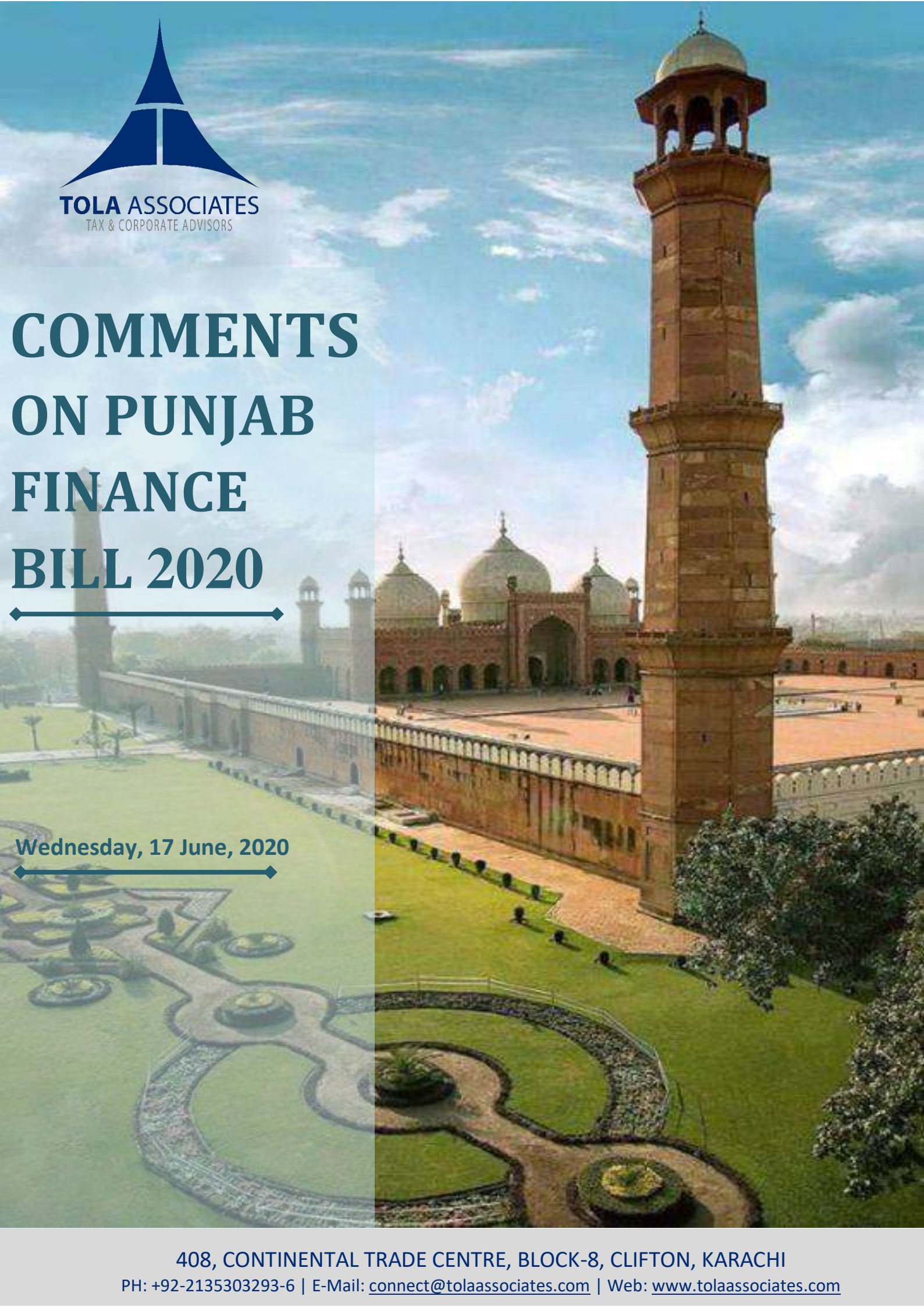


# COMMENTS ON PUNJAB FINANCE BILL 2020

Wednesday, 17 June, 2020



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## ➤ PREAMBLE

The Punjab Finance Bill 2019 [PFB] was promulgated and was placed on the Punjab Finance Official website on Tuesday, 15th June 2020 with total outlay of Rs 2.24 trillion with Development Budget estimated at Rs. 337 bn and Tax relief package for COVID-19 affected economy estimated at Rs. 56.5 bn for fiscal year 2020-21.

The bill has proposed certain unprecedented amendments in the Punjab Sales Tax on Service Act, 2012[Act] in the wake of COVID-19 pandemic to provide Financial relief to the Taxpayers in order to achieve economic stability in the Province for this fiscal year 2020-21. The Social welfare as well as development of the people of Punjab and expenditure control for cost-effective spending forms the core dimension of this Bill.

### 1. DEDUCTION AND ADJUSTMENT OF TAX ON INPUTS TO THE BUSINESS – SECTION 16

As per subsection 1 of Section 16 of Act, Punjab sales tax paid as input tax on the receipt of taxable services exclusively used in connection with the taxable services the registered taxpayer provides is allowed as adjustment from sale tax liability to be paid to Punjab Revenue Authority [PRA] with condition that the taxpayer holds a true and valid tax invoice **not older than six tax periods**. As per sub section 2, the PRA is authorized to allow a registered person to also claim adjustment, deduction, or refund in respect of the tax paid under any other law i.e. Federal sales tax or any provincial sales tax, for any taxable service or goods or class of taxable service or goods used in connection with the provision of a taxable service by such person, **on his furnishing a tax invoice or declaration of import of goods in his name which bears his National Tax Number**. There may be a confusion, that whether there is any time limit for adjustment of invoices in sub section 2, like specifically provided in subsection 1.

To rectify above, bill proposes to amend wordings in subsection 2, to clarify that the tax invoices or declaration of import of goods shall not be older than 6 months.

### 2. ADJUSTMENT OF INPUT TAX PAID ON CERTAIN GOODS AND SERVICES – SECTION 16C

Section 16C was inserted vide Finance Act 2017, to provide special provisions for input tax adjustment on fixed assets, whereby the input tax paid on acquisition of such of the capital goods, machinery and fixed assets as are classified under section XVI, Chapters 84 and 85 of the First Schedule of the Customs Act, 1969 (IV of 1969) shall be adjustable against the output tax in twelve equal monthly installments. This concept is similar to one that had been in Federal Sales Tax section 8B proviso to subsection (1) which was omitted vide Finance Act 2011, thereafter allowing whole input tax adjustment paid on fixed asset in single period. Further as per Federal Sales Tax Section 8B (1) proviso, the restriction on the adjustment of input tax in excess of 90% of the output tax shall not apply in case of fixed assets or capital goods.

Now similar amendment in wordings has been proposed by bill in Section 16C of Act, to done away with input adjustment in installments and allow whole input in tax period in which it is paid. However, against Federal sales tax, the bill proposes to impose restriction on input tax adjustment in excess of 80% of the output tax for that tax period. The bill further empowers PRA, to exclude any person on class of person from this restriction of 80%. This will be partial relief for cashflow dearth taxpayers in current pandemic.

### 3. REFUNDS – SECTION 16D

The bill proposes to add new section 16D, to empower PRA or its authorized officer, to allow a registered person refund of the tax claimed to have been paid through inadvertence, error or misconstruction. However, it is silent for circumstances where incidence of tax has been passed to final consumer.

### 4. DEREGISTRATION – SECTION 29

As per Section 29 the PRA may de-register a registered person or such class of registered persons not required to be registered under this Act. Now bill proposes to give Commissioner such authority.

## 5. ISSUANCE OF TAX INVOICES – SECTION 30

The bill proposes to allow electronic issuance of invoices and to transmit such invoices to PRA in such format and manner as PRA may by notification prescribe.

## 6. RECORDS – SECTION 31

Section 31(1) of Act prescribes the record particulars to be maintained by registered person providing taxable service. The bill now proposes, to further elaborate the record to be maintained, a brief comparison is presented below for understanding. In our view the record requirement for exempt services will further add hardship for the service providers.

BEFORE PROPOSED AMENDMENT	AFTER PROPOSED AMENDMENT
<p>(a) Records of taxable service provided indicating:</p> <p>(i) The description and type of service;</p> <p>(ii) The value of the service;</p> <p>(iii) The particulars of the person to whom the service was provided; and</p> <p>(iv) any other information as may be specified by the Authority;</p> <p>(b) Records of exempt service; and</p> <p>(c) Such other records as may be specified by the Authority.</p>	<p>(a) record of services provided, including exempt services, indicating the description, quantity and value of service, name, registration number and address of the person to whom services were rendered and the amount of tax charged;</p> <p>(b) record of goods and services received, including exempt goods and services, indicating description, quantity and value of goods and services, name, address and registration number of the service provider or supplier of goods and the amount of the tax charged;</p> <p>(c) record of goods imported indicating the description, quantity and value of goods and the amount of tax paid on imports;</p> <p>(d) double entry accounts;</p> <p>(e) bank statements and banking instruments;</p> <p>(f) inventory records, utility bills, salary and labor bills, rent deeds and agreements;</p> <p>(g) record required to be maintained and the declarations filed under any other law for the time being in force; and</p> <p>(h) such other record as may be specified by the Authority</p>

## 7. AUDIT PROCEEDINGS – SECTION 33

In line with the current pandemic situation and to ensure social distancing, the bill proposes to allow the officer to conduct audit proceedings electronically through video links or any other facility as may be notified by PRA.

## 8. APPOINTMENT OF AUTHORITIES – SECTION 39

Section 39 enlists the hierarchy of tax officers to be appointed by PRA to fulfill various functions. Now bill proposes to merge the role of Audit compliance and Risk compliance functions under one officer to be known as “Audit-cum-Risk Compliance Officer”. This effort may improve risk-based selection and conduct of audit rather than random selection and conduct.

## 9. OBLIGATION TO PRODUCE DOCUMENTS AND PROVIDE INFORMATION – SECTION 57

Section 57 of Act, empowers officers, not below rank of Assistant Commissioner, of PRA to require any taxpayer, any third party or any department to produce for examination, such documents or records which officer consider necessary to audit, inquiry or investigation. Now bill proposes to empower officer below the rank of Assistant Commissioner too.

## 10. POWERS OF ADJUDICATION – SECTION 60

Section 60 prescribe the monetary limits of various officer's ranks to adjudicate cases under the Act. For ease of understanding the comparison of changes proposed by bill is presented below:

BEFORE PROPOSED AMENDMENT	AFTER PROPOSED AMENDMENT
(a) Additional Commissioner: Cases without any restriction as to the amount of the tax involved or amount erroneously refunded;	(a) Additional Commissioner: Cases without any restriction as to the amount of the tax involved or amount erroneously refunded
(b) Deputy Commissioner: Cases where the amount of the tax involved or the amount erroneously refunded, but does not exceed <b>two and a half</b> million rupees;	(b) Assistant Commissioner/Deputy Commissioner: Cases where the amount of the tax involved does not exceed <b>ten</b> million rupees
(c) Assistant Commissioner: Cases where the amount of the tax involved, or the amount erroneously refunded does not exceed <b>one</b> million rupees;	(c) Enforcement Officer/Audit-cum-Risk Compliance Officer: Cases where the amount the tax involved does not exceed <b>five</b> million rupees;

Further the bill proposes to empower PRA to assign a case to any officer involving any amount to tax involved.

## 11. APPEALS – SECTION 63

Under the present scenario of COVID-19 and to facilitate taxpayers the bill proposes to allow appeal to be filed electronically with Commissioner appeals as may be specified by PRA in notification.

## 12. APPEAL TO APPELLATE TRIBUNAL – SECTION 66

The bill proposes to extend time limit for filling of appeal by PRA with Tribunal from current 30 days to 60 days.

## 13. RECOVERY OF ARREARS OF TAX – SECTION 70

Section 70 prescribes various modes of recovery of tax including bank account attachments, property attachments, enforceable rights etc. Now the bill proposes that the tax may be recovered by banking company or financial institution from running finance or demand finance facility also. Further authority now proposed to be given to officer arrest or cause to arrest a defaulter and cause his detention in prison for a period not exceeding six months, subject to the condition that the adjudged amount has been upheld/confirmed by the Appellate Tribunal.

The officer may also recover default amount by attachment and sale of any movable or immovable property of the guarantor, person, company, bank or financial institution where a guarantor or any other person, company, bank or financial institution fails to make payment under such guarantee, bond or instrument. However, if taxpayer has preferred an appeal and has deposited 25% of amount, no recovery will be made through attachment of immovable property. Now bill proposes to reduce deposit amount for automatic stay from 25% to 10%.

## 14. SECOND SCHEDULE

PFB proposes amendments (in red and italic) in following tariff headings in second schedule of the Act.

S.NO	DESCRIPTION	CLASSIFICATION	RATE OF TAX	
			PRE PFB 20	POST PFB 20
1.	Hotels, motels, guest houses.	9801.1000	(i) Zero percent without input tax adjustment for non-corporate, non-franchise, non-chain businesses; and only (ii) sixteen percent or others.	(i). Five percent without input tax adjustment for non-corporate, non-franchise, non-chain businesses with less than 20 rooms; and (ii). Sixteen percent for others

	Marriage halls and lawns (by whatever name called) including pandal and shamiana services.	9801.3000	Zero percent without input tax adjustment.	Five percent without input tax adjustment
	Clubs including race clubs and their membership services including services, facilities or advantages, for a subscription or any other amount, to their members.	9801.4000	Sixteen percent.	Sixteen percent.
	Catering services (including all ancillary/allied services such as floral or other decoration, furnishing of space whether or not involving rental of equipment and accessories)	9801.5000	Zero percent without input tax adjustment.	Five percent without input tax adjustment.
7	Services provided in respect of insurance to a policy holder by an insurer, including a re-insurer for: (a) fire insurance; (b) goods insurance; (c) health insurance; (d) life insurance; (e) marine insurance; (f) theft insurance; and (g) Any other insurance. <b>EXCLUDING:</b> (a) marine insurance for export; and (b) Crop insurance.	98.1300	(i) Zero percent without input tax adjustment for health insurance and life insurance; and (ii) Sixteen percent of the gross premium paid, for others.	(i) Zero percent without input tax adjustment for health insurance for individuals; and (ii) Sixteen percent of the gross premium paid, for others.
11	Services provided by restaurants 5 [including cafes, food (including ice-cream) parlors, coffee houses, coffee shops, deras, food huts, eateries, resorts and similar cooked, prepared or ready-to-eat food service outlets etc]	9801.2000 and 9801.9000	Sixteen percent	(a) Five percent without input tax adjustment where payment against services is received through debit or credit cards; and (b) Sixteen percent for others.
13	Franchise service [including intellectual property rights services and licensing services].	9823.0000, 9839.0000 and respective headings	Sixteen percent	(a) Five percent without input tax adjustment for services relating to educational institutions; and (b) Sixteen percent for others.
14	(iii) residential construction projects where the covered area does not exceed 10,000 square feet for a house and 20,000 square feet for an apartment except where construction services are provided	9824.0000 and 9814.20000	Zero percent without input tax adjustment	Zero percent without input tax adjustment

	to construct more than one house or more than one apartment building; <b>or</b>			
15	<p>(i) Services provided by property developers, builders and promoters (including their allied services). Excluding: Actual purchase value or documented cost of land.</p> <p>(ii) Affordable housing services provided under Government sponsored housing programs.</p> <p><b>Proposed:</b> <i>“Services provided by property developers, builders and promoters (including their allied services); Excluding: Affordable housing services provided under Government sponsored housing programs”.</i></p>	9807.0000 and respective subheadings of heading 98.14	<p>(i) Eight percent without input tax adjustment or sixteen percent with input tax adjustment; and</p> <p>(ii) Five percent without input tax adjustment or sixteen percent with input tax adjustment.</p>	Rs.100 per square yard for land development and Rs.50 per square feet for building construction.
18	<p>Services provided for personal care by beauty parlors, salons, clinics, sliming clinics, spas (including saunas, Turkish baths and Jacuzzi) and similar other establishments.</p> <p><b>EXCLUDING:</b> Services provided in a parlour, salon or clinic where the facility of air-conditioning is not installed or is not available in the premises on any day of the financial year.]</p>	9810.0000 9848.0000 9847.0000 9821.4000, 9821.5000 and 9815.7000 and respective headings	Zero percent without input tax adjustment	<p>(a) Five percent without input tax adjustment where payment against services is received through debit or credit cards; and</p> <p>(b) Sixteen percent for others.</p>
22	Information technology-enabled or information technology based services including software development, software customization, software maintenance, system support, system assembly, system integration, system designing and architecture, system analysis, system development, system operation, system maintenance, system up-gradation and modification, data warehousing or management, data entry operations, data migration or transfer, system security or protection, web designing, web development, web hosting, network designing, services relating to enterprise resource or management planning (including	9815.6000 and respective headings	<p>(i) Zero percent without input tax adjustment for services provided by digital platforms; and</p> <p>(ii) Sixteen percent for others.</p>	Five percent without input tax adjustment

	marketing of products), development and sale of smart phone applications or games, graphics designing, medical transcription, remote monitoring, telemedicine, insurance claim processing, online retrieval and database access or retrieval service.			
	Services provided by tour operators and travel agents including all their allied services or facilities other than Hajj and Umrah including Ziyarat.	9805.5100 9805.5000 and 9803.9000	Zero percent without input tax adjustment	Five percent without input tax adjustment
<b>26</b>	Manpower recruitment agents 8 [including labor and manpower supplies	9805.6000	Sixteen percent	(a) Five percent without input tax adjustment for services where the value of service is fixed by the Bureau of Emigration and Overseas Employment; and (b) Sixteen percent for others.
<b>32</b>	Services provided by property dealers and realtors.	9806.2000 and 9844.0000	Zero percent without input tax adjustment	Five percent without input tax adjustment
<b>35</b>	Services provided in respect of rent-a-car (including renting of all categories of vehicles meant for transportation of persons).	9819.3000 9819.3000 and respective headings	Zero percent without input tax adjustment	(a) Five percent without input tax adjustment for services provided to end consumers; and (b) Sixteen percent for others.
<b>36</b>	Services provided by car/automobile dealers.	9806.3000 and 9845.0000	Zero percent without input tax adjustment	(a) Sixteen percent for services provided by companies or authorized dealers; and (b) Five percent without input tax adjustment, for others.
<b>37</b>	Services provided in respect of manufacturing or processing on toll or job basis against processing on conversion charges including industrial and commercial packaging services and similar	9868.0000 9841.0000 and 9819.1400	Sixteen percent	Five percent without input tax adjustment



	outsourcing of industrial or commercial processes.			
40	Brokerage (other than stock) and indenting services including commission agents, under-writers and auctioneers.	9829.0000, 9819.1200, 9819.1100, 9819.1300 and 9819.9100	Sixteen percent	(a) Five percent without input tax adjustment for services provided in respect of agricultural produce; and (b) Sixteen percent for others.
43	Services provided in specified fields such as health care, gym, physical fitness, indoor sports, games, amusement parks, arcades and other recreation facilities and body or sauna massage etc.	9821.1000 and 9821.2000 9821.4000	Zero percent without input tax adjustment	Five percent without input tax adjustment
45	Services provided by cable TV operators.	9819.9000	Zero percent without input tax adjustment	Five percent without input tax adjustment
52	Services provided by accountants (including practicing chartered or cost accountants), auditors, actuaries, tax consultants (by whatever name called), practicing company secretaries, receivers, liquidators, auctioneers and corporate law consultants, whether individual or otherwise.	9815.2000 9815.3000 9850.0000 9851.0000 9855.0000 and respective headings	Sixteen percent	(a) Five percent without input tax adjustment for services relating to accountancy, audit, tax or corporate law consultancy; and (b) Sixteen percent for others.
58	Services provided by photography studios and event or occasion photographers/film-makers <b>EXCLUDING:</b> Non-corporate (individual) photographers operating from small road-side shops declared as such by the Authority.	9819.7000 and respective headings	Sixteen percent	Five percent without input tax adjustment
60	Services provided by skin and laser clinics, cosmetic and plastic surgeons and hair transplant services including consultation services. <b>EXCLUDING:</b> Services provided to acid or burn victims.	9847.0000 and respective headings	Sixteen percent	Five percent without input tax adjustment
63	Parking Services	Respective headings	Sixteen percent.	Five percent without input tax adjustment

66	Services in respect of treatment of textile, leather but not limited to Dyeing services, Edging and cutting, cloth treating, water proofing, Embroidery, Engraving, Fabric bleaching, Knitting, Leather staining, Leather working, Pre-shrinking, Colour separation services, pattern printing and shoe making services.	Respective headings	Zero percent without input tax adjustment	Five percent without input tax adjustment
67	Apartment house management, real estate management and services of rent collection.	Respective headings	Zero percent without input tax adjustment	Five percent without input tax adjustment
68	(i) Medical consultation/ visit fee exceeding Rs. 1,500 per consultation/ visit of doctors, medical practitioners, and medical specialists. (ii) Bed/ room charges of hospitals exceeding Rs. 6000/- per day per bed / room.	9815.1000 and other Respective headings	Zero percent without input tax adjustment	Zero percent without input tax adjustment

### ADDITION

PFB proposes to add following further services (in red and italics if part addition is made) in the list of taxable services.

S.NO	DESCRIPTION	HEADING	RATE
14.	Construction services and services provided by contractors of building (including water supply, gas supply and sanitary works), roads and bridges, electrical and mechanical works (including air conditioning), horticultural works, multi-discipline works (including turn-key projects) and similar other works but: <b>EXCLUDING:</b> (i) Where the tax is otherwise paid by registered persons as property developers, builders or promoters for building construction; or (ii) Where the construction work is funded under an agreement of foreign grant-in-aid or involves construction of consular buildings; or (iii) Residential construction projects where the covered area does not exceed 10,000 square feet for a	9824.0000 and 9814.20000	Zero percent without input tax adjustment.

	house and 20,000 square feet for an apartment except where construction services are provided to construct more than one house or more than one apartment building <i>(iv) where the construction services are provided to any registered person who is otherwise liable to pay sales tax as a property developer, builder and promoter.</i>		
69	Ride-Hailing Services	-	Four percent without input tax adjustment.

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