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THE PUNJAB FINANCE ACT 2012 (XLI of 2012)

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TEXT

'THE PUNJAB FINANCE ACT 2012
(XLI of 2012)

[25th June, 2012]

An
Act

to amend certain laws relating to taxes and duties in the Punjab.

Preamble.— Whereas, it is expedient to amend certain laws relating to tax and duties in the Punjab and connected matters;

It is enacted as follows:—

1. Short title, extent and commencement.— (1) This Act may be cited as the Punjab Finance Act 2012.

(2) It extends to whole of the Punjab.

(3) It shall come into force on the first day of July 2012.

2. Amendment in Act II of 1899.— In the Stamp Act, 1899 (*II of 1899*):

(a) in section 27-A, in sub-section (1), for the expression “Articles 23, 31 or 33”, the expression “Articles 23, 27-A, 31 or 33” shall be substituted; and

(b) in Schedule I, in Article 45, in column 3, after the proviso, the following Exception shall be inserted:

“**Exception.**— Notwithstanding anything contained herein, a fixed stamp duty of five hundred rupees shall be charged in respect of an instrument of partition relating to an urban or rural property including agricultural land, which is partly or wholly based on opening of inheritance.”

3. Amendment in Act V of 1958.— In the Punjab Urban Immovable Property Tax Act, 1958 (*V of 1958*):

(a) in section 2, for clause (h), the following shall be substituted:

“(h) “tax” means the tax leviable under the Act and includes the late payment surcharge in terms of section 12;”

(b) in section 3, in sub-section (5), for the expression “31st day of August”, the expression “30th day of September” shall be substituted;

(c) for section 12, the following shall be substituted:

¹This Act was passed by the Punjab Assembly on 21st June, 2012; assented to by the Governor of the Punjab on 25th June, 2012; and, was published in the Punjab Gazette (Extraordinary), dated 25th June, 2012, pages 41719-41724.

“12. Payment of Tax and late payment surcharge.– (1) Subject to sub-section (2), the tax shall be paid on yearly basis on or before 30th day of September of the year for which the tax pertains.

(2) The Government may, by notification in the official Gazette, direct that the tax in any rating area for any specified period shall be paid separately.

(3) In addition to the proceedings for the recovery of the tax under this Act, a late payment surcharge at the rate of one per cent of the gross payable tax shall stand imposed on the first day of every month of delay if the tax payable for any year is not paid by 30th day of September of the said year:

Provided the late payment surcharge on the arrears of tax as on 30th day of June 2012 shall stand levied on and from 1st day of July 2012.”; and

- (d) in section 16, after the expression “section 3”, wherever occur, the expression “or the late payment surcharge levied under section 12” shall be inserted.

4. Amendment in Act XXXII of 1958.– In the Punjab Motor Vehicles Taxation Act, 1958 (*XXXII of 1958*):

- (a) in section 3, in sub-section (1), in the last proviso, after the word “cabin”, the words “or a motor vehicle (motor car or jeep) up to 1000 CC” shall be inserted; and

- (b) in the Schedule, in Sr.No. 4:

- (i) in column No.2, in para (b), for the entry at (i), the following shall be substituted:–

“(i) A lump sum tax of rupees ten thousand shall be charged for motorcars and jeeps up to 1000cc at the time of registration:

Provided that in case of a motor vehicle registered before 1st day of July 2012, the amount of tax already paid shall be deducted from the payable tax of rupees ten thousand and the remaining amount shall be paid lump sum at the time of payment of the tax due.”; and

- (ii) in column No.3, the expression “Rs.600/- per annum” shall be omitted.

5. Amendment in Act XV of 1977 .– In the Punjab Finance Act 1977 (*XV of 1977*), in the Second Schedule, at S.No.1, in column 2, for the expression “Companies registered under Companies Ordinance, 1984 with paid up capital–”, the expression “Companies registered under the Companies Ordinance, 1984, *modarabas*, mutual funds or any other bodies corporate with the paid-up capital or, as the case may be, the reserves in the preceding year–”shall be substituted.

6. Amendment in Act XV of 2010.– In the Punjab Finance Act 2010 (*VI of 2010*), for section 6, the following shall be substituted:–

“6. Capital value tax on immovable property.– (1) This section shall have effect notwithstanding anything contained in any other law.

- (2) For purposes of this section–
- (a) “association of persons” includes a firm, a Hindu undivided family, a juridical person and a body of persons formed under a foreign law, but does not include a company;
 - (b) “Board of Revenue” means the Board of Revenue established under the Punjab Board of Revenue Act, 1957 (*XI of 1957*);
 - (c) “Collector” means the Collector of the district appointed under the Punjab Land Revenue Act, 1967 (*XVII of 1967*) and includes the Collector of a subdivision or any other officer specially empowered by the Board of Revenue to exercise and perform the functions of Collector;
 - (d) “company” means–
 - (i) a company as defined in the Companies Ordinance, 1984 (*XLVII of 1984*);
 - (ii) a body corporate formed by or under any law in Pakistan;
 - (iii) a modarba;
 - (iv) a body incorporated by or under the law of a country outside Pakistan relating to incorporation of companies;
 - (v) a trust, a co-operative society or a finance society or any other society established or constituted by or under any law; and
 - (vi) a foreign association, whether incorporated or not, which the Government has, by general or special order, declared to be a company for purposes of this section ;
 - (e) “Government” means Government of the Punjab;
 - (f) “person” includes–
 - (i) an individual;
 - (ii) an association of persons;
 - (iii) a company;
 - (iv) a foreign government;
 - (v) a political subdivision of foreign government; and
 - (vi) a public international organization;
 - (g) “recorded value” means the value declared by the transferee in the instrument, provided that the declared value of the property shall not be less than the value specified in the valuation table notified by the Collector of the district;
 - (h) “registration authority” includes the person responsible for registering or attesting or recording the transfer of an

immovable property or of the right to use an immovable property for more than twenty years, and in the case of a cooperative society or a private housing society, its principal officers including president, secretary, accountant or any similar officer declared by the Collector as the principal officer of the society;

- (i) “tax” means capital value tax and includes any penalty, fee and charge or any sum or amount leviable or payable under this section;
- (j) “urban area” means an area which is –
 - (i) a rating area under the Punjab Urban Immovable Property Tax Act, 1958 (*V of 1958*) except the area where the rate of tax is zero in terms of section 117 of the Punjab Local Government Ordinance, 2001 (*XIII of 2001*); or
 - (ii) an area notified by the Board of Revenue in the official Gazette.

(3) A tax on the capital value of an immovable property shall be payable by a person who acquires an immovable property by purchase, gift, exchange or power of attorney, surrender or relinquishment of right by the owner or a right to use thereof for twenty years or more or renewal of lease so that the total period of lease in favour of the same lessee is twenty years or more at the rates specified in sub-section (5).

(4) The tax shall not be payable if–

- (a) immovable property is acquired through inheritance; or
- (b) immovable property is acquired through gift between spouses, father, mother, son, daughter, grandparents and grandchildren, siblings, or from one wife or widow to another wife or widow of the same husband; or
- (c) power of attorney is executed between spouses or from one wife or widow to another wife or widow of the same husband, or father, mother, son, daughter, grandparents, grandchildren and siblings.

(5) The rate of tax in respect of immovable property is as under:–

- (a) Immovable property other than commercial or industrial property, plaza or multi-storeyed building situated in urban area measuring at least two hundred and fifty square yards or ten marla, whichever is less –

No.	Description	Rate of tax
(i)	Where the value of the immovable property is recorded.	Two percent of the recorded value of the landed area.
(ii)	Where the value of the	One hundred

immovable property is not recorded. rupees per square feet of the landed area.

(iii) Where the immovable property is a constructed property. Ten rupees per square feet of the constructed area in addition to the value worked out above.

(b) Commercial or industrial immovable property other than plaza or multi-storeyed building of any size situated in an urban area:

No.	Description	Rate of tax
(i)	Where the value of the immovable property is recorded.	Two per cent of the recorded value of the landed area.
(ii)	Where the value of the immovable property is not recorded.	One hundred rupees per square feet of the landed area.
(iii)	Where the immovable property is a constructed property.	Ten rupees per square feet of the constructed area in addition to the value worked out above.

(c) Immovable property whether commercial, residential or composite in plazas and multi-storeyed buildings of any size situated in an urban area:

No.	Description	Rate of tax
(i)	Where the value of the immovable property is recorded.	Two percent of the recorded value of the immovable property or one hundred rupees per square feet of the constructed area, whichever is higher.
(ii)	Where the value of the immovable property is not recorded.	One hundred rupees per square feet of the constructed area of the immovable property.

(6) The tax shall be collected at the time of registering or attesting the transfer by the person responsible for registering or attesting the transfer of the immovable property for which the tax is payable.

(7) The registration authority or any other person mentioned in sub-section (6) shall submit to the Collector a monthly statement by 10th of the succeeding month in such Form as may be prescribed.

(8) In case the statement mentioned in sub-section (7) is not submitted within the prescribed time, Collector of the district may impose a penalty on the registration authority or any other person mentioned in sub-section (6) up to rupees one hundred thousand.

(9) The Collector of the district or any authority to whom he is subordinate, may himself or through a person or agent appointed by him for the purpose conduct or cause to be conducted the audit of the capital value tax including examination of accounts and records of that registration authority or any other person mentioned in sub-section (6) and may make an assessment of the tax on the basis of such audit.

(10) The Collector may, by notice in writing, require any person—

(a) to furnish to the Collector or an officer authorised by him any information or produce any accounts, documents or computer stored information in his possession and relevant to the tax specified in the notice; and

(b) to attend at such time and place as mentioned in the notice for purposes of examining him on oath by the Collector or the authorised officer in respect of the matters relating to the tax.

(11) The Collector may impound any accounts or documents produced in terms of sub-section (10) and retain the documents so long as may be deemed necessary for purposes of examination.

(12) Where a hard copy or computer disk of information stored on a computer is not made available as required under sub-section (10), the Collector may require production of the computer on which the information is stored, and impound and retain the computer for such period as may be necessary.

(13) For purposes of this section, the Collector shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (*V of 1908*), in respect of the following matter:—

(i) enforcing the attendance of any person and examining the person on oath or affirmation;

(ii) compelling the production of any accounts, records, computer stored information, or computer;

(iii) receiving evidence on affidavit; or

(iv) issuing commissions for the examination of witnesses.

(14) Where a registration authority or any other person mentioned in sub-section (6) fails to—

(i) furnish prescribed monthly statement; or

(ii) provide information or produce documents or record in terms of sub-section (10) within the stipulated time, Collector of the

district may make an assessment of the tax on the basis of the information or material available to him.

(15) As soon as may be after making an assessment under sub-section (9) or sub-section (14), Collector of district shall issue the assessment order to the registration authority or any other person, stating—

- (i) the amount of tax due;
- (ii) the time, place and manner of filing an appeal against the assessment order.

(16) The powers under sub-section (9) or sub-section (14) shall not be exercised after the expiry of five years from the conclusion of the financial year to which the assessment relates.

(17) Where the tax is not collected from the person liable to pay it, the tax may be collected by an officer designated by the Board of Revenue in this behalf from the said person and the provisions of the Punjab Land Revenue Act 1967 (*XVII of 1967*) shall, so far as may be, apply to the collection of the tax as they apply to the recovery of arrears of land revenue.

(18) Where any person fails to collect the tax or having collected fails to deposit the tax into the Government Treasury, he shall be personally liable to pay the tax along with default surcharge at the rate of fifteen percent per annum for the period for which such tax or part thereof remains unpaid, and the Collector may recover it from the said person as arrears of land revenue after giving him an opportunity of hearing.

(19) Where, at the time of recovery of tax under sub-section (18), it is established that the tax collected from the person has meanwhile been paid by the person liable to tax, no recovery shall be made from the person who had failed to collect the tax but the said person shall be liable to pay default surcharge at the rate of fifteen percent per annum from the date he failed to collect the tax to the date the tax was paid.

(20) A person personally liable for any amount of tax under sub-section (18) as a result of failing to collect the tax shall be entitled to recover the tax from the person from whom the tax should have been collected.

(21) The recovery of tax under sub-section (17) does not absolve a person who failed to collect the tax from any other legal action in relation to the failure or from a charge of default surcharge.

(22) The order passed by an officer under this section shall be deemed to be an order passed by a Revenue Officer under the Punjab Land Revenue Act, 1967 (*XVII of 1967*).

(23) The provisions of sections 13 and 14 of the Punjab Land Revenue Act 1967 (*XVII of 1967*), shall apply to the cases under this section.

(24) For purposes of appeal, review or revision, an order passed under this section shall be deemed to be an order of a Revenue Officer within the meanings of sections 161, 162, 163 and 164 of the Punjab Land Revenue Act 1967 (*XVII of 1967*).

(25) Where the tax has been recovered from a person not liable to pay the same or in excess of the amount actually payable, an application may, in writing, be made to the Collector for the refund of the tax or the excess amount.

(26) The proceeds of the tax collected under this section shall be credited to the Provincial Consolidated Fund under the head specified by the Government.

(27) The Board of Revenue may, by notification in the official Gazette, make provisions relating to the collection and recovery of the tax or regarding any ancillary matters.

(28) The Government may, by notification in the official Gazette, exempt a class of immovable property or a class of persons or a mode of transfer of property from the levy or recovery of the tax subject to such conditions as may be specified in the notification.

7. Amendment in Act XV of 2011.— In the Punjab Finance Act 2011 (*XV of 2011*)—

(a) in section 6 —

(i) for sub-section (1), the following shall be substituted and shall be deemed to have always been so substituted —

“(1) This section shall have effect, notwithstanding anything contained in any other law.

(1A) The provisions of this section shall not apply to the rating areas in terms of the Punjab Urban Immovable Property Tax Act, 1958 (*V of 1958*) where the property tax is levied but shall apply to the rating areas which are zero rated in terms of section 117 of the Punjab Local Government Ordinance, 2001 (*XIII of 2001*).”

(ii) in sub-section (2), in clause (c), the full stop shall be replaced by a semi-colon and the following new clause shall be inserted:—

“(d) “total minimum area” means the total land area including the area under farming even though the farm house is constructed on a portion of such area of land.”;

(b) in section 7 —

(i) in sub-section (2), for clauses (b) and (c), the following shall be substituted:—

“(b) “amenities” include facilities of sports, swimming, gymnasium, fitness, conferences, ceremonies, musical concerts and other social amenities;

(c) “club” means an association or organization offering members amenities, services, meals or temporary residence with initial membership fee of rupees two hundred thousand for any category of members and notified as club by the Government;

- (d) “initial membership fee” includes all subscriptions or payments, charges, donations made by an applicant for membership of the club;
 - (e) “Government” means Government of the Punjab; and
 - (f) “services” means all types of services provided by the club and includes goods sold at the club premises.”
- (ii) after sub-section (3), the following shall be inserted:–
- “(3A) Notwithstanding any reduction of initial membership fee after the club has been notified under sub-section (2), the club shall remain notified and the cess under this section shall continue to be levied on such club.
- (3B) If a club is notified for purposes of this section, the cess shall be levied on actual initial membership paid by the applicant.
- (3C) The cess shall be levied on the services provided to any person or a member regardless of the date of membership.”