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POLICY NOTE

IMPOSITION OF 16% TAX BY PUNJAB GOVERNMENT ON SERVICES PROVIDED BY PERSON FOR INTER-CITY CARRIAGE OF GOODS BY RAIL OR ROAD

1. The Competition Act, 2010 (the ‘**Act**’) provide for free competition in all spheres of commercial and economic activity to enhance economic efficiency and to protect consumers from anti-competitive behavior.
2. The Competition Commission of Pakistan (‘the **Commission**’) is mandated under Section 29 (b) of the Act to review policy frameworks for fostering competition and to make recommendations for amendments to laws that affect competition in Pakistan to Federal Government and Provincial Governments.
3. This policy note recommends amendment to the Punjab Sales Tax on Services Act, 2012 and Circular No. 2 of 2015 issued by the Punjab Revenue Authority (‘**PRA**’) concerning the imposition of 16% sales tax on services provided for inter-city carriage of goods by rail or road under the services classification 9804.2000 and 9804.9000.

I. BACKGROUND

4. A complaint was lodged by the Sialkot Dry Port Trust (SDPT) with the Commission, alleging discriminatory treatment by PRA with respect to imposition and collection of sales tax on services.
5. The addition of Item ‘48’ to the Second Schedule to the Punjab Sales Tax on Services Act, 2012 imposes 16% sales tax on services provided for inter-city carriage of goods by rail or road under the services classification 9804.2000 and 9804.9000, and excludes individual transporters from the same.

6. PRA, vide its Circular No. 02 of 2015 (**'PRA Circular'**) dated 01.09.2015 suspended the levy of sales tax to the extent of transportation of oil through oil tankers and transportation of goods by informal non-corporate transporters of goods operating through '*truck addas*'.
7. The Sindh Revenue Board (SRB) has similarly held in abeyance in the levy and collection of 15% sales tax on services provided by persons engaged in the inter-city transportation of goods to the same extent as the PRA vide circulars No.1 of 2015 and No.1 of 2016 dated 24.07.2015 and 04.02.2016 respectively.

II. ISSUE

8. Whether the *de facto* exemptions granted to oil transporters and non-corporate transporters of goods distort market conditions and restrict competition in the relevant market for inter-city carriage of goods by rail or road sector.

III. COMPETITION CONCERN

9. We now assess the impact of the exemptions provided by the Government of Punjab and PRA.
10. Tax regimes provided by governments serve various purposes, and may be used to achieve different policy goals. Similarly, tax incentives can also be used as a policy tool by governments to encourage investment in a particular industry or to achieve other economic efficiencies.
11. Preferential tax treatment however may have the effect of distorting the competitive conditions of a market, by providing one or more players with undue advantages over other market players.
12. The exemption provided for under the Punjab Sales Tax On Services Act, 2012 creates an arbitrary distinction between services providers, with some entities liable to pay sales tax while other providers of exactly the same services in the same market are excluded. The two types of entities are direct competitors for the same services that are being rendered by them within the same market. The PRA Circular enforces the distinction created.
13. The exemption has the effect of lowering the costs of one segment, which is not based on more efficient management or other economic factors, and relies instead on the government created advantage. As such, corporate providers of inter-city carriage of goods services, such as SDPT, amongst others are placed at a competitive disadvantage vis-à-vis the non-taxed transporters.

14. Apart from the anti-competitive environment created, the exemption also has the implicit effect of promoting the undocumented sector at the cost of the corporate sector, which needs to remain a separate policy consideration.

IV. RECOMMENDATIONS

15. The Commission recommends that the Punjab Revenue Authority and Sindh Revenue Board shall withdraw the exemptions granted in order to ensure a level playing field for all market players.
16. The Commission further recommends that Item 48 of the Punjab Sales Tax On Services Act, 2012 be amended to remove the exemption provided to individual owners of vehicles for carriage of goods.

Islamabad the 26th May, 2016