



COMMENTS ON BALOCHISTAN FINANCE ACT 2020

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1. PROLOGUE

The Balochistan Budget 2020-21, was tabled before the Balochistan Assembly on 20th June 2020, with a total outlay of Rs. 465.5 billion for the fiscal year 2020-21. The same was approved and passed on 27th June 2020. It is pertinent to note that more than 66% of the total budget was allocated for Non-Development Expenditure amounting to Rs. 309 billion, whereas, the leftover amount of Rs. 156 billion was allocated for Developmental Expenditure. The total receipts amounted to Rs. 377.9 billion, which clearly indicates a budget deficit of Rs. 87.6 billion. Our comments on the changes made in the Balochistan Sales Tax on Services Act, 2012 via the Balochistan Finance Act 2020-21 are presented hereinbelow.

2. ISSUANCE OF TAX INVOICES - SECTION 30

The captioned Section pertains to the particulars, manner and procedures applicable in issuing invoices by a registered person, against the services rendered by him. The BRA may allow a registered person providing a taxable service to issue invoices to another registered person or other recipient of taxable service electronically and transmit images or statements of such invoices to the BRA as well as to the Commissioner. Now, the requirement to transmit invoice to Commissioner electronically has been omitted.

3. RECORDS - SECTION 31

The captioned Section pertains to record keeping of taxable services rendered by a registered person. The same was very brief with regards to the description of records. Now, changes have been made to specify each detailed record to be maintained for taxable, as well as **exempt** services.

A comparative table has been provided below:

Before Amendment	After Amendment
<p>(a) Records of taxable service provided indicating :-</p> <ol style="list-style-type: none"> i. The description and type of service; ii. The value of the service; iii. The particulars of the person to whom the service was provided; and iv. Any other information as may be specified by the Authority; <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) Books of Prime Entry or subsidiary books including Cash Books;</p> <p>(e) Double entry accounts including General Ledger;</p> <p>(f) Annual Audited Financial Statements prepared either on the basis of International Financial Reporting Standards (IFRSs), or International Public Sector Accounting Standards (IPSAS), as the case may be;</p>

- (g) Bank statements, banking instruments and the related reconciliation statements;
- (h) Inventory records, utility bills, salary and labor bills, rent deeds and agreements;
- (i) Record required to be maintained and the declarations filed under any other law for the time being in force; and
- (j) Records of tax invoices and debit credit notes issued by the person;
- (k) Records of tax invoices and debit credit notes received by the person;
- (l) Records of customs documents (goods declaration under Section 30 of the Customs Act, 1969 and its ancillary documents);
- (m) Minutes of various meetings, including minutes of Board meeting(s), the Annual General Meeting (AGM), and the Extra Ordinary General Meeting; and
- (n) Such other records as may be specified by the Authority.

4. AUDIT PROCEEDINGS - SECTION 33

This Section pertains to the audit of a registered person, on the basis of his maintained records or his submitted returns. Now, the documents and records available with agent of the registered person or in any electronic media, can be subject to audit. Moreover, the officer now authorized for conducting audit, can also do so electronically, via any video link or any other facility.

5. RETURNS - SECTION 35

Section 35 contains provisions for monthly returns filed with the BRA, by registered taxpayers, against sales in terms of services rendered by them. Now, the manual submission of returns to designated banks or office of BRA has been substituted by online submission.

6. OFFENCES AND PENALTIES - SECTION 48

The following penalties have been added:

S.No	Offences	Penalties	Section
2A	Where any person fails or refuses to issue a tax invoice as required in sub-rule (1) of rule 29 of the Balochistan Sales Tax on Services Rules, 2018	Rs 20,000 on first default, and Rs 50,000 for each subsequent default. + business premises sealed on 3 defaults.	General
2B	Where any person either avoids, defies, fails to comply with e invoicing system or Issues Invoices outside the e-invoicing system.	Maximum penalty Rs 100,000 and Minimum penalty Rs 25,000 + business premises sealed on 3 defaults	59A

7. SECTION 63 – “APPEALS”

This section deals with situations where a taxpayer is aggrieved by any decision or order passed by any officer of the BRA and needs to file an appeal against such decision or order. An appeal shall be preferred to the Commissioner (Appeals), within thirty days of the receipt of the decision or order. Now, there is no time limit to file an appeal, and an option to file an appeal either manually or electronically has been given to aggrieved person.

8. APPELLATE TRIBUNAL - SECTION 66

The said Section deals with constitution of the legal forum of the Appellate Tribunal. The Appellate Tribunal shall consist of a Chairperson and such other judicial and technical members as are appointed by the Government, having regard to the needs of the Tribunal. The following changes have been made:

- The composition of the Appellate Tribunal is being altered to comprise of three members of such number of judicial and technical members as are determined and appointed by the Government having regard to the needs of the Tribunal.
- The Technical member will be the person recommended by a Government Committee, as prescribed in Section 3(4) of Balochistan Revenue Authority Act, 2015. The Technical Member would be a person who is, or has, been a Commissioner of the Balochistan Revenue Authority or Federal Board of Revenue, having at least two years of experience as Commissioner (Appeals). Now, it has been restricted to the Commissioner of BRA having at least two years of experience.
- The Technical Member can now be an Associated Chartered Certified Accountant or Associated Chartered Accountant having at-least three years of experience in taxation.
- The Government is also now empowered to appoint any person as Technical Member for 3 years, who has worked for a minimum of three years (i) in the Federal Board of Revenue or Provincial Excise and Taxation Department or Balochistan Board of Revenue in the rank not below BS20 for five years in aggregate, or (ii) as A Commissioner Inland Revenue (Appeals) under clause (c), subsection (1) of section 30 of the Sales Tax Act 1990, for three years with service of at least five years in BS-20, as an Accountant Member of the Appellate Tribunal.
- The Government shall appoint a member of the Appellate Tribunal as Chairperson of the Appellate Tribunal and, except in special circumstances, the person appointed should be a judicial member. Now, an exception to this rule has been provided, in so much so, in the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the senior most Member of the Tribunal shall act as the Chairperson until the date on which a new Chairperson is appointed to fill such vacancy. Where the Chairperson is unable to discharge his functions owing to absence, illness or any other cause, the senior most Member of the Tribunal shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties
- The powers and functions of the Appellate Tribunal shall be exercised and discharged by Benches constituted from members of the Tribunal by the Chairperson of the Appellate Tribunal. Now, the manner in which power and functions can be discharged can be prescribed through Rules.
- The Tribunal may dispose off any case where the amount of tax or penalty involved does not exceed Five Million rupees. Now, it is clarified that this tax or penalty is:
 - A tax;
 - Input tax credit involved; or
 - The difference in tax or input tax credit involved or the amount of fine, fee, default surcharge or penalty determined in any order appealed against, does not exceed five hundred thousand rupees and **which does not involve any question of law**. The question of law will now only be raised before the High Court.

- If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority. The majority rule is now also made applicable in cases where the Bench differs equally. However, an anomaly arises here as to how can there be any majority if the Bench is equally divided. The specific procedures in case of equal division of Bench have also been omitted.
- The Government may, from time to time, increase or decrease the number of members of the Appellate Tribunal, by way of a Notification in the official Gazette. Now, this will be done after consultation with the BRA and Finance Department.
- Now, any act or proceedings of the Appellate Tribunal shall not be questioned, or be invalid, merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.

9. MEMBER QUALIFICATION, REMUNERATION AND REMOVAL - SECTION 66A

A new Section 66A has been inserted that relates to the Member's qualification, remuneration and removal. This Section lays down a framework for the Qualification of a person as a member of Appellate Tribunal. The Government would assign remuneration to a selected member. Moreover, no member would be discharged or removed, without being informed of the charges imposed against him and without being the opportunity of being heard.

10. RECOVERY OF ARREARS OF TAX - SECTION 72

This Section pertains to the actions performed by the Authority in order to recover tax from defaulters. For the same purpose, the Authority can also make demand on behalf of the taxpayer, from a person who owes the taxpayer any payment under any legally enforceable contract. Now, the Authority can make a demand on behalf of any Banking company, which also includes a demand from Finance Facility Defaulters. **Moreover, a relief for taxpayer is provided by granting automatic stay of 30 days from the date of order.**

11. SECOND SCHEDULE - "TAXABLE SERVICES"

Tariff Classification	Description (<i>Changes highlighted in red and italics</i>)	Pre-Finance Act 2020	Post Finance Act 2020
9801.2000	Services provided or rendered by restaurants including café, coffee houses, food huts, ice-cream shops and eateries <i>Explanation: - For the purposes of this tariff heading, the term 'Chainaki Restaurant' means a restaurant, café, coffee house, food hut, ice cream shop and eatery where its monthly electricity consumption is not more than Rs. 7,000 and the number of employees does not exceed two</i>	15%	(i) 'Chainaki Restaurants': - the amount of monthly tax shall be fixed at Rs. 3,000 without input tax credit or adjustment; (ii) Other restaurants including cafés, coffee houses, food huts, ice cream shops and eateries excluding chainaki restaurants: - 6% without input tax credit or adjustment
9814.2000	Contractor of building (including water supply, gas supply and sanitary works), electrical and mechanical works (including air conditioning), multi-disciplinary works (including turn-key projects) and similar other works. Excluding. - Where the construction work is funded under an agreement of foreign grant-in-aid <i>or interest free loans</i> or	15%	(i) Rs. 60 per square yard in case the services mentioned are rendered in relation to a residential building / property; and (ii) Rs. 50 per square feet in case the services mentioned are rendered in relation to a

	involves construction of consular buildings. <i>Explanation - Notwithstanding the rate of 15% fixed in column 3 (rate of tax), the following reduced rate of 6%, will be applicable, for all services specified at tariff heading 9814.2000 without input tax credit or adjustment to the extent of contracts for which payment is made from the Provincial Consolidated Fund.]</i>		commercial building / property.
9814.3000	Property developers or promoters	15%	(i) Rs. 60 per square yard in case the services mentioned are rendered in relation to a residential property; and (ii) Rs. 50 per square feet in case the services mentioned are rendered in relation to a commercial property.
9815.4000	Management consultants. <i>“Excluding. - Where the services are rendered and funded under an agreement of foreign grant-in-aid or interest free loan.”;</i>	15% [6% without input tax credit / adjustment]	15% (6% without input tax credit / adjustment)
9815.5000	Technical, scientific and engineering consultants. <i>“Excluding. - Where the services are rendered and funded under an agreement of foreign grant-in-aid or interest free loan.”;</i>	15% [6% without input tax credit / adjustment]	15% (6% without input tax credit / adjustment)
9815.7000	Tax practitioners and consultants. <i>“Excluding. - Where the services are rendered and funded under an agreement of foreign grant-in-aid or interest free loan.”;</i>	15% [6% without input tax credit / adjustment]	15% (6% without input tax credit / adjustment)
9815.8000	Corporate law practitioners and consultants. <i>“Excluding. - Where the services are rendered and funded under an agreement of foreign grant-in-aid or interest free loan.”;</i>	15% [6% without input tax credit / adjustment]	15% (6% without input tax credit / adjustment)
9824.0000	Construction services. <i>Excluding. - Where the construction work is funded under an agreement of foreign grant-in-aid or interest free loan or involves construction of consular buildings.</i> <i>Explanation.- Notwithstanding the rate of 15% fixed in column 3 (rate of tax), the following reduced rate of 6%, will be applicable, for all services specified at</i>	15%	15%

	<i>tariff heading 9824.0000 without input tax credit or adjustment to the extent of contracts for which payment is made from the Provincial Consolidated Fund.”.</i>		
9868.0000	<p>Information and 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 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.</p> <p><i>Explanation. -Notwithstanding the rate of 15% fixed in column 3 (rate of tax), the following reduced rate of 6%, will be applicable, for all services specified at tariff heading 9868.0000 without input tax credit or adjustment.</i></p>	15%	15%

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