

THE KHYBER PAKHTUNKHWA
FINANCE ACT, 2011.

(KHYBER PAKHTUNKHWA ACT NO. XIII OF 2011)

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FINANCE ACT, 2011.

(KHYBER PAKHTUNKHWA ACT NO. XIII OF 2011)

[first published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary),dated the 5" July,2011].

AN
ACT
to continue and revise certain taxes and fees
in the Province of the Khyber Pakhtunkhwa.

Preamble.—WHEREAS it is expedient to continue and revise certain taxes and fees in the Province of the Khyber Pakhtunkhwa and for matters ancillary thereto or connected therewith;

It is hereby enacted as follows:

1. Short title, extent_and_commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Finance Act, 2011.

(2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force on the 1st day of July, 2011.

2. Amendment of Schedule-I_ to Act VII_of 1870.—In the Court Fees Act, 1870 (Act VII of 1870), in Schedule-I,-

(i) for the existing entries against serial 1, the following shall be substituted, namely:

1

3

“1.

Plaint, written statement
pleading a set-off or
counter-claim or
memorandum of appeal
(not otherwise provided
for in this Act) or cross-
objection presented to any
Civil or Revenue Court
including applications,
appeals and _ revisions
before revenue appellant
or revisional authorities;
except those mentioned in
section 3.

Seven-and-a half percent
(7.5%) on the amount or
value of the subject matter
in dispute, subject to a
minimum of five hundred
rupees and a maximum of
fifteen thousand rupees
(irrespective of value of
relief claimed).”; and

(ai)

the existing “Table of rates of
ad valorem fees leviable on the institution of suits” appearing
at the end of Schedule-I shall be deleted.

3. Amendment of W.P. Act No. V_ of 1958.---In the West Pakistan Urban
Immovable Property Tax Act, 1958 (West Pakistan Act No. V of 1958),-

(i)

(ai)

in section 3, in sub-section (2), after clause (b), the following
Explanations shall be inserted, namely:

“Explanation-I.-Residential buildings are the
buildings which are used for the purpose of dwelling whereas
commercial buildings are the buildings alongwith any
appurtenances and installations that may be attached
therewith, which are used as office establishment or for
carrying on any commerce or trade.

Explanation-II.-In case when compartmentalization and partition is carried out in the buildings in such a way to collectively use the building for residential as well as commercial purposes or to house more than one dwellings, the tax in respect of such compartments and partitions shall be levied in a manner as if they are separate buildings.”;

in section 4, for sub-section (2), the following shall be substituted, namely:

“(2) Notwithstanding anything to the contrary contained in section 3, there shall not be levied and

charged any tax under this Act, in relation to buildings and lands occupied by industrial units in any area declared by Government as "Industrial Estates" for a period of three years with effect from 1st day of July, 2010."; and

(iii) — for the existing "Schedule-I and II", the respective Schedules specified in Appendix-I to this Act shall be substituted.

4. Amendment of West Pakistan Ordinance No. XIX of 1965.—In the Provincial Motor Vehicles Ordinance, 1965 (W.P. Ord. No. XIX of 1965), for section 23-A, the following shall be substituted, namely:

"23A. Penalty in default of registration.—If any owner of a motor vehicle imported into the country or purchased from any authorized manufacturer in the country, fails to register it within sixty days of its import or purchase, as the case may be, he shall, besides the registration fee prescribed under the rules, be liable to a penalty described in the Table below:

TABLE

S.No. Motor vehicle type/ Where the Where the

Engine Capacity of default does default

vehicle not exceed 6 exceeds 6

months (Rs.) months (Rs.)

1. 2. 3. 4.

(i) Motor Cycle/scooter 200 500

(ii) Tractor not being used 1000 2000

for agricultural purposes

(iii) | Other vehicles up to 800 1000 2000

CC

(iv) 801-1000 CC 1500 3000

(v) 1001 — 1300 CC 1700 3400

(vi) 1301-2000 CC 2000 5000

(vii) Above 2000 CC 5000 10000."

5. Amendment of Khyber Pakhtunkhwa Ordinance No. V of 1982.—In the Khyber Pakhtunkhwa Finance Ordinance, 1982 (Ord. No. V of 1982), in section 3,

for sub-section (1), the following shall be substituted, namely:

"(1) There shall be levied a cess, called the Sugar-cane and Sugar-beet (Development) Cess, on sugar-cane crushed or sugar-beet sliced

by the Sugar Mills at the rate of Rupee one per maund of the Sugar-cane or Sugar-beet, as the case may be."

6. Amendment of Khyber Pakhtunkhwa Act No. IV of 1990.---In the Khyber Pakhtunkhwa Finance Act, 1990 (Khyber Pakhtunkhwa Act No. IV of 1990), in

section 7, for the existing Table, the Table specified in Appendix-II to this Act shall be substituted.

7. Amendment of Khyber Pakhtunkhwa Act No.1 of 1996.---In the Khyber Pakhtunkhwa Finance Act, 1996 (Khyber Pakhtunkhwa Act No.1 of 1996), in

section 11, in sub-section (1), for clauses (a), (b) and (c), the following shall be respectively substituted, namely:

"(a) for virginia (flu-cured, barley and Rs.2.50/- dark-air- cured); per kilogram

(b) for white patta/rustica tobacco Rs.1.25/- including khaka, kara and the roth per kilogram made of main stalk (dandi) and stem of tobacco; and

(c) for snuff/naswar. Rs.1.00/- per kilogram.".

8. Amendment of Khyber Pakhtunkhwa Ord. No. II of 2000.---In the Khyber Pakhtunkhwa Sales Tax Ordinance, 2000 (Ordinance No. III of 2000),-

(i) for section 3, the following shall be substituted, namely:

"3. Scope of tax.---(1) Subject to the provisions of this Ordinance, there shall be charged, levied and paid a tax to be known as Provincial Sales Tax on Services, rendered, made, supplied or provided in the Province of the Khyber Pakhtunkhwa at the rates shown against each service specified in the Schedule to this Ordinance.

(2) Subject to the conditions mentioned in the Schedule to this Ordinance, the tax shall be charged, levied and recovered on the services, specified in the Schedule to this Ordinance, at such rate of the value of the taxable services, in the same manner and at the same time, as if it were a Sales Tax leviable under sections 3, 3A or 3AA or any other charging provision as the case may be, of the Sales Tax Act, 1990.

(3) Subject to the conditions mentioned in the Schedule to this Ordinance and rules made, orders,

instructions and notifications issued by the Government of the Khyber Pakhtunkhwa from time to time, all the provisions of the Sales Tax Act, 1990 shall, mutatis mutandis, apply to the collection and payment of tax under this Ordinance in so far as

they relates to-

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)

manner, time and mode of payment;
registration and deregistration;
keeping of records and audit;
enforcement and adjudication;
penalties and prosecution; and

all other allied and ancillary matters.

(4) For the purpose of this section, the Government of the Khyber Pakhtunkhwa may issue from time to time such orders, instructions or guidelines and specify conditions, as it

may deem fit.”;

(iii) after section 3, the following new section shall be added,

namely:

“4, Power to make rules.---Government of the Khyber Pakhtunkhwa, for the purpose of carrying into effect the provisions of this Ordinance, may make Rules.”; and

(iii) for the existing Schedule, the Schedule specified in Appendix-III to this Act shall be substituted.

9. Amendment of Khyber Pakhtunkhwa Act No. VIII of 2010.---In the Khyber Pakhtunkhwa Finance Act, 2010 (Khyber Pakhtunkhwa Act No. VIII of 2010), in section 2,-

(i) for sub-section (2), the following shall be substituted, namely:

“(2) The rates of tax in respect of immovable properties are as under:

(a) Immovable property other than commercial property, industrial property and residential flats situated in urban areas measuring at least 500 square yards or one kanal (whichever is less) and more,-

(b)

No. Description of
immovable

property.

Rate of Tax.

(i) Where the value of
the immovable

property is
recorded.

(ii) | Where the value of
the immovable
property is not

recorded.

(iii) Where the
immoveable
property is a
constructed
property.

Description of
Immoveable
property.

Where the value of
the immovable

@)

(ii) | Where the value of
the immovable
property is not

recorded.

property is recorded.

Two percent of
the recorded
value of the
landed area.

Twenty five
rupees per square
foot of the landed

area.

Ten rupees per square foot of the constructed area in addition to the value worked out above.

Immovable Commercial and Industrial property size situated in an urban area,-

Rate of Tax

Two percent of the recorded value of the landed area.

Twenty five rupees per square foot of the landed area.

(iii) Where the immoveable property is a constructed property.

Ten rupees per square foot of the constructed area in addition to the value worked out

of any

above.

(ai)

(c) Commercial immoveable property including residential flats situated in Plazas or Multi-story

buildings of any size situated in an urban area,-

No. | Description of
Immoveable
property.

(i) Where the
value of the
immovable
property is
recorded.

(ii) Where the
value of the
immovable

property is not

recorded.

Rate of Tax

Two percent of the
recorded value of
the immoveable
property provided
that the amount of
tax shall not be less
than ten rupees per
square foot of the
constructed area.

Ten rupees per
square foot of the
constructed area.";
and

after section 10, in the Explanation, after clause (b), the
following new clause shall be inserted, namely:

"(bb) "recorded value" means the value declared
transferee in the instrument provided that the declared value of
landed area shall not be less than that specified in the
valuation table notified by the District Collector."

by the

APPENDIX-I

[See section 3(iii)]

"SCHEDULE-I

[See section 3(2)]

PART 'A'

Rate of tax for areas of Provincial Rate of tax at Divisional Rate of tax in suburban Rate of tax at District Rate of tax at District headquarter as notified by the headquarters (per annum) areas of Divisional Headquarters (per annum) other than District x Category Government (per annum) q P Headquarters (per annum) q S(P Headquarters (per annum)

. Other than . Other than . Other than . Other than

A B C C Townships Townships Townships Townships Townships Townships Townships Townships

Up to 5 Marlas

1 (other than self Rs. 1000/- Rs. 900/- Rs. 750/- Rs. 900/- Rs. 750/- Rs. 500/- Rs. 325/- Rs. 400/- Rs. 300/- Rs. 200/- Rs. 150/- occupied)

Exceeding 5 Marlas

2 ut not exceeding Rs. 1700/- Rs. 1600/- | Rs. 1500/- Rs. 1600/- Rs. 1500/- Rs. 900/- Rs. 750/- Rs. 800/- Rs. 750/- Rs. 600/- F

0 Marlas

Exceeding 10

Marlas but not

3 . Rs. 2200/- Rs. 2100/- | Rs. 2000/- Rs. 2100/- Rs. 2000/- Rs. 1100/- Rs. 1000/- Rs. 1100/- Rs. 1000/- Rs. 600/- Rs. 500/- exceeding 15

Marlas

Exceeding 15

Marlas but not

4 . Rs. 3300/- Rs. 3200/- | Rs. 3000/- Rs. 3200/- Rs. 3000/- Rs. 1700/- Rs. 1500/- Rs. 1700/- Rs. 1500/- Rs. 900/- Rs. 750/- exceeding 20

Marlas

Exceeding 20

Marlas but not

5 exceeding 40 Rs. 7400/- Rs. 7200/- | Rs. 7000/- Rs. 7200/- Rs. 7000/- Rs. 3700/- Rs. 3500/- Rs. 2700/- Rs. 2500/- | Rs. 2000/-

Marlas

6 Marlag ing 40 Rs. 10600/- | Rs.10300/- | Rs. 10000/- | Rs. 10300/- | Rs. 10000/- | Rs. 6300/- Rs. 6000/- Rs. 5200/- Rs. 5000/-

Buildings acquired for the use by Government, Semi-Government, Non-Governmental Organizations, Development Financial Institutions, private commercial organizations, guest houses, hostels or by Banks shall be assessed and taxed twenty percent of the actual value of the case building other than those exempted under section-4 of the Act, which are owned and occupied by such organizations, taxed on the assessed annual rental value of such buildings on the rate prescribed hereinbefore.

PART 'C'

Tax on properties let out on rent, lease or other arrangement and not in use of their registered owners will be double of the above rates of the category-1 (upto 5 marlas).

Explanation: Categorization of area in Provincial Headquarter into Category "A", "B" or "C" shall be by way of notification by the Provincial Government & Rural Development Department, to be notified from time to time. In Divisional and District Head Quarters, Towns and approved Townships and include those areas, which are declared so by Local Government & Rural Development Department from time to time.

Schedule-II

[see section 3(2)]

1. The commercial areas shall be divided into five localities namely Al, A, B, C and D, depending on the area and the business being carried therein.

2. The "Al and A" localities shall, for the time being, be defined in Provincial Capital.

3. The locality factors as worked out for computing the tax are-

(a) For Al locality. Twelve

(located within 100 yards of either sides of the

Main road of Peshawar).

(b) For A locality. Nine

(c) For B locality. Seven

(d) For C locality. Five

(e) For D locality. Three

4. The above factors are for the Provincial Headquarter that is for Peshawar.

There shall be a rebate of 30% on the total tax calculated on the basis of the above factor value in respect of former Divisional Headquarters and 50% rebate on the total tax so calculated in respect of all other rating areas.

5. The tax shall be calculated as under:

a. area in square yards;

b. covered area in square feet; provided that open sheds in the

commercial units shall be counted as one half of its total measurements, while calculating the covered area; and

c. (a) + (b) multiplied by the locality factor.

6. For educational institutions:

a. the tax shall be calculated on the basis of covered area only. The area of the plot as required per item 5(a) above shall not be taken for computing the tax. This is to encourage the institutions in providing

sports and other recreational facilities to their students; and

b. the tax calculated on the basis of (a) above shall get a special thirty per cent rebate, being provided to all the educational institutions.

7. Petrol Pumps and CNG Stations with convenience store shall be charged at flat rate of Rs.10,000/- and those without store as Rs.5,000/- per annum.

8. Industrial buildings within the limits of rating areas shall be assessed for the purpose of this tax at a flat rate of Rs.2.50 per square foot of the building.

The provision of item 5(b) above shall be applicable to all the industrial area as well.

9. Buildings acquired for the use as offices by government, semi-government, non-governmental organizations, Development Financial Institutions, private commercial organizations, guest houses, hostels, banks or for the establishment of mobile phone towers/antennas shall be assessed for the purposes of tax on the basis of twenty percent of the actual annual rent.”.

APPENDIX-II

[See Section 6]

“TABLE

S. No Description of Tax Payers Rates of Tax

2. 3.

1 (i)- |All persons engaged in any profession, trade, calling or employment, other than those specifically mentioned hereinafter, in the Khyber Pakhtunkhwa Province, whose monthly income or earning:

- (a) when exceeds Rs.3,000/- but does not exceeds Rs.6,000/- Exempted
 - (b) when exceeds Rs.6,000/- but does not exceeds Rs.10,000/- Rs.140.00
 - (c) when exceeds Rs.10,000/- but does not exceeds Rs.220.00
- Rs. 20,000/-

(d) when exceeds Rs.20,000/- Rs.290.00

(ii)- [Employees of Federal and Provincial Government drawing pay in Basic Scales:

- (a) BS-1 to 16. Exempted
- (b) BS-17. Rs.120.00
- (c) BS-18. Rs.180.00
- (d) BS-19. Rs.240.00

(e) BS-20 and above. Rs.360.00

2- |All Limited Companies, Modarbas, Mutual Funds and any other body corporate with paid up capital and reserves

in the preceding year, which ever is more:

- (a) when not exceeding Rs.10 million. Rs.12,000.00
 - (b) when exceeding Rs.10 million but not exceeding Rs.18,000.00
- Rs. 25 million;
- (c) when exceeding Rs.25 million but not exceeding Rs.24,000.00
 - (d) when exceeding Rs.50 million but not exceeding Rs.60,000.00
- Rs. 100 million;
- (ec) when exceeding Rs.100 million but not exceeding Rs.90,000.00

Rs. 200 million; and

(f) when exceeding Rs.200 million.

Rs.100,000.00

IExplanation.- The paid up capital in case of foreign banks shall be the minimum paid up capital as determined by the State Bank of Pakistan.

Persons, other than companies, owning factories, commercial establishments, private education institutions and private hospitals, having the following commercial

establishments:

Ia. Any Commercial establishment/factories having 10 or more] Rs.2,400.00 employees which have not been otherwise explicitly given in this Table.

Ib. Private Clinics & Hospitals having up to 10 employees. Rs.3,600.00

Ic. Private Clinics hospitals having employees more than 10 but] Rs.6,000.00 not more than 50.

Id. Private Clinics & Hospitals having more than 50 employees. Rs.12,000.00

Ie. Private Medical Colleges. Rs.100,000.00

If. Private Engineering Institutes having degree programs. Rs.100,000.00

Ig. Private Business Education Institutes.

(1) having upto 100 students Rs.50,000.00

(ii) Exceeding 100 students. Rs.100,000.00

Ih. Private Law Colleges. Rs.50,000.00

i. Private education institutions including professional and] Rs.1,500.00 technical institutions, other than specified at e, f, g & h, charging monthly fee not exceeding Rs.1000/- per student.

Private education institutions including professional and} Rs.2,400.00

technical institutions, other than specified e,f,g &h , charging monthly fee exceeding Rs.1,000/- but not exceeding Rs.2,000/- per student.

Ik. Private education institutions including professional and] Rs.3,600.00

technical institutions, other than specified e,f,g & h , charging monthly fee exceeding Rs.2,000/- but not exceeding Rs.5,000/- per student

I. Private education institutions including professional and] Rs.10,000.00

technical institutions, other than specified e,f,g & h , charging

monthly fee exceeding Rs.5,000/- per student

4- |Holders of import or export license, assessed to income tax in|
the preceding year with annual turn over-

Ia. when not exceeding Rs.50,000.00 Rs.2400.00

Ib. when exceeding Rs.50,000.00 Rs.3600.00

5- |Clearing Agents licensed or approved as Custom House} Rs.1800.00

Agents.

6- {Travel Agents,-

Ia) IATA travel agents approved. Rs.9,000.00

Ib) Non-IATA approved. Rs.6,000.00

7- |Restaurants/Guest Houses liable to Sales Tax. Rs.12,000.00

8- |Professional Caterers. Rs.12,000.00

9- |Wedding Halls/Lawns (irrespective of their nomenclature). Rs.30,000.00

10- |Advertising Agencies. Rs.6,000.00

11- |Doctors,-

Ia- Specialists. Rs.3,600.00

Ib- Non specialists including Medical Practitioners, Hakeems, Rs.1,200.00

Homeopaths etc.

12- |*Diagnostics and Therapeutic Centers" including
Pathological & chemical Laboratories".

Ia- Located at Divisional Headquarters. Rs.12,000.00

Ib- Located at other places. Rs.2,400.00

13- |Contractors, Suppliers & Consultants who, during

preceding financial year supplied to the Federal or any

Provincial Government or any local authority in the

District, Goods, Commodities, or rendered service of the

\V alue,-

15-

16-

lowned

All establishments,
shops/agencies, card dealers, and net cafes assessed or not
assessed to income tax in the preceding financial year.

\Petrol/diesel/C.N.G. Filling Stations-

including video shops, real estate

Chartered Accountants with an independent audit practice
and excluding those who are employed in companies not

by them.

la) When exceeding Rs.10,000/- but not exceeding Rs.0.5] Rs.3,600.00
million.

Ib) When exceeding Rs.0.5 million but not exceeding Rs.1] Rs.4,000.00
million.

Ic) When exceeding Rs.1 million but not exceeding Rs.2.5} Rs.6,000.00
million.

id) When exceeding Rs.2.5 million but not exceeding Rs.10} Rs.18,000.00
Million.

Ie) When Rs.10 million but not exceeding Rs.25 million. Rs.25,000.00

if) When Rs.25 million but not exceeding Rs.50 million. Rs.30,000.00

Ig) When exceeding Rs.50 million and above. Rs.100,000.00

Rs.6,000.00

Rs.2,400.00

Rs 12,000.00
per annum."

APPENDIX - III

[See section 8]

“SCHEDULE”

[See Section 3(2)]

S# Description of Service Rate of Tax Conditions

Category - 1 Single stage sales tax with no input

(Stand Alone Services) tax adjustment. FBR shall keep the

collection from this category into a separate account. Recoveries shall be made on the basis of taxable activities rather than on the basis of head office of the assessee. The collection in this category shall not be amenable to adjustment towards input claims. Government of Khyber Pakhtunkhwa may also opt to collect the tax itself after notifying its intention mode and manner to do so. Conditions or

1. | Services provided or rendered | Sixteen Percent | category of services may be

by hotels, marriage halls, lawns, (16%) changed, as and when so notified clubs and caterers and services by the Government of Khyber ancillary thereto. Pakhtunkhwa.

2. | Services provided or rendered | Five Percent
for personal care by beauty (5%)
parlors, beauty clinics,

slimming clinics

3. | Services provided and rendered | Five Percent
by laundries and dry cleaners. (5%)

Category—2 (Telecommunication) Nineteen-and-a | Collection under this category shall half Percent | be accounted for separately. As the

(19.5%) origin of the call is identifiable, the revenue collected shall be directly deposited in the designated account of the Province on the basis of origin of revenue. Category shall be amenable to input adjustment and audit of FBR. Conditions or category of services may be changed, as and when so notified by the Government of Khyber Pakhtunkhwa.

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BSS erna

Telephone services.
Fixed line voice telephone
service.

Wireless telephone.
Cellular telephone.
Wireless local loop
telephone.

Video telephone.
Payphone cards.

Pre-paid calling cards.
Voice mail service.
Messaging service.

Short Message Service
(SMS)

Multimedia Message
Service (MMS)
Bandwidth services [used
for voice and video
telecommunication
services]

i. Copper line

based.

ii. Fiber-optic

based.

iii. Co-axial cable

based.

iv. Microwave

based.

Vv. Satellite based.
Voice over I.P. Services.
Teleconferencing
services.

Telegraph.

Telex.

Telefax.

Store and forward tax
services.

Audio text services.

Teletext services.

Trunk radio services.

Internet services.

Paging services.

Voice paging services.

Radio paging services.

Vehicle tracking services.

Nineteen-and-a
half Percent
(19.5%)

28.

29.

30.

31.

32.

33,

53.

54.

55.

56.

Burglar alarm services.

Shifting of Telephone
connection

Installation of telephone
extension

Provision of telephone
extension

Changing of telephone
connection

Conversion of NWD
connection to non NWD
or vice versa

Cost of Telephone Set
Restoration of telephone
connection

Internet services including
e-mail services

Dial-up internet services
Broadband services for
DSL Connection

Copper Line based
Fiber-optic based
Co-axial cable based
Wireless based

Satellite based
Internet/e-
mail/data/SMS/MMS
Services WLL networks

Internet/e-mail/SMS/MMS services on cellular mobile networks

Data Communication network services (DCNS)
Copper Line Based
Fiber-optic based
Wireless/Radio based
Satellite based

Value added data services
Virtual private network service (VPN)

Digital Signature Service
Audioext services
Teletext services

Trunk radio services

| Others

Category — 3 (Other Services)

Sixteen percent

(16%)

Services with cross-border spill-overs and amenable to input adjustment of other goods and services. Shall be separately accounted for and proceeds are to be distributed on the basis of formula. Conditions or category of services may be changed, as and when so notified by the Government of Khyber Pakhtunkhwa.

1 Services provided or rendered by persons authorized to transact business on behalf of others:-

- i. Customs agents;
- ii. Ship chandlers;
- iii. Stevedores; and
- iv. Ship management service.

Sixteen percent (16%)

2 Advertisement on T.V and Radio, newspapers, periodicals and Magazines excluding advertisements.

(i) if sponsored by a Government Agency

(ii) financed out of funds provided under grant-in-aid agreement; and

Conveying public service

messages.

Sixteen percent

(16%)

3 Advertisement on close Circuit

Sixteen percent

TV or Cable TV (16%)

4 | Courier services. Sixteen percent

(16%)

5 | Services provided or rendered in | Sixteen percent
respect of insurance to a policy (16%)

holder by an insurer, including a
re-insurer:-

- i. Goods insurance.
- ii. Fire insurance
- iii. Theft insurance.

iv. Marine insurance.

Other insurance.

Services provided by banking companies or non-banking financial institutions including but not limited to all non-interest based services provided or rendered against a consideration in form of a fee or commission or charges.

Sixteen percent

(16%)

Services provided or rendered by the stockbrokers.

Sixteen percent

(16%)