

A  
BILL  
further to amend the Khyber Pakhtunkhwa  
Finance Act, 2013.

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Finance Act, 2013 (Khyber Pakhtunkhwa Act No. XXI of 2013), for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. **Short title and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Finance (Amendment) Act, 2019.

(2) It shall come into force at once, except the amendment in sub-section (2) of section 21A, which shall come into force from the date as mentioned in the said section.

2. **Amendment of section 2 of the Khyber Pakhtunkhwa Act No. XXI of 2013.**---In the Khyber Pakhtunkhwa Finance Act, 2013 (Khyber Pakhtunkhwa Act No. XXI of 2013), hereinafter referred to as the said Act, in section 2,-

  
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- (a) in clause (12), in sub-clause (a), for the words, comma, parenthesis and figures "Companies Ordinance, 1984 (XLVII of 1984)", the words, comma, parenthesis and figures "Companies Act, 2017 (Act No. XIX of 2017)" shall be substituted;
- (b) in clause (37), in sub-clause (b), after the word and comma "office,", the words, comma and hyphens "through virtual presence or a website or a web-portal or through any other form of e-commerce, by whatever name called" shall be inserted; and
- (c) in clause (55), the word "and" appearing at the end shall be deleted and thereafter, the following new clause shall be inserted, namely:

“(55A) “unregistered” means a person, who is liable to be registered under this Act, but is actually not registered and does not hold Khyber Pakhtunkhwa Sales Tax Registration Number (KNTN); and”.

3. Amendment of section 20 of the Khyber Pakhtunkhwa Act No. XXI of 2013.---In the said Act, in section 20, for sub-section (2), the following shall be substituted, namely:

“(2) Where the recipient of a taxable service is a person registered under this Act, he shall deduct the amount of tax, to the extent as prescribed by regulations, in respect of the service received and pay the same to Government.”.

4. Insertion of new section to the Khyber Pakhtunkhwa Act No. XXI of 2013.---In the said Act, after section 21, the following new section shall be inserted, namely:

“21A. Validation.---(1) The following Notifications, issued, under section 21 of this Act, from time to time, shall be deemed to have been validly issued, in accordance with the provisions of this Act and shall not be called in question of any court of law:

- (a) the Excise, Taxation and Narcotics Control Department's Notification No. SO(Tax)E&T/2-7/ 2014, dated: 4<sup>th</sup> August, 2014;
- (b) the Excise, Taxation and Narcotics Control Department's Notification No. SO(Tax)E&T/2-7/2015, dated: 4<sup>th</sup> February, 2016;
- (c) the Excise, Taxation and Narcotics Control Department's Notification No. SO(Tax)/ET&NC/2-7, dated: 22<sup>nd</sup> March, 2017;

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(d) the Excise, Taxation and Narcotics Control Department's Notification No. SO(Tax)E&T/2-7/2017/1735-47, dated: 20<sup>th</sup> October, 2017; and

(e) the Khyber Pakhtunkhwa Revenue Authority's Notification No. 506-15/2018, dated: 31<sup>st</sup> August, 2018.

(2) The provisions of this section shall be deemed to have effect from the respective dates of the Gazette Notifications, mentioned therein, except the Revenue Authority Notification at clause (e) of sub-section (1), which shall be deemed to have effect from 4<sup>th</sup> February, 2016.

5. Amendment of section 26 of the Khyber Pakhtunkhwa Act No. XXI of 2013.---In the said Act, in section 26, in sub-section (4), the full-stop appearing at the end shall be replaced by colon and thereafter the following proviso shall be added, namely:

"Provided that payment of the amount for a transaction exceeding value of fifty thousand rupees, excluding payment against a utility bill, shall be made by a crossed cheque, drawn on a bank, bank draft, pay order or any other banking instrument, showing transfer of the amount of the sales tax invoice, in favour of the service provider, from the business bank account of the service recipient."

6. Amendment of section 40 of the Khyber Pakhtunkhwa Act No. XXI of 2013.---In the said Act, in section 40, after sub-section (1), the following new sub-section shall be inserted, namely:

"(1A) Where any person, requires to withhold sales tax under the provisions of this Act or regulations, fails to withhold the tax or withholds the tax but fails to deposit the same in the prescribed time and manner, an officer of the Authority shall, after a notice to such person to show cause, determine the amount in default and shall impose a penalty and default surcharge according to law."

  
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7. Amendment of section 48 of the Khyber Pakhtunkhwa Act No. XXI of 2013.---In the said Act, in section 48, in sub-section (5), for the words, comma, parenthesis and figures "Companies Ordinance, 1984 (XLVII of 1984)", the words, comma, parenthesis and figures "Companies Act, 2017 (Act No. XIX of 2017)" shall be substituted.

8. Amendment of section 64 of the Khyber Pakhtunkhwa Act No. XXI of 2013.---In the said Act, in section 64, in sub-section (2), in the Table,-

(a) against Serial No. 2,-

(i) in column 2, the words, occurring at the end, "or furnishes it after the due date" shall be deleted; and

(ii) for column 3, the following shall be substituted, namely:

"Such person shall pay a penalty of five thousand rupees:

Provided that in case a person files a return within ten days of the due date, he shall pay a penalty of one hundred rupees for each day of default;"

(b) against Serial No. 3, in column 3, for the word "five", the words "one hundred" shall be substituted; and

(c) after Serial No. 16, the following new entries shall be added, in the respective columns, namely:

S.No.	Offences.	Penalties	Section.
"17.	Where a bank fails to attach or delays in attaching the bank accounts of a person from whom tax is sought to be recovered, specified	Such bank shall be liable to pay penalty of one hundred thousand rupees or five (05) per cent of the amount of tax involved, whichever is higher. The concerned	87.

  
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	in the notice issued by the officer of the Authority or fails to pay or delays payment of such amount.	officer of such bank shall further be liable, upon conviction by a special judge, to imprisonment which may extend to one year or with fine which may extend to five (05) per cent of the amount of tax involved or with both.	
18.	Where a person fails to withhold or withholds but fails to deposit the tax.	Such person shall be liable to pay penalty of twenty-five thousand rupees or five (05) per cent of the tax involved, whichever is higher.	40.”.

9. Amendment of section 82 of the Khyber Pakhtunkhwa Act No. XXI of 2013.---In the said Act, in section 82,-


- (a) for sub-section (2), the following shall be substituted, namely:

“(2) Government shall appoint, for a term of three years, judicial member of the Appellate Tribunal, who shall be-

- (a) a District and Sessions Judge, in consultation with Peshawar High Court, Peshawar; or
- (b) any person, who has been District and Sessions Judge for atleast three years.”;

- (b) for sub-section (3), the following shall be substituted, namely:

“(3) Government shall appoint, for a term of three years, technical member of the Appellate Tribunal, who is or has been-

  
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	in the notice issued by the officer of the Authority or fails to pay or delays payment of such amount.	officer of such bank shall further be liable, upon conviction by a special judge, to imprisonment which may extend to one year or with fine which may extend to five (05) per cent of the amount of tax involved or with both.	
18.	Where a person fails to withhold or withholds but fails to deposit the tax.	Such person shall be liable to pay penalty of twenty-five thousand rupees or five (05) per cent of the tax involved, whichever is higher.	40.”.

9. Amendment of section 82 of the Khyber Pakhtunkhwa Act No. XXI of 2013.--In the said Act, in section 82,-

- (a) for sub-section (2), the following shall be substituted, namely:

“(2) Government shall appoint, for a term of three years, judicial member of the Appellate Tribunal, who shall be-

- (a) a District and Sessions Judge, in consultation with Peshawar High Court, Peshawar; or
- (b) any person, who has been District and Sessions Judge for atleast three years.”;

- (b) for sub-section (3), the following shall be substituted, namely:

“(3) Government shall appoint, for a term of three years, technical member of the Appellate Tribunal, who is or has been-

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- (a) a Collector (Appeals) in the Authority;
- (b) a Collector in the Authority;
- (c) a Collector of Customs in the Federal Board of Revenue;
- (d) a Commissioner of Inland Revenue in the Federal Board of Revenue; or
- (e) a legal practitioner, who is a member of the Pakistan Bar Council or Provincial Bar Council and has minimum of twenty years standing at the High Court level, practicing tax law.”; and

- (c) after sub-section (3), as so amended, the following new sub-sections shall respectively be inserted, namely:

“(3A) A judicial member or a technical member shall not be above seventy years of age.

(3B) The term of office of a judicial member or technical member, as the case may be, may be extended for another term of three years, subject to his satisfactory performance:

Provided that such term shall not be extended for a third term in any case.”.

10. Amendment of section 94 of the Khyber Pakhtunkhwa Act No. XXI of 2013.---In the said Act, in section 94, for the words “Excise and Taxation Department of Government”, the word “Authority” shall be substituted.



11. Amendment of section 111 of the Khyber Pakhtunkhwa Act No. XXI of 2013.---In the said Act, in section 111, in sub-section (3), for the word "Authority", occurring at the end, the words "Policy Making Council" shall be substituted.

12. Amendment of the FIRST SCHEDULE of the Khyber Pakhtunkhwa Act No. XXI of 2013.---In the said Act, in the FIRST SCHEDULE,-

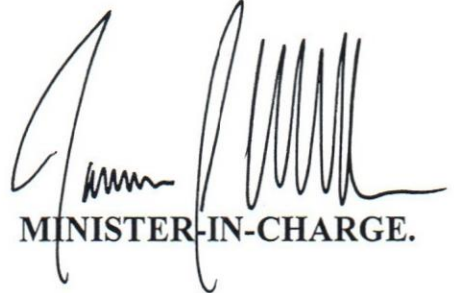
  
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- (a) the Classification No. 9819.4000 alongwith Description shall be deleted; and
- (b) in Classification No. 9843.0000, in column of Description, for the word "Purchase", the words "Service provided in purchase", shall be added.

#### STATEMENT OF OBJECTS AND REASONS

It is desirable further to amend the Khyber Pakhtunkhwa Finance Act, 2013. Hence, this Bill.

Peshawar,  
dated the  
30/4/2019.

  
MINISTER-IN-CHARGE.