

THE KHYBER PAKHTUNKHWA FINANCE ACT, 2020.

(KHYBER PAKHTUNKHWA ACT NO. XXII OF 2020)

CONTENTS

PREAMBLE

SECTIONS

1. Short title, extent and commencement.
2. Amendment of Schedule-I of Khyber Pakhtunkhwa Act No. II of 1899.
3. Amendment of the West Pakistan Act No. V of 1958.
4. Amendment of West Pakistan Act No. XXXII of 1958.
5. Amendment of West Pakistan Ordinance No. XIX of 1965.
6. Amendment of the Khyber Pakhtunkhwa Ordinance No. VIII of 1983.
7. Amendment of Khyber Pakhtunkhwa Act No. IV of 1990.
8. Amendment of the Khyber Pakhtunkhwa Ordinance No. XXIII 2002.
9. Amendment of Khyber Pakhtunkhwa Act No. VIII of 2010.
10. Amendment of Khyber Pakhtunkhwa Act No. XXI of 2013.
11. Repeal and savings.

Appendix

THE KHYBER PAKHTUNKHWA FINANCE ACT, 2020.

(KHYBER PAKHTUNKHWA ACT NO. XXII OF 2020)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa. (Extraordinary), dated the 06/07/2020).

**AN
ACT**

*to continue, revise and exempt certain taxes and fees
in the Province of Khyber Pakhtunkhwa.*

WHEREAS it is expedient to continue, revise and exempt certain taxes and fees in the Province of Khyber Pakhtunkhwa;

It is hereby enacted as follows:

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Finance Act, 2020.

(2) It shall extend to whole of the Province of Khyber Pakhtunkhwa.

(3) It shall come into force on the 1st Day of July, 2020.

2. Amendment of Schedule-I of Khyber Pakhtunkhwa Act No. II of 1899.---In the Stamp Act, 1899 (Act No. II of 1899), in Schedule-I, against Serial No. 18, in column No. 3, under the heading “**Proper Stamp-duty**”, for the existing entry, the following shall be substituted, namely:

Proper Stamp-duty
“Exempted”.

3. Amendment of the West Pakistan Act No. V of 1958.---In the West Pakistan Urban Immovable Property Tax Act, 1958 (W.P. Act No. V of 1958),-

(a) in section 3,-

(i) in sub-section (2a),-

(a) for the figure “10” the figure “20” shall be substituted;

(b) for the figure and words “31st day of August”, the figure and words “30th day of September” shall be substituted; and

(c) the full stop, appearing at the end of sub-section (2a), as so amended, shall be replaced by a colon and thereafter the following proviso shall be inserted, namely:

“Provided that there shall be thirty-five percent (35%) rebate for all those taxpayers, who have timely, paid their tax in the preceding five years.”;and

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

“(3A) Out of the tax, collected under this Act, within the limits of the Tehsil Municipal Administration, Cantonment Board or local area development authority, Government shall, after retaining fifteen percent (15%) thereof as Government share, pay eighty five percent (85%) of the balance to such Tehsil Municipal Administration, Cantonment Board or local area development authority, from where the tax collection has been made.”;

(b) in section 4, after sub-section (2), the following new sub-section shall be added, namely:

“(3) Notwithstanding anything contained in this Act or any other law for the time being in force, there shall be a rebate for tax defaulters on all defaulted amount of tax at the following rates:

Sr.No.	Defaulted amount (Rs.).	Rebate.	Validity.
1.	Payment in twelve instalments	25% of the defaulted amount	30 th June. 2021
2.	Lump-sum payment	30% of the defaulted amount	30 th June. 2021.

Provided that tax payable on the principal amount under this provision may be paid in full or in twelve installments at the option of the taxpayer:

Provided further that those who fail to clear the defaulted amount till 30th June, 2021, shall pay the original amount along with penalty imposed under section 15 of this Act.”;

(c) in section 12, for the existing proviso, the following shall be substituted, namely:

“Provided that Government may, by notification, direct that in any rating area the tax shall be paid yearly, half-yearly or monthly installments, subject to the approval of the Assessing Authority.”;

(d) in section 15, after sub-section (1), the following new sub-section (1A) shall be inserted, namely:

“(1A) In case of willful default, on the part of the owner in the provision of a copy of rent agreement, as specified in Schedule-II, a penalty, not exceeding rupees ten thousand, shall be imposed in addition to other penalties under section 15 of this Act.”;

- (e) in section 16, after sub-section (3), the following new sub-section (4) shall be added, namely:

“(4) The Board of Revenue, local area development authorities, Tehsil Municipal Administration, Sub-Registrar, or any other Department, autonomous or semi-autonomous under the control of Government, shall not transfer or process any transaction against an immovable property unless liability under this Act has been cleared and paid to Government.”;

- (f) for section 17, the following shall be substituted, namely:

“17.Remuneration for Excise Department.---The tax, under this Act, shall be collected by the Excise, Taxation and Narcotics Control Department of Government and Government may fix such remuneration on account of the cost of collection as may be prescribed.”; and

- (g) for the existing “Schedule-II”, the “Schedule-II”, specified in the Appendix, appended to the Khyber Pakhtunkhwa Finance Act, 2020, shall be substituted.

4. Amendment of West Pakistan Act No. XXXII of 1958.---In the West Pakistan Motor Vehicles Taxation Act, 1958 (West Pakistan Act No. XXXII of 1958), in section 3, in sub-section (3),-

- (a) for the figure “15” the figure “20” shall be substituted; and
(b) for the figure and words “31st day of July”, the figure and words “30th day of September” shall be substituted.

5. Amendment of West Pakistan Ordinance No. XIX of 1965.---In the West Pakistan Motor Vehicles Ordinance, 1965 (Ordinance No. XIX of 1965),-

- (a) in section 25, in sub-section (1), in clause (c), the words and brackets “together with a No Objection Certificate (NOC) issued by it” shall be deleted; and

- (b) in section 30, for sub-section (2), the following shall be substituted, namely:

“(2) The registering authority, to which application is made under sub-section (1), shall assign the vehicle a registration mark of the Province, without charging any fee, under registered intimation to the previous registering authority:

Provided that, if the owner, keeper or possessor fails to register the vehicle, within one year of coming into force of this Act, shall be liable to pay such fee as provided for the registration under this Ordinance.”.

6. Amendment of the Khyber Pakhtunkhwa Ordinance No. VIII of 1983.--- In the Khyber Pakhtunkhwa Real Estate Agents and Motor Vehicle Dealers (Regulation of Business) Ordinance, 1983 (Ordinance No. VIII of 1983), in section 3, after the first proviso, the following provisos shall respectively be added, namely:

“Provided further that no fee shall be collected under this Ordinance, if the Real Estate Agents and Motor Vehicle Dealers are registered with the Khyber Pakhtunkhwa Revenue Authority for sales tax on services and are on their active taxpayer list:

Provided also that all arrears upto June 2020 shall be collected by Excise, Taxation and Narcotics Control Department of the Government.”.

7. Amendment of Khyber Pakhtunkhwa Act No. IV of 1990.---In the Khyber Pakhtunkhwa Finance Act, 1990 (Khyber Pakhtunkhwa Act No. IV of 1990), in section 7, in sub-section (1), after the first proviso, the following new provisos shall be inserted, namely:

“Provided further that no tax shall be leviable and payable under this section for the year 2020-21, if the persons engaged in professions, trade, calling etc. are registered with the Khyber Pakhtunkhwa Revenue Authority for sales tax on services and are on their active taxpayer:

Provided also that arrears up to June 2020 in the subject head shall be collected by Excise, Taxation and Narcotics Control Department of Government with a rebate for all tax defaulters on all defaulted amount of tax at the following rates:

S.No	Defaulted amount (Rs.)	Rebate	validity
1.	Payment in three instalments	20% of the defaulted amount	30 th June. 2021
2.	Lump-sum payment	25% of the defaulted amount	30 th June. 2021.”.

8. Amendment of the Khyber Pakhtunkhwa Ordinance No. XXIII 2002.--- In the Khyber Pakhtunkhwa Finance Ordinance, 2002 (Khyber Pakhtunkhwa Ordinance No. XXIII of 2002), in section 4, the full-stop, appearing at the end of proviso, shall be replaced by a colon and thereafter the following new provisos shall be added, namely:

“Provided also that no tax shall be leviable and payable under this section for the year 2020-21, if the hotel and management are registered and on the active taxpayer list of Khyber Pakhtunkhwa Revenue Authority for sales tax on services:

Provided also that arrears up to June 2020 in the subject head shall be collected by Excise, Taxation and Narcotics Control Department of Government with a rebate for all tax defaulters on all defaulted amount of tax on the following rates:

S.No	Defaulted amount (Rs.)	Rebate	validity
1.	Payment in three instalments	20% of the defaulted amount	30 th June. 2021
2.	Lump-sum payment	25% of the defaulted amount	30 th June. 2021.”.

9. Amendment of Khyber Pakhtunkhwa Act No. VIII of 2010.---In the Khyber Pakhtunkhwa Finance Act, 2010 (Khyber Pakhtunkhwa Act No. VIII of 2010), in section 2, in sub-section (2),-

- (a) in clauses (a) and (b), in the table, against serial Nos. (i), (ii) and (iii), in column No. 3, under the heading “**Rate of Tax**”, for the existing entries, the following shall be substituted, namely:

Rate of Tax
“Exempted
Exempted
Exempted”;

- (b) in clause (c), in the table, against serial Nos. (i) and (ii), in column No. 3, under the heading “**Rate of Tax**”, for the existing entries, the following shall be substituted, namely:

Rate of Tax
“Exempted
Exempted”.

10. Amendment of Khyber Pakhtunkhwa Act No. XXI of 2013.---In the Khyber Pakhtunkhwa Finance Act, 2013 (Khyber Pakhtunkhwa Act No. XXI of 2013),-

- (a) in section 5, after sub-section (3), the following new sub-section (4) shall be added, namely:

“(4) Notwithstanding the powers and functions of the Authority under this section or elsewhere in the Act including other fiscal laws, if any, the Director General shall be competent and responsible to manage, conduct or perform and supervise all day to day or other regular work whether or not involving adjudicatory process or exercise of quasi-judicial powers including but not limited to the powers under sections 45, 46 and 78 in all tax or allied matters and administrative or other operations of the Authority under the Act including transfers, postings, delegation of powers, assignment of duties and functions, changes of jurisdiction or transfer of cases etc and all decisions made by him in this behalf shall be treated as decisions of the Authority.”;

- (b) in section 20, in sub-section (2), the full-stop, appearing at the end, shall be replaced by a colon and thereafter the following proviso shall be added, namely:

“Provided that where a person, receiving taxable service, is resident of the Khyber Pakhtunkhwa and sub-section (1) is not applied or is otherwise not applicable in respect of such service for any reason, provision of this sub-section shall apply regardless whether such person is registered or not.”;

- (c) in section 26,
- (i) in sub-section (1), the full stop, appearing at the end, shall be replaced by a colon and thereafter the following proviso shall be inserted, namely:
- “Provided that fifteen percent rate of tax shall be deemed and treated as standard or general rate of tax for all purposes of this Act.”; and
- (ii) in sub-section (4), after the proviso at the end, the following Explanation shall be added, namely:
- “Explanation:** For the purpose of sub-section (4), the expression “paid” shall be construed to include deposit of tax with the Government.”;
- (d) after section 26, the following new section 26A shall be inserted, namely:
- “26A. Standard or general tax rate application choice, --** (1) Where any services or class of services are chargeable to reduced rate of tax either under the Second Schedule or under any notification issued under this Act, any registered person or class of registered persons, providing such services, may, after taking permission from the Authority, opt to pay sales tax at standard or general rate and take input tax adjustment as admissible under this Act and rules or regulations issued thereunder and every such permission shall be effective from the date mentioned therein and subject to such conditions, restrictions and limitations as may be specified by the Authority in this behalf.
- (2) Once the registered person has started paying sales tax at standard or general rate as aforesaid, he shall not on his own switch over back to availing the reduced rate of tax on any of his such services unless he takes prior permission from the Authority and while examining and deciding on the requests of switching back to reduced rate of tax, the Authority may conduct or cause to conduct such enquiry or audit as it may deem necessary to ascertain the genuineness of the request.
- (3) No amount of unadjusted amount of input tax accrued during the period when standard or general rate was applied shall be subsequently adjustable in respect of services subjected to reduced rate of tax provided that recommencement of applying standard or general rate of tax at any later stage by any registered person shall likewise be subject to prior permission from the Authority.
- (4) The Authority may on its own or otherwise withdraw the permission granted under this section in respect of any case or class of cases after issuing show cause notice and affording opportunity of hearing in the case or cases.”;

- (e) in section 40, in sub-section (1), after the words “short payment”, the words “including such short payment as has resulted or may result from taking inadmissible adjustment of input tax” shall be inserted.;
- (f) in section 41, after sub-section (3), the following Explanation shall be added, namely:

“**Explanation:** Any person, who is not or is not required to be registered for the purposes of this Act, whether as a provider of services or otherwise but is required to withhold and pay or otherwise pay tax in terms of any of the provisions of this Act or rules or regulations issued thereunder, shall be deemed as registered person for all legal purposes under this Act, including non-filing or non-submission of any information or document and such person shall, regardless of the place of residence, business or other activity of such person, comply with such registration, enrolment or other obligations or formalities as may be specified by the Authority.”;

- (g) after section 55, the following new section 55A shall be inserted, namely:

“**55A. Information declaration or return.** -- Where any person or class of persons are engaged in providing any service or services which are either exempt under this Act, including a notification issued thereunder or are otherwise not taxable for the purposes of this Act, the Authority may require any such person or class of persons to regularly file monthly or periodic declarations or returns containing such correct and verifiable information as may be required to be provided in such declaration or return and every such person or class of persons shall be under legal obligation to file such declaration or return and any violation relating thereto shall be treated as non-filing of the return due under this Act, except that no tax liability per se other than liability for penalty may be imposed, shall accrue in respect thereof.”; and

- (h) in Second Schedule, under the heading “PRINCIPLES OF APPLICATION AND INTERPRETATION”,-

- (i) under Para 16, the following formula with a Note shall be added, namely:

“ $a \div (100+a) \times \text{Value of Services.}$

Note. “a” is the applicable rate of tax.”; and

- (ii) in Para 17, the formula given thereunder along with Note shall be deleted.

11. Repeal and savings.--(1)The following laws are hereby repealed:

- (i) The West Pakistan Entertainment Duty Act, 1958 (Act No. of 1958); and
- (ii) The Khyber Pakhtunkhwa Finance (Amendment) Ordinance, 2020 (Khyber Pakhtunkhwa Ordinance No. III of 2020).

(2) Notwithstanding the aforesaid repeal, anything done, action taken, rule made and notification or order issued under the aforesaid repealed laws, shall, so far not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued, under the repealed laws and shall have effect accordingly.

Appendix

[see section 2(g)]

“Schedule-II

[see section 3(2)(b)]

1. Building and lands within the limits of urban areas shall be divided into category A1, A, B, C and D by the Government, depending on location, value, type of business therein, rental value, civic amenities, and other variables related to immovable properties.
2. Buildings acquired for the use by Government, Semi-Government, Non-Governmental Organizations, Development Financial Institutions, private commercial organizations, guest houses, and petrol/CNG stations, or by Banks shall be assessed and taxed at the rate of fifteen percent of the actual annual rent. In case buildings other than those exempted under section 4 of the Act, which is owned and occupied by such organizations, the tax shall be levied on the assessed annual rental value of such buildings on the rate prescribed hereinbefore.
3. Both the parties shall enter into a written agreement in quadruplicate indicating annual rent to be derived, and share copy thereof with assessing authority on an annual basis.

Explanation: For this part, actual rent means annual rent agreed between the parties.

4. Buildings used as shops or for any other commercial activity not mentioned in clause 2 shall be divided into different locality factors namely A1, A, B, C, and D depending on the locality and area, and shall be assessed and taxed by method and rate prescribed in clause 5 below.
5. Tax for properties as per clause 4 shall be calculated with the following formula:
 - (a) Plot area in square yards; and
 - (b) Covered area in square feet;
 - (i) provided that passageways, washrooms and other public utilities shall not be counted while calculating/counting the covered area;
 - (ii) provided further that open sheds and verandas shall be counted as half of its total measurement while calculating covered area;

- (iii) the formula for tax calculation shall be=(plot area in the square yard (a) + covered area in square feet (b) multiplied by locality factor (c);
- (iv) locality factors for computing tax liability as per clause 5(iii) above, are given below in the table:

Locality/ Category	Ground Floor	Basement	Ist Floor	2 nd Floor	3 rd Floor	4 th Floor	5 th Floor	All other Floors beyond 5 th Floor
A1	20	18	18	16	14	12	10	8
A	15	13	13	11	9	7	5	5
B	10	8	8	7	6	5	5	5
C	7	5	5	5	5	5	5	5
D	5	5	5	5	5	5	5	5

- (v) provided that plot area in sq. yards will be counted once in the basement or on the ground floor as the case may be. For upper stories, i.e from floor and onwards, only covered area will be taken into account, and the formula shall be:

Covered area in square feet (b) multiplied by locality factor (c) (bxc)

6. For Educational Institutions:

- (a) The tax shall be calculated based on the covered area only. The area of the plot as required per item 5(a) above shall not be taken for computing the tax. This is to encourage the institutions in providing sports and other recreational facilities to their students; and
- (b) The tax calculated based on (a) above shall get a special thirty percent rebate, being provided to all the educational institutions.

7. For Industrial properties within the rating area:

- (a) Industrial buildings within the limits of rating areas shall be assessed for the purpose of this tax at a flat rate of Rs. 2.50 per square foot of the each building in factory area. The provision of item 5(b) above shall be applicable to all the factory areas as well.
- (b) Provided that, all the residential buildings, Colonies, Hostels, Mess, schools, etc within the premises of the industrial compound shall be assessed and taxed as per existing Schedule-I (For residential buildings) of the Act. Similarly, all commercial buildings other than factory area including workshops, shops, godowns, Banks, petrol pumps, factory offices, mobile towers, etc situated within the industrial compound shall be assessed and taxed as per clause 3 to six above.

Explanation: For this clause, the factory area shall mean a building or group of buildings wherein finished, semi-finished or raw goods are manufactured, processed, stock filed, or assembled.

8. Service Station of vehicles, irrespective of operating in addition to other services such as filling station or otherwise shall be charged a flat rate of Rs.15, 000 per annum.
9. Buildings and Lands used for the erection of Mobile Phone Towers shall be assessed and taxed at the rates:
 - (i) Provincial Headquarter.....Rs.40,000 per annum;
 - (ii) (ii) Divisional Headquarter andRs.30,000 per annum and; respective sub-urban areas
 - (iii) (iii) District Headquarter andRs.20,000 per annum respective sub-urban areas.”.