

PUNJAB VIDHAN SABHA

BILL NO. 30-PLA-2021

THE PUNJAB GOODS AND SERVICES TAX (AMENDMENT) BILL, 2021

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BILL

further to amend the Punjab Goods and Services Tax Act, 2017.

BE it enacted by the Legislature of the State of Punjab in the Seventy-second Year of the Republic of India as follows:-

Short title and
commencement.

1. (1) This Act may be called the Punjab Goods and Services Tax (Amendment) Act, 2021.

(2) Save as otherwise provided, the provisions of this Act shall come into force on such date as the Government of Punjab may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Amendment in
section 7 of
Punjab Act 5
of 2017.

2. In the Punjab Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in section 7, in sub-section (1), after clause (a), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2017, namely:—

“(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation.—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;”.

Amendment in
section 16 of
Punjab Act 5
of 2017.

3. In the principal Act, in section 16, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—

“(aa) the details of the invoice or debit note referred to in clause has

been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;”.

Amendment
in section 35
of Punjab Act
5 of 2017.

4. In the principal Act, in section 35, sub-section (5) shall be omitted.

Substitution
of section 44
of Punjab
Act 5 of
2017.

5. In the principal Act, for section 44, the following section shall be substituted, namely:—

“44. Every registered person, other than an Input Service
Annual
return. Distributor, a person paying tax under section 51 or
section 52, a casual taxable person and a non-resident
taxable person shall furnish an annual return which may include a
self-certified reconciliation statement, reconciling the value of
supplies declared in the return furnished for the financial year, with
the audited annual financial statement for every financial year
electronically, within such time and in such form and in such manner
as may be prescribed:

Provided that the Commissioner may, on the recommendations
of the Council, by notification, exempt any class of registered persons
from filing annual return under this section:

Provided further that nothing contained in this section shall
apply to any department of the Central Government or a State
Government or a local authority, whose books of account are subject
to audit by the Comptroller and Auditor-General of India or an auditor
appointed for auditing the accounts of local authorities under any law
for the time being in force.”.

Amendment
in section 50
of Punjab Act
5 of 2017.

6. In the principal Act, in section 50, in sub-section (1), for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:—

“Provided that the interest on tax payable in respect of supplies
made during a tax period and declared in the return for the said period
furnished after the due date in accordance with the provisions of
section 39, except where such return is furnished after commencement
of any proceedings under section 73 or section 74 in respect of the
said period, shall be payable on that portion of the tax which is paid
by debiting the electronic cash ledger.”.

Amendment in
section 74 of
Punjab Act 5
of 2017

7. In the principal Act, in section 74, in Explanation 1, in clause (ii), for the words and figures "sections 122, 125, 129 and 130", the words and figures "sections 122 and 125" shall be substituted.

Amendment in
section 75 of
Punjab Act 5
of 2017.

8. In the principal Act, in section 75, in sub-section (12), the following Explanation shall be inserted, namely:—

"Explanation.—For the purposes of this sub-section, the expression "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39."

Amendment in
section 83 of
Punjab Act 5 of
2017.

9. In the principal Act, in section 83, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Where, after the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122, in such manner as may be prescribed."

Amendment
in section 107
of Punjab Act
5 of 2017.

10. In the principal Act, in section 107, in sub-section (6), the following proviso shall be inserted, namely:—

"Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of the penalty has been paid by the appellant."

Amendment
in section 129
of Punjab Act
5 of 2017.

11. In the principal Act, in section 129, —

(i) in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:—

"(a) on payment of penalty equal to two hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty;

(b) on payment of penalty equal to fifty per cent. of the value of the goods or two hundred per cent. of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent. of

the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty;”;

(ii) sub-section (2) shall be omitted;

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

“(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause(a) or clause (b) of sub-section (1).”;

(iv) in sub-section (4), for the words “No tax, interest or penalty”, the words “No penalty” shall be substituted;

(v) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section(1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3):

Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less:

Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.”.

12. In the principal Act, in section 130, —

(a) in sub-section (1), for the words “Notwithstanding anything contained in this Act, if”, the word “Where” shall be substituted;

(b) in sub-section (2), in the second proviso, for the words, brackets

and figures “amount of penalty leviable under sub-section (1) of section 129”, the words “penalty equal to hundred per cent. of the tax payable on such goods” shall be substituted;

(c) sub-section (3) shall be omitted.

Substitution
in section
151 of
Punjab Act
5 of 2017.

13. In the principal Act, in section 151, the following section shall be substituted, namely:—

“151. The Commissioner or an officer authorised by him may,
Power to call for information. by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein.”.

Amendment in
section 152 of
Punjab Act 5
of 2017.

14. In the principal Act, in section 152, —

(a) in sub-section (1),—

(i) the words “of any individual return or part thereof” shall be omitted;

(ii) after the words “any proceedings under this Act”, the words “without giving an opportunity of being heard to the person concerned” shall be inserted;

(b) sub-section (2) shall be omitted.

Amendment
in Schedule-
II of Punjab
Act 5 of
2017.

15. In the principal Act, in Schedule II, paragraph 7 shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017.

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STATEMENT OF OBJECTS AND REASONS

Various decisions have been taken by the Goods and Services Tax Council requiring amendments in the Goods and Services Tax Laws . Accordingly , the Central Goods and Services Tax Act , 2017 (12 of 2017) and the Integrated Goods and Services Tax Act , 2017 (13 of 2017) have been amended by the Parliament by the Finance Act , 2021 (13 of 2021) . In order to maintain the uniformity and applicability of the provisions of the Central Goods and Services Tax Act , 2017 and the Punjab Goods and Services Tax Act , 2017 (Punjab Act No. 5 of 2017) , it is expedient to amend the the Punjab Goods and Services Tax Act , 2017 .

2. The salient features of the proposed amendments to the Punjab Goods and Services Tax Act , 2017 are as follows :

(i) *Insertion of new clause (aa) and Explanation in sub-section (1) of section 7:-* sub - section (1) of Section 7 is being amended with retrospective effect from the 1st July 2017 , by inserting a new clause (aa) , so as to ensure levy of tax on activities or transactions involving supply of goods and services by any person , other than an individual , to its members or constituents or *vice - versa* , for cash , deferred payment or other valuable consideration .

It is also proposed to inserted an Explanation therein , to clarify that the person or its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one person to another .

(ii) *Insertion of new clause (aa) in sub - section (2) of section 16 :* -Section 16 is being amended by inserting a new clause (aa) in sub - section (2) thereof , so as to provide that input tax credit on invoice or debit note may be availed only when the details of such invoice or debit note has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note .

(iii) *Deletion of sub - section (5) of section 35 :* -This amendment seeks to delete sub - section (5) of section 35 so as to remove mandatory requirements of getting annual accounts audited and reconciliation statement submitted by specified professional .

(iv) *Substitution of section 44* : - This amendment seeks to substitute section 44 , so as to remove the mandatory requirement of furnishing a reconciliation statement duly audited by specified professional and to provide for filing of the annual return on self - certification basis . It further empowers the Commissioner to exempt a class of taxpayers from the requirement of filing the annual return .

(v) *Amendment to sub - section (1) of section 50* : -This amendment seeks to substitute the proviso to sub - section (1) of section 50 so as to charge interest on net cash liability retrospectively with effect from the 1st July 2017 .

(vi) *Amendment to section 74* : - Section 74 is being amended so as to make seizure and confiscation of goods and conveyances in transit a separate proceeding from the recovery of tax .

(vii) *Insertion of Explanation in sub - section (12) of section 75* : -An Explanation is being inserted in sub - section (12) of section 75 , to clarify that " self - assessed tax " shall include the tax payable in respect of details of outward supplies furnished under section 37 , but not included in the return furnished under section 39 .

(viii) *Amendment in sub - section (1) of section 83* : - Sub - section (1) of section 83 is being substituted so as to provide that provisional attachment shall remain valid for the entire period starting from the initiation of any proceeding under Chapter XII , Chapter XIV , or Chapter XV , till the expiry of a period of one year from the date of order made thereunder .

(ix) *Amendment to sub - section (6) of section 107* : - This amendment seeks to insert a new proviso in sub - section (6) of section 107 so as to provide that no appeal shall be filed against an order made under sub - section (3) of section 129 unless a sum equal to twenty - five per cent of the penalty has been paid by the appellant .

(x) *Amendment to section 129*: - Section 129 is being amended so as to delink the proceedings under that section relating to detention, seizure and release of goods and conveyances in transit , from the proceedings under section 130 relating to confiscation of goods or conveyances and levy of penalty .

(xi) *Amendment to section 130* : - Section 130 is being amended , so as to delink the proceedings under that section relating to confiscation of goods or conveyances and levy of penalty from the proceedings under section 129 relating to detention , seizure and release of goods and conveyances in transit .

(xii) *Substitution of section 151*:- 151 is being substituted , so as to empower the commissioner or an officer authorized by him to call for information from any person relating to any matters dealt with in connection with the Act .

(xiii) *Amendment to sub - section (1) of section 152* : -Sub - section (1) of section 152 is being amended so as to provide that no information obtained under

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sections 150 and 151 shall be used for the purposes of any proceedings under the Act without giving an opportunity of being heard to the person concerned .

(xiv) *Amendment to Schedule II* : -This amendment seeks to delete paragraph 7 of Schedule II , with retrospective effect from the 1st day of July 2017 , consequent to the amendments made in section 7 .

3 . The Bill seeks to achieve the above objectives .

FINANCIAL MEMORANDUM

The bill purposes to amend sections 7, 16, 35, 44, 50, 74, 75, 83, 107, 129, 130, 151 and 152 Schedule II of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No. 5 of 2017), With a view to maintain the uniformity and applicability of the provisions of the Central Goods and Services Tax Act, 2017 and the Punjab Goods and Services Tax Act, 2017. Thus there is no provision in the Bill which would involve the recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act of the State Legislature.

MANPREET SINGH BADAL,
TAXATION MINISTER, PUNJAB.

The Governor has, in pursuance of clause (1) and (3) of Article 207 of the Constitution of India, recommended to the Punjab Legislative Assembly, the introduction and consideration of the Bill.

CHANDIGARH:
THE 8TH NOVEMBER, 2021

SURINDER PAL
SECRETARY.

N.B. – The above Bill was published in the Punjab Government Gazette (Extraordinary), dated the 8TH November, 2021 under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly).


Under Secretary
Punjab Vidhan Sabha
Chandigarh