

New tax laws, FBR explains GST/FED-related amendments

ISLAMABAD: The government has imposed penalties and punitive actions for not printing retail price with sales tax on retail items and bringing exempted goods from "tax-exempt areas" of Azad Jammu and Kashmir, Gilgit-Baltistan and erstwhile tribal areas into tariff areas, while 3 percent value addition tax on the import of plant/machinery and equipment imported by a manufacturer for in-house installation/use has also been withdrawn.

The FBR issued Sales Tax Circular Number 1 of 2020 Friday to explain sales tax/FED-related amendments made through the Tax Laws (Second Amendment) Ordinance 2019.

According to the circular, the FBR has explained the definition of Greenfield industry.

Definition of Greenfield Industry: Through the Finance Supplementary (Second Amendment) Act, 2019, exemption from sales tax was provided on the import of plant and machinery by the Greenfield industry under serial number 150 of Table-1 of Sixth Schedule to the Sales Tax Act, 1990. Many queries have been received seeking clarification of the term "Greenfield industry". A definition of this term in section 2 of the Sales Tax Act, 1990 has now been inserted as under:

(a) a new industrial undertaking which is: (i) setup on land which has not previously been utilized for any commercial, industrial or manufacturing activity and is free from constraints imposed by any prior work; (ii) built without demolishing, revamping, renovating, upgrading, remodeling or modifying any existing structure, facility or plant; (iii) not formed by the splitting up or reconstitution of an undertaking already in existence or by transfer of machinery, plant or building from an undertaking established in Pakistan prior to commencement of the new business and is not part of an expansion project; (iv) using any process or technology that has not earlier been used in Pakistan and is so approved by the Engineering Development Board; and (b) is approved by the Commissioner on an application made in the prescribed form and manner, accompanied by the prescribed documents and, such other documents as may be required by the Commissioner:

Provided that this definition shall be applicable from the 1st July, 2019 and onwards."

Rationalizing the Scope of Tier 1 Retailer: In view of the higher tariff rates of electricity, the conditions to qualify for a Tier-1 retailer have been amended so as to increase the threshold of electricity consumption from Rs 600,000 to Rs 1200,000.

Penalty for Persons who violate FBR Integrated Software for Sale or Track and Trace System: The FBR is aiming to strengthen online monitoring of the productions and retail

sales by integrating such sectors with its online system of integration and also by introducing Track and Trace systems for real time recording of sales. However, it is observed that such persons who are required to integrate with the FBR or have been integrated, either do not get themselves integrated or do not make proper compliance or tamper with the systems so installed so as to avoid correct reporting and recording of production and sales. In order to circumvent the above said behavior penalties/fines have been added to the law.

Penalty for violation of printing requirement of retail price: Sales tax is levied on the basis of retail price on the items specified in the Third Schedule to the Act. Such retail price is required to be printed with retail price. In order to ensure compliance in this respect, and to safeguard revenue associated therewith, its penalties have been provided along with the punitive actions by amending section 33 of the Act.

Penalty for violation of Section 40D: To document further supplies from tax exempt areas, it has been noticed that some persons are fictitiously routing their goods through areas having exemptions/special tax treatments. In order to discourage this activity and to protect genuine businesses of these areas a new provision has been added which stipulates that: The conveyances carrying goods supplied from the tax-exempt areas shall be accompanied by such documents in respect of the goods carried as may be prescribed under rules.

(1): The Regional Tax Office having jurisdiction may establish check-posts on the routes originating from tax-exempt areas for the purpose of examining the goods carried and the documents related thereto. An officer not below the rank of inspector Inland Revenue as authorized by the Commissioner Inland Revenue and assigned to such check-posts, may stop vehicles on such routes as coming from tax-exempt areas and examine documents for ascertaining their validity and conformity to the goods carried.

(2) In the absence of the prescribed documents or any discrepancy in such documents, the goods so carried shall be seized along with the vehicle carrying the goods by the officer as aforesaid under proper acknowledgment.

(3) The notices to the owner of the goods and the vehicle to show cause against imposition of penalty shall be issued within fifteen days of the seizure as aforesaid.

(4) For the purposes of this section, the expression "tax-exempt areas" mean Azad Jammu and Kashmir, Gilgit-Baltistan, tribal areas as defined in Article 246 of the Constitution of the Islamic Republic of Pakistan and such other areas as may be prescribed.

Amendment in Section 73 - Manufacturers will sell goods to Registered Persons: Section 73 has been amended to provide that a registered manufacturer shall make all taxable supplies to a person who has obtained registration under the Act excluding supplies not exceeding a value of rupees hundred million in a financial year and rupees 10 million in a month, failing which the supplier shall not be entitled to claim credit adjustment or deduction of input tax as attributable to such excess supplies to unregistered person.

The provision has been introduced so as to ensure that if supplies are being made by a registered person to any person who purchased goods of more than Rs 100 million in the financial year, further supplies to him shall not be made unless such person also become a sales tax registered person. Similarly, no supplies exceeding Rs 10 million in a month will be made to any person who is not registered persons under Sales Tax Act, 1990.

It is clarified that the threshold is applicable in relation to persons to whom such supplies are being made and not in relation to total supplies made by the registered persons in a tax period. It is further clarified that such requirement of registration is only applicable to persons who are likely to be involved in supply of taxable goods after such purchases. The conditions and clarification in this regard has been issued vide STGO 01 of 2020 dated 16.01.2020.

Rationalization of rate of Imported Cotton: The local supply of ginned cotton was exempt from payment of sales tax prior to the enactment of the Finance Act, 2019. Vide Finance Act 2019, the same was subjected to the reduced rate of sales tax at 10%. However, the imported raw and ginned cotton remained at previously prescribed rate of sales tax at 5% as provided at serial number 5 of Table-1 of Eighth Schedule to the Act. In order to remove disparity between sales tax rates on imported and local cotton, the rate of sales tax on imported cotton has been raised to 10% by amending the aforesaid serial number 5.

Amendment in the 12th Schedule: In the Twelfth Schedule to the Sales Tax Act, 1990, the import of goods which are not inputs or raw material and whose customs duty rate is 16% or above are subject to an additional value addition tax at 3%. Certain exclusions have also been provided therein from the levy of this 3% value addition tax. Through this ordinance, the said Twelfth Schedule has been amended to the effect that:

The said 3% value addition tax is not payable on the plant, machinery and equipment falling in Chapters 84 and 85 of the First Schedule to the Customs Act, 1969 (IV of 1969), as are imported by a manufacturer for in-house installation or use.

The refund of 3% value addition tax shall not be barred if paid on goods used in making zero-rated supplies.

Chargeability of mobile phones: To promote the digital economy, Ninth Schedule to the Sales Tax Act 1990 has been amended and sales tax on the mobile phones up to the value of US \$30 has been reduced from Rs 130 to Rs 100 and phones having value up to US \$100 from Rs 1,320 to Rs 200.