

The [Province] Value Added Tax Bill, 2010

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A Bill

to introduce and implement a broad-based tax on sales and purchases of services to be integrated with the federal taxes on sales and purchases of goods and terminal taxes on goods, or passengers carried by railway, sea or air; taxes on their fares and freights, each tax to be cross-credited against the other to form a broad-based tax on consumption throughout Pakistan

WHEREAS it is expedient to impose a tax on sales and purchases of services and to provide for the collection of the tax, and to provide for matters connected therewith and ancillary thereto:

It is hereby enacted as follows:—

Chapter-I

PRELIMINARY

1. Short title, extent, and commencement.—

- (1) This Act shall be called the [Province] Value Added Tax Act, 2010.
- (2) It extends to the whole of [Province].
- (3) It shall come into force on the 1st day of July, 2010.

Chapter-II

INTERPRETATION AND RELATED MATTERS

2. Definitions.—

- (1) In this Act, unless there is anything repugnant in the subject or context:—

“Board” means the Federal Board of Revenue established under section 3 of the Federal Board of Revenue Act, 2007;

“Federal Value Added Tax Act” means such Federal law of taxes on sales and purchases of goods and terminal taxes on goods, or passengers carried by railway, sea or air; taxes on their fares and freights as the Provincial Government may, by notification in the official Gazette, specify;

“international transport” means the carriage of goods or passengers by road—

- (a) from a place outside Pakistan to a place in [Province];
- (b) from a place inside [Province] to a place outside Pakistan; or

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(c) from a place outside Pakistan to another place outside Pakistan;

“progressive or periodic supply”, a supply that is made progressively or periodically under an agreement or law that provides for progressive or periodic payments, and includes a lease or hire of goods;

“Schedule” means any of the schedules attached to this Act;

“supply of services” shall have the meaning given in [section 3](#);

“tax” includes—

- (a) tax imposed under [section 8](#);
- (b) a fine, default surcharge, penalty, or fee imposed under this Act;
- (c) any other sum payable under the provisions of this Act or rules made thereunder; and
- (d) Federal VAT;

“taxable supply” shall have the meaning given in [section 5](#);

“telecommunications service” means a service involving the transmission, emission, or reception of signals, writing, images, sounds or information of any kind by wire, radio, optical, or other electromagnetic systems, including a provision of access to a global or local information network, but does not include the supply of the underlying writing, images, sounds, or information;

(2) Words and expressions used but not defined in this Act shall have the same meaning, if any, as is assigned to them in the [Federal Value Added Tax Act, 2010](#).

3. Supply of services.—

(1) Anything that is not a supply of goods, money, or immovable property shall be a supply of services, including—

- (a) any supply of goods other than a sale, including but not limited to a lease, hire, or other right to use goods;
- (b) the grant, assignment, termination, or surrender of a right;
- (c) the making available of a facility, opportunity, or advantage;
- (d) refraining from or tolerating an activity, a situation, or the doing of an act; or
- (e) the issue of a licence, permit, certificate, concession, authorisation, or similar document, other than by a Government.

(2) A supply of services that is ancillary or incidental to an import of goods shall be treated as part of the import of goods.

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4. Progressive or periodic supply.—

- (1) Each progressive or periodic part of a progressive or periodic supply shall be treated as a series of separate supplies.
- (2) If the progressive or periodic parts of a progressive or periodic supply are not readily identifiable, the supply shall be treated as a series of separate supplies each corresponding to the proportion of the supply to which each separate part of the consideration relates.
- (3) A progressive or periodic supply that is a lease or hire of goods shall be treated as a series of separate supplies as follows—
 - (a) if payment is made progressively or periodically, each separate supply corresponds to the proportion of the supply to which each separate part of the consideration relates; or
 - (b) in any other case, each separate supply corresponds to each tax period, to the extent that the period of the lease or hire occurs during that tax period.
- (4) A supply of goods under hire agreement shall not be treated as a progressive or periodic supply.

5. Taxable supply.—

- (1) Except to the extent that it is an exempt supply, a supply of services shall be a taxable supply if it is made:—
 - (a) in Pakistan and in [Province];
 - (b) by a registered person; and
 - (c) in the course of an economic activity, including in the commencement or termination of the activity.
- (2) A supply of services that is not made in Pakistan shall be a taxable supply if:—
 - (a) the recipient of the supply is a registered person whose registered office is in [Province]; and
 - (b) the supply had been made in Pakistan by a registered person in the course of an economic activity it would have been taxable at a rate other than zero under this Act or under another Provincial Value Added Tax law.

6. Ancillary or incidental supplies

- (1) Where a supply consists of more than one element, the following criteria shall be taken into account to determine how the supply shall be treated:
 - (a) every supply shall normally be regarded as distinct and independent;

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- (b) a supply that comprises a single supply from an economic point of view shall not be artificially split;
- (c) the essential features of the transaction shall be ascertained in order to determine whether the recipient is being supplied with several distinct principal supplies or with a single supply;
- (d) there is a single supply if one or more elements constitute the principal supply, in which case the other elements (“the ancillary or incidental supplies”) shall be treated as part of the principal supply;
- (e) a supply must be regarded as ancillary or incidental to a principal supply if it does not constitute for recipients an aim in itself, but is merely a means of better enjoying the principal thing supplied.

7. Value of supply

- (1) The value of a taxable supply shall be the consideration for the supply, reduced by an amount equal to the consideration multiplied by the tax fraction; and
- (2) The value of a supply that is not a taxable supply shall be the consideration for the supply.
- (3) If—
 - (a) a registered person makes a taxable supply to an associated person for no consideration, or for a consideration that is lower than the open market price; and
 - (b) the associated person would not be entitled to a full input tax credit,

the value of the supply is the open market price of the supply, reduced by the tax fraction of that price.

Chapter-III

IMPOSITION OF TAX

8. Imposition of tax.—

- (1) There shall be charged, levied, paid and collected a tax known as [Provincial] value added tax (VAT) under this Act on taxable supplies.
- (2) The amount of tax payable shall be computed by applying the rate specified in subsection (3) to the value of the supply.

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- (3) The rate of tax applicable to a taxable supply shall be —
- (a) if the supply or import is zero-rated, the rate of tax shall be zero percent;
 - (b) in all other cases, [enter standard rate] per cent;
- (4) Where there is a change in the rate of tax, the rate to be applied is the rate applicable at the time of supply.

9. Person liable to pay tax.—

- (1) The person liable to pay the tax imposed on a taxable supply shall be:—
- (a) in the case of a taxable supply that is made in Pakistan and in [Province]: the supplier;
 - (b) in the case of a taxable supply that is not made in Pakistan: the recipient of the supply.
- (2) Subsection (1) does not prevent the collection of tax from a different person if that person is made separately, or jointly and severally, liable for this tax under another provision of this Act.

10. Exemptions.—

A supply is “exempt” if it is specified as an exempt supply in the First Schedule of this Act or it is a supply of a right or option to receive a supply that will be an exempt supply.

Explanation: Where a supply is exempt, it is exempt without credit. This means that exempt supplies are in fact partly taxed, because the inputs to the supply are taxed but the supply itself is not. An exempt supply is thus an ‘input taxed’ supply. In contrast, an exempt import is a non-taxable import, which means that no tax is paid on the import. Exempt imports therefore bear the same tax burden as zero-rated imports.

11. Zero-rated.—

A supply shall be a “zero-rated” supply if it is specified as a zero-rated supply in the Second Schedule of this Act or it is a supply of a right or option to receive a supply that will be a zero-rated supply.

Explanation: Where a supply is zero-rated, it is exempt with credit. This means that zero-rated supplies shall bear no tax, because the tax inputs to the supply are refunded to the supplier and the supply itself is not taxed. A zero-rated supply is thus fully exempt from tax.

12. Exemption and zero-rate only as provided by law.—

- (1) No supply or class of supplies shall be treated as exempt or zero-rated under this Act, except as expressly provided in this Act.
- (2) No person or class of persons shall be exempt from the payment of tax under this Act, except as provided by this Act.

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(3) No promise or commitment made, or understanding given, whether in writing or otherwise, by any person or any government department or authority shall over-ride subsection (1) and (2).

13. Collection of tax.—

The tax imposed under this Act shall be collected by the Board in the same manner and mode and at the same time as if it were a tax imposed under the Federal Value Added Tax Act.

Chapter-IV

PLACE OF TAXATION RULES

14. Place of taxation in a Province.—

Supply of services in Pakistan

(1) A supply of services is made in Pakistan if:—

- (a) the supplier is a resident of Pakistan;
- (b) the supplier is a non-resident with a permanent establishment in Pakistan and the supply is made through that permanent establishment; or
- (c) the services are performed in Pakistan by any person who is in Pakistan at the time they are performed and the recipient is not a registered person.

Supply of services in Province

(2) A supply of services is made in [Province]:—

- (a) for services referred to in **section 3(1)(a)**: if—
 - (i) the goods are delivered or made available in [Province]; or
 - (ii) the supplier installs or assembles the goods [Province];
- (b) for services that are typically performed directly in the physical presence of individuals: if they are performed in [Province];
- (c) for services provided by travel agencies and tour operators: if the place of business from which the services are performed is in [Province];
- (d) for services in the area of culture, the arts, sport, entertainment or similar services, including services of the event organizer and related services, if applicable: if the place where the relevant activity is performed is in [Province];
- (e) for hotel and restaurant services: if the place at which the service is actually rendered is in [Province];

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- (f) for transport and related services: if the place where the services are performed is in [Province];
- (g) for telecommunications services: if a person initiates the service in [Province];
- (h) in any other case, if the recipient is ordinarily resident in [Province].

(3) A supply of services that is made in Pakistan and is not subject to tax under the Federal Value Added Tax Act or a Provincial Value Added Tax law, other than this Act, is made in [Province] if the registered office of the supplier, or of the supplier's VAT representative in Pakistan, is located in [Province].

Place of initiation for telecommunications

- (4) The person who initiates a telecommunications services is-
- (a) the person who is identified by the supplier of the services as being-
 - (i) the person who controls the commencement of the supply;
 - (ii) the person who pays for the services; or
 - (iii) the person who contracts for the supply; and
 - (b) if more than one person satisfies paragraph (a), the person who appears highest on the list in that paragraph.

Progressive or periodic supply

(5) Where a progressive or periodic supply is deemed to be a series of separate supplies, the place where each such supply takes place is determined separately.

15. Special rules where tax reverse charged to recipient.—

- (1) The value of a taxable supply of services that is not made in Pakistan shall be —
- (a) if the supplier and recipient are related persons, the open market price of the supply, reduced by the tax fraction of that price; or
 - (ii) in any other case, the consideration for the supply.
- (2) Tax payable by the recipient of a taxable supply of services that is not made in Pakistan shall be both output tax and input tax of that person.
- (3) If an adjustment event occurs in relation to a supply of services not made in Pakistan that is, or would be because of the adjustment event, a taxable supply, the recipient of the supply of services shall be treated as if he were also the supplier of the services.
- (4) For the purposes of this section, if a registered person carries on economic activities both at a fixed place in [Province] and at a fixed place outside Pakistan—

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- (a) the person shall be treated as two separate persons corresponding respectively to the taxable activities the person carries on at each place;
- (b) the person outside Pakistan shall be deemed to have made a supply of services to the person inside [Province] consisting of any benefit in the nature of services (as defined for the purposes of this Act) that is received by the person in [Province] through or as a result of the activities carried on by the person outside Pakistan;
- (c) the time of the supply shall be determined on the assumption that a supply has been made; and
- (d) the value of the services shall be determined on the assumption that the supply was made by a non-resident outside Pakistan to an associated person inside [Province].

16. Services consumed outside Pakistan.—

Services performed on goods outside Pakistan

- (1) A supply of services physically performed on goods situated outside Pakistan at the time the services are performed shall be zero-rated.

Leased goods outside Pakistan

- (2) For each part of a lease, hire, license, or other supply of the use of goods that is treated as a separate supply, the supply shall be zero-rated if the goods are outside Pakistan for the whole of that period.

Services connected with temporary imports

- (3) A supply of services directly in connection with goods temporarily imported into Pakistan under a special regime for temporary imports specified in the customs laws dealing with temporary imports shall be zero-rated.
- (4) A supply of services shall be zero-rated if it consists of the repair, maintenance, cleaning, renovation, modification, or treatment of goods brought temporarily into Pakistan, so long as the goods are removed from Pakistan after the services have been performed and are not used in Pakistan except to the extent required to perform the services.

Services consumed outside Pakistan

- (5) A supply of services that are typically performed directly in the physical presence of individuals shall be zero-rated if the services are performed outside Pakistan.
- (6) Subject to subsection (7), a supply of services shall be zero-rated if—
 - (a) the services are not directly connected with goods situated in Pakistan at the time of supply; and
 - (b) the recipient of the supply is—

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- (i) a non-resident who is outside Pakistan at the time of supply; or
 - (ii) a person who is outside Pakistan at the time of supply and who will effectively use or enjoy the services outside Pakistan.
- (7) A supply of services shall not zero-rated under subsection (7) if:—
- (a) the supply is of a right or option to receive a subsequent supply of goods or services in Pakistan; or
 - (b) the services are supplied under an agreement with a non-resident but are rendered to an unregistered person in Pakistan.

Inter-carrier telecommunications service

- (8) A supply of telecommunications service by a telecommunications supplier resident in Pakistan to a telecommunications supplier resident outside Pakistan shall be zero-rated.

Services supplied to non-resident warrantor

- (9) A supply of services shall be zero-rated if it relates to the repair or replacement of goods under warranty and—
- (a) the supply is provided under an agreement with, and for consideration given by, the warrantor, who is not resident in Pakistan and is not a registered person; and
 - (b) the goods under warranty were previously subject to tax when imported.

International transport

- (10) A supply of international transport services shall be zero-rated.
- (11) A supply of insuring the international transport of goods shall be zero-rated.

Chapter-V

SPECIAL RULES

17. Purchase of economic activity as a going concern.—

- (1) This section applies in respect of that part of a sale or transfer of an economic activity as a going concern that:—
- (a) is a supply made in [Province]; and
 - (b) is zero-rated under Serial No. 1 in the Second Schedule of this Act.
- (2) Where this section applies, the recipient of the supply shall make an increasing adjustment in a tax period if—
- (a) he has his registered office is in [Province]; and

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- (b) the economic activity was not purchased for a creditable purpose.
- (3) The amount of the increasing adjustment is the tax rate specified in section 8(3)(b) multiplied by that part of the consideration for the sale or transfer of the economic activity that is made in [Province].

Chapter-III

Collection, administration, and other matters

18. Powers and Duties of the Board.—

- (1) The Board shall administer and enforce this Act, and for the purposes of doing so shall have the power to carry out any duty or function.
- (2) For the purposes of collecting and enforcing the tax payable under this Act, all provisions of the Federal Value Added Tax Act relating to:—
 - (a) registration, suspension and cancellation;
 - (b) the collection, payment and enforcement of tax;
 - (c) the determination of value of supply;
 - (d) deductions for input tax;
 - (e) increasing and decreasing adjustments; and
 - (f) the calculation and assessment of tax, including a fine, default surcharge, penalty, or fee imposed under that Act or any other sum payable under the provisions of that Act or rules made thereunder,

shall apply.

19. Integration of Federal and Provincial VAT

- (1) The input tax paid under the Federal Value Added Tax Act or under a Provincial Value Added Tax Act other than this Act, shall be deductible against the tax payable under this Act in accordance with the provisions of the Federal Value Added Tax Act and this Act.
- (2) The Board shall collect the tax payable under this Act in such a way as to ensure that Provincial VAT and Federal VAT operate together as an integrated tax regime.

20. Repeal.

- (1) Subject to the provisions of section 6 and 24 of the General Clauses Act, 1897 (X of 1897), the Sales Tax Act, 1990 (VII of 1990) is hereby repealed.
- (2) For the purposes of deciding matters covered under or carried over from the repealed Act or rules made thereunder any reference to Collector, Additional Collector, Deputy Collector, Assistant Collector, Superintendent, Senior Auditor and an officer of Sales Tax

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wherever occurring in the repealed Act and the rules, notifications, clarifications, general orders or orders made or issued thereunder, shall be construed as reference to Commissioner, Additional Commissioner, Deputy Commissioner, Assistant Commissioner, Superintendent, Senior Auditor and an officer of Inland Revenue, respectively.

1. Registration

Continuity of registration

(1) Where, on the day immediately preceding the day on which this Act comes into force, a person is registered under the Sales Tax Act, 1990,—

- (a) the registration of that person under that Act shall be deemed to have been effected under this Act;
- (b) the registered office of the person under that Act shall be deemed to be the registered office of the person under this Act;
- (c) the person shall be deemed to be registered—
 - (i) if the person exceeds the registration threshold: under [section 46](#); or
 - (ii) if the person does not exceed the registration threshold: under [section 47](#).

Registered persons under the threshold

(2) A person who becomes registered under [section 47](#), as a result of subsection (1), may apply for cancellation of registration and if the Board is satisfied that the person does not exceed the registration threshold, the Board shall cancel the person's registration.

Certain taxpayers immediately treated as suspended

(3) The Board shall, on the day this Act comes into force, publish a list of persons registered for VAT in accordance with [section 53](#).

2. Adjustment for input tax

(1) Where, on the day this Act comes into force, a person who was registered under the Sales Tax Act, 1951 as amended by ST(A)A 1990 becomes registered under this Act, the person may claim a decreasing adjustment in relation to any amounts that were input tax as defined under that Act, if—

- (a) the input tax was incurred on goods or services purchased or imported by the person no more than twelve months prior to the day on which this Act comes into force;
- (b) the person has not previously deducted that input tax, or part of that input tax;
- (c) the person acquired the goods or services on which the input tax was incurred for what would have been a creditable purpose had this Act been in force at the time of the acquisition; and

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- (d) the person's registration is not suspended under this Act.
- (2) A decreasing adjustment allowed under subsection (1) is in addition to those listed in [section 27](#).
- (3) A registered person wishing to claim one or more decreasing adjustments allowed under subsection (1) shall,—
 - (a) claim all such adjustments only in one tax period, which must be one of the first six tax periods ending after the day on which this Act comes into force;
 - (b) must be supported by the documentation that would have been required to support a deduction under the Sales Tax Act, 1990; and
 - (c) may be disallowed by the Board if the Board is not satisfied that the person is entitled to the adjustment.

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THE FIRST SCHEDULE

Exempt supplies

See section 11.

Serial No.	Description
(1)	(2)
1	Funeral, burial or similar services.
2	Services by religious institutions exclusively for the observance or promotion of religion.
3	Services by [an approved non-profit charitable organization].
4	Financial services.
5	<p>A supply of “education services,” consisting of tuition or instruction for students provided by an institution duly registered by the [Minister of Education], being-</p> <ul style="list-style-type: none"> (a) a pre-primary, primary, or secondary school; (b) a technical college, community college, or university; (c) an educational institution established for the promotion of adult education, vocational training, improved literacy, or technical education; (d) an institution established for the education or training of physically or mentally handicapped person; or (e) an institution established for the training of sports persons.
6	<p>The following supplies of immoveable property: -</p> <ul style="list-style-type: none"> (a) a supply of vacant land; (b) a supply of land to the extent that it is to be used for agricultural purposes; (c) a supply of immoveable property to the extent that the property relates to residential premises, including land that is reasonably attributable to such premises; (d) a lease, licence, hire or other form of supply, to the extent that it is a supply of the right to occupy or be accommodated in residential premises;

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	<p>(e) a supply of holiday or hotel accommodation, if the accommodation is provided to an individual (alone or together with other individuals) who resides therein under terms consistent with a landlord and tenant agreement and for a continuous period of more than [45] days (counting the first day on which the person is supplied the accommodation and disregarding the day on which the person ceases to be provided with the accommodation);</p> <p>(f) a supply of accommodation in, or the right to occupy as a residence, a caravan, houseboat, camping site, boat, marina berth, or similar place on terms commensurate with those of landlord and tenant if the accommodation is provided to an individual (alone or together with other individuals) for a continuous period of more than 45 days (counting the first day on which the person is supplied the accommodation and disregarding the day on which the person ceases to be provided with the accommodation);</p> <p>(g) a supply by a condominium corporation to a member of the corporation, if the unit that is owned by the member, or the property the member is entitled to occupy as a consequence of its membership, constitutes residential premises (including any garage, storage space, or other space associated with the premises, so long as that space is of a type commonly considered to be part of residential premises).</p>
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For the purpose of this Schedule, and except to the extent they are provided in return for an explicit fee or charge, the following supplies are “financial services”:

- (a) granting, negotiating, and dealing with loans, credit, credit guarantees, and security for money, including management of loans, credit, or credit guarantees by the grantor;
- (b) transactions concerning money, deposit and current accounts, payments, transfers, debts, cheques, or negotiable instruments, other than debt collection and factoring;
- (c) transactions relating to financial derivatives, forward contracts, options to acquire financial instruments, and similar arrangements;
- (d) transactions relating to shares, stocks, bonds, and other securities, other than custody services;
- (e) management of investment funds;
- (f) provision, or transfer of ownership, of a contract to provide:
 - (i) life insurance;
 - (ii) health insurance;
 - (iii) crop insurance; or

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- (iv) insurance for fishing boats; and
- (v) the provision of reinsurance in respect of such contracts;
- (g) provision, or transfer of ownership, of an interest in a scheme whereby provision is made for the payment or granting of benefits by a benefit fund, provident fund, pension fund, retirement annuity fund or preservation fund;
- (h) a supply of credit under a finance lease, if the credit for the goods is provided for a separate charge and the charge is disclosed to the recipient of the goods;
- (i) the arranging of any of the services in paragraphs (a) to (h).

The [Province] Value Added Tax Bill, 2010

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THE SECOND SCHEDULE
Zero rated supplies

See section 11.

Serial No.	Description
(1)	(2)
1	To the extent that it consists of a supply of services that would otherwise be taxable under this Act, the sale or transfer of an economic activity, or part thereof, as a going concern by a registered person to another registered person is zero-rated