



# Professional Tax Reforms: First Step - Legal and Regulatory Improvements

## Brief for Secretary Excise and Taxation Department

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Excise & Taxation Department

### Punjab Government Efficiency Improvement Programme (PGEIP)

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## 1. Professional Tax in Punjab

Professional Tax is levied on persons or classes of persons engaged in professions, trades, or employment in the province of Punjab. The Punjab Finance Act, 1977 and the Punjab Professions and Trade Rules, 1977, provide the legal and regulatory framework for this tax, while Article 163 of Constitution of Pakistan provides the constitutional cover for this tax and declares 'professions, trade, callings or employment' a provincial levy. Revenue from this tax amounts to around 4% of the revenue collected by E&TD annually (PKR 434 million collected in 2009-10). **Annex-I** contains amounts collected through direct taxes in Punjab over the years.

## 2. Previous Attempts at Professional Tax Reform

Earlier, there have been at least one attempt to reform Professional Tax, where an IT firm – Acrologix – was hired to develop an IT system for E&TD, including the Professional Tax function. The software attempted at computerizing the demand register, however, the reform could never be completely successful. Some of the possible issues, behind lack of success, could possibly include, unwillingness of staff to adopt technology, absence of any business process re-engineering exercise prior to computerization, procurement issues, lack of capacity, etc.

## 3. Reviewing Legal/Regulatory Regime and tax Structure

The first step towards Professional Tax reforms starts with Legal/Regulatory Review that has been performed and is attached for review and analysis. The absence of an effective legal regime critically hampers E&TD's ability to effectively manage the Professional Tax regime.

### 3.1 Gaps identified in the regulatory regime

A review of the professional tax regime reveals numerous gaps both in terms of effectiveness and due process. These gaps and lacunae are as follows:

- a) The Tax imposing provisions are extremely brief and do not provide necessary information. In the absence of broad parameters, subordinate legislation becomes difficult to draft and liable to challenge.
- b) The tax imposing statute and the Punjab Professions and Trade Tax Rules, 1977 do not define key terms. For example the term 'lawyer', 'trade', 'engineer', 'money changer' are not defined, which leads to disparate interpretations.
- c) Unlike Indian states, overall responsibility for professional tax across the province is not assigned to any officer.
- d) Tax has been imposed on contractors supplying commodities and services to the Federal and Provincial Governments but no corresponding duty to collect this tax is imposed on the procuring authority<sup>1</sup>.
- e) There is no positive duty to collect professional tax from employers, official authorities, companies and public authorities. Such a duty only becomes operative 'if so directed by the District Officer/Excise and Taxation Officer'<sup>2</sup>.
- f) The Tax regime does not impose any duty on professional registration bodies like the Pakistan Medical and Dental Council, Pakistan Bar council or the Pharmacy council to provide information regarding persons registered with them. Similarly the tax regime does not require the Securities and Exchange

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<sup>1</sup> See Sr. No 5, Second Schedule, Punjab Finance Act, 1977 read with Rule 7, Punjab Professions and Trade Tax Rules, 1977. This rule has however been partially superseded (and possibly without legal authority) by FD Instruction No SO (M-1) 1-1/2000(P-1) Dated 20 -5-2011 which shifts the responsibility of collection on Government departments ( by deduction) in case of default

<sup>2</sup> Rule 7(2), Punjab Professions and Trade Tax Rules, 1977

Commission of Pakistan or the Punjab Employees Social Security Institution to provide information about entities registered with them.

- g) The legal regime does not provide powers of inspection to assessing officers and/or collect information from other sources.
- h) The legal regime does not impose any duty on the Excise and Taxation department to maintain a searchable database of professional taxpayers, which limits the ability of the department to exploit this data for purposes of taxation on services.
- i) Selection of classes of persons liable to pay professional and trade tax appears to be based on no clearly discernible criteria with many professions and trades missing like veterinary doctors, cement dealers, fertilizer dealers etc.

## **4. Way Forward: Legal and Regulatory Improvements**

Following key steps provide the proposed way forward to take the reform initiative to the next level:

### **4.1 Shared Understanding with Department**

Although the consultants have developed a broad sketch of the proposed reform agenda for Professional Tax regime and have conducted in depth consultations with the field staff, there is still a need to formalize the shared understanding with the departmental top management.

### **4.2 Deployment of dedicated human resource for Professional Tax Reforms**

The existing Professional Tax team in E&TD is already trying hard to cope up with the workload. In order to implement the reforms, there is a need to have dedicated focus from the department, which is only possible through deployment of additional resources. These resources can work under the strategic guidance given by the Secretary.

### **4.3 Conclusion: Drafting of Professional Tax and Trade Act**

Professional Tax provides a very promising area, having potential to enhance revenue collection as well as broadening the tax net, through appropriate reform measures. However, doing so would require strong departmental ownership and commitment as well as substantial financial resources and time.

Professional Tax reforms would probably entail many steps; first among these is related to improvements in legal and regulatory framework for which required legal and regulatory review has already been conducted. PGEIP, at this juncture, therefore suggests detailed legal and regulatory improvements so that the regime is ready for further reform initiatives including process improvements, capacity building and other related issues.

Once recommendations regarding legal/regulatory review of Professional Tax regime have been deliberated with the department, we could move into drafting a comprehensive Professional and Trade Tax Act that could potentially provide the department with much needed and robust legal and regulatory framework.



**Annex-I**

**Amounts collected through Direct Taxes in Punjab (Rs. Million)**

<b>Years</b>	<b>Property Tax</b>	<b>Motor Tax</b>	<b>Professional Tax</b>	<b>Excise Duty</b>	<b>Cotton Fee</b>	<b>Hotel Tax</b>
2003-04	2051.16	2410.95	197.33	692.252	345.948	131.641
2004-05	1961.17	3162.97	200.92	790.874	507.718	173.567
2005-06	2188	4025.76	232.833	888.68	430.495	234.749
2006-07	2146.97	4527.61	270.723	1030.54	453.428	279.551
2007-08	2467.42	4260.33	298.449	1214.2	380.851	275.209
2008-09	2855.05	3474.13	335.097	809.021	352.949	208.423

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