

Bihar Finance Act, 2011

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AN ACT TO AMEND THE BIHAR VALUE ADDED TAX ACT, 2005 (ACT, 27 2005), BIHAR TAXATION ON LUXURIES IN HOTELS ACT, 1988 (Bihar ACT 5, 1988) AND BIHAR MOTOR VEHICLE TAXATION ACT 1994 (Bihar ACT 8, 1994) Be it enacted by the Legislature of the State of Bihar in the sixty-second year of the Republic of India as follows:-

CHAPTER I

Amendment in the Bihar Value Added Tax Act, 2005 (Act 27 of 2005)

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Bihar Finance Act 2011. (2) It shall extend to the whole of the State of Bihar. (3) It shall come into force at once.

2. Amendment In Section-14 Of The Bihar Value Added Tax Act, 2005 :-

(1) Clause (b) of sub-Section (1) of Section-14 of the Bihar Value Added Tax Act, 2005 (hereinafter referred to as Act 27 of 2005) shall be substituted by the following namely:- "(b) the goods specified in the Schedule III, at the rate of five percent;" (2) After Clause (b) of sub-section (1) of Section-14 of Act 27 of 2005, a new clause (bb) shall be inserted in the following way, namely:- "(bb) the goods specified in the Schedule IIIA, at the rate of four percent;" (3) After Schedule III of Act 27 of 2005, a new Schedule IIIA shall be inserted in the following, namely:-

| Schedule-- IIIA | |
|------------------------|---|
| (See Section 14) | |
| Sl. No. | Goods |
| 1 | Goods as specified in section 14 of the Central Sales Tax Act, 1956." |

(4) In Schedule III of Act 27 of 2005, Serial Number 55 and its corresponding entry shall be deleted. Section 3 - Amendment in Section 14 of the Bihar Value Added Tax Act, 2005 Clause (d) of sub-Section (1) of Section-14 of the Bihar Value Added Tax Act, 2005 shall be substituted by the following way, namely:- "(d) any other goods, not specified in the Schedules I, II, III, IIIA and IV, at the rate of thirteen and a half percent."

CHAPTER 2

Amendment in Bihar Taxation on Luxuries in Hotels Act, 1988 (Bihar Act 5 of 1988)

4. Amendment In Section 1 Of Bihar Taxation On Luxuries In Hotels Act, 1988 :-

In Sub-Section (1) of Section-1 of Bihar Act 5 of 1988, the words "in Hotels" shall be deleted.

5. Amendment In Section 2 Of Bihar Taxation On Luxuries In Hotels Act, 1988 :-

(1) Sub-Section (e) Section-2 of Bihar Act 5 of 1988 shall be substituted in the following way, namely- "(e) "Hotel" means such building or part of a building in which lodging accommodation, with or without boarding is provided by way of business for monetary consideration and includes a lodging house, boarding house, restaurant, club and holiday resorts;" (2) After sub-Section (e) of Section 2 of Bihar Act 5 of 1988, a new sub-Section (ee) shall be inserted in the following way, namely- "(ee) "Commercial Hall" means a Shadi Mandap, Community Hall, a building or part of a building, including open space, and open space where accommodation is provided for marriage or reception or matters related there with, including such accommodation provided for seminars, conventions, banquets, meetings or exhibition-cum-sale as may be specified by the Commissioner, whether or not such functions are conducted therein regularly;" (3) Sub-Section (h) of Section 2 of Bihar Act 5 of 1988 shall be substituted by the following, namely:- "(h) "Luxuries" means commodities or services that provide enjoyment, comfort or pleasure extraordinary to necessities of life and such other amenities as are provided in a hotel, boarding house, a lodging house, a banquet hall, a commercial hall, an open space, a conference hall, a mandap for marriage or a restaurant, to occupants there of, which carry a rent or charge of rupees Five hundred or more per day. (4) Sub-Section (k) of Section-2 of Bihar Act 5 of 1988 shall be substituted by the following, namely:- "(k) "Proprietor" in relation to a hotel or a commercial hall means any person who is owning or holding it in any capacity recognized by law or the secretary or manager or any other person entrusted with the management of it and includes, the person also who, for the time being, is in-charge of the management of such a hotel or a commercial hall;" (5) Sub-Section (m) of Section-2 of Bihar Act 5 of 1988 shall be substituted by the following, namely:- "(m) (i) "Charges for lodging", in respect of a hotel, includes charges for air-conditioning, telephone, telephone calls, television, radio, music, extra-beds and the like but does not include any charges for food, drink, laundry; (ii) "Charges for

commercial hall", includes charges for air conditioning, chairs, utensils and vessels, shamiyana, electricity, water, fuel, interior or exterior decoration, use of open space in which any amount received by way of donation or charity, by whatever name called, in relation to letting out the commercial hall is included but any charges for food and drinks is not included. Explanation - If any question arises whether any charges are charged for lodging or, a commercial hall as the case may be, such question shall be referred to the Commissioner and the decision of the Commissioner shall be final." (6) Sub-Section (n) of Section-2 of Bihar Act 5 of 1988 shall be substituted by the following, namely:- "(n) "Rooms" means and includes a suite of rooms of a hotel, a boarding house, a lodging house, a banquet hall, a conference hall, mandap including open space for marriage and other celebrations, a restaurant or any other room used for similar purpose;"

6. Substitution Of Section-3 Of Bihar Taxation On Luxuries In Hotels Act, 1988 :-

Section-3 of Bihar Act 5 of 1988 shall be substituted by the following, namely:- "3. Levy of tax. – (1) The tax on luxuries shall be levied and paid by the proprietor at the rate specified in sub-section (2) on the charges for lodging or the charges for commercial hall in respect of such hotel, room or a suite of rooms of a hotel, a boarding house, a lodging house, a banquet hall, a conference hall, or a commercial hall as carry a charge of rupees five hundred or more per day. (2) The tax under sub-Section (1) shall be charged-- (a) at the rate of five percent of the charges for lodging of such rooms or suite of rooms in a hotel, boarding house, lodging house provided with luxuries, as carry a charge of five hundred rupees or more per day but less than rupees one thousand per day; (b) at the rate of ten percent of the charges for lodging of such rooms of suite of rooms of a hotel, boarding house, a lodging house provided with luxuries, as carry a charge of one thousand rupees or more per day; and (c) at the rate of ten percent of the charges for commercial hall provided with luxuries as carry a charge of five hundred rupees or more per day."

7. Amendment In Section 3Aa Of Bihar Taxation On Luxuries In Hotels Act, 1988 :-

The words "a commercial hall or class or description of commercial halls" shall be inserted after the words "a hotel or class or description of hotels" in Section 3AA of Bihar Act 5 of 1988.

8. Substitution Of Section-4 Of Bihar Taxation On Luxuries In Hotels Act, 1988 :-

Section 4 of Bihar Act 5 of 1988 shall be substituted by the following, namely:- "4. Collection of tax by proprietor.-- Every proprietor liable to pay tax under Section 3 shall collect along with the charges for lodging or the charges for commercial hall, the amount of tax payable under the said Section from the person to whom a room or a suite of rooms in a hotel, or a commercial hall, as the case may be, along with luxuries is provided by him.

9. Substitution Of Section-6 Of Bihar Taxation On Luxuries In Hotels Act, 1988 :-

Section-6 of Bihar Act 5 of 1988 shall be substituted by the following, namely:- "6. Returns- Every proprietor liable to pay tax under this Act, shall submit a return in such form and such manner and in respect of such periods as may be prescribed."

10. Substitution Of Section-12 Of Bihar Taxation On Luxuries In Hotels Act, 1988 :-

Section-12 of Bihar Act 5 of 1988 shall be substituted in the following, namely:- "12. Inspection, search and seizure- (1) The Tax assessing authority or any other authority prescribed for this purpose may, with a view to satisfying itself that the provisions of this Act of Rules made there-under are being complied with-- (a) enter any room or suite of rooms of a hotel, boarding house, a lodging house, a banquet hall, a conference hall, commercial hall, mandap, open space for marriage or other celebrations, a restaurant, at any time; (b) require any proprietor of a hotel, boarding house, a lodging house, a banquet hall, a conference hall, commercial hall, mandap, open space for marriage or other celebrations, a restaurant to produce before him any books, accounts or other documents and inspect them; (c) inspect any room or suite of rooms of a hotel to ascertain their occupancy; and (d) seize any books, accounts and documents for detailed examination: Provided that a receipt shall be given to the proprietor in respect of the books of account and document seized. (2) The authority referred to in sub-Section (1) shall, in a case where the proprietor fails to produce any evidence regarding the proper accounting of luxuries provided in a hotel or commercial hall, impose as a penalty, after allowing an opportunity of hearing in the manner prescribed to the proprietor, which shall be equivalent to the amount of tax on the charges for lodging or, as the case may be, charges for commercial hall not found to have been properly

accounted for."

11. Amendment In Section-18 Of Bihar Taxation On Luxuries In Hotels Act, 1988 :-

The words "or commercial hall" shall be inserted before the words "at the time of commission of the offence" in section- -18 of Bihar Act 5 of 1988.

12. Amendment In Section 22 Of Bihar Taxation On Luxuries In Hotels Act, 1988 :-

After sub-Section (2) of Bihar Act 5 of 1988 the following new sub-Section (3) shall be added namely-- "(3) Where- (a) the tax has been collected under the Bihar Taxation on Luxuries in Hotels Act, 1988 but the same has not been deposited before the date of commencement of the amendment to sub-Section (1) of Section-1 of the said Act, the tax so collected by any person under the said Act shall be deposited under the provisions of the aforesaid Act and the rules made thereunder, as if the amendment to sub-Section (1) of Section-1 has not come into force; (b) a return or statement is required to be filed under the Bihar Taxation on Luxuries in Hotels Act, 1988, but the same had not been filed before the commencement of the amendment to sub-Section (1) of Section-1 of the said Act, such return or statement, as the case may be, shall be filed under the provisions of the aforesaid Act and the rules made thereunder, as if the amendment to sub-Section (1) of Section 1 has not come into force by the person liable to file such return or statement; (c) a return has been filed, under the Bihar Taxation on Luxuries in Hotels Act, 1988 by any proprietor for any year and no Tax assessment in respect of that year has been made before commencement of the amendment to sub-Section (1) of Section 1 of the said Act, the proceedings for the Tax assessment for that year shall be made or be continued as if the amendment to sub-Section (1) of Section-1 has not come into force and such Tax assessment shall be made by the Tax assessing authority specified under Provisions of the said Act or rules made thereunder; (d) a person aggrieved by any decision made or order passed under the Bihar Taxation on Luxuries in Hotels Act, 1988 has not filed any appeal or an application for review or revision before the date of commencement of the amendment to sub-Section (1) of Section 1 of the said Act, such person may file an appeal or make an application for revision or review, as the case may be, under the provision of the said Act and the rules made thereunder to the prescribed authority for disposing of such appeal or application, as

if the amendment to sub-Section (1) of Section-1 has not come into force; (e) an appeal or an application for review or revision has been filed under the Bihar Taxation Luxuries in Hotels Act, 1988 before the commencement of the amendment to sub-Section (1) of Section 1 of the said Act, such appeal, application for review or revision, as the case may be, shall be continued and disposed of in the manner prescribed under the Provisions of the said Act or rules made thereunder as if the amendment to sub-Section (1) of Section-1 has not come into force; (f) any proceeding for refund or recovery of tax under the Bihar Taxation on Luxuries in Hotels Act, 1988 has been initiated before the commencement of the amendment to sub-Section (1) of Section 1 of the said Act, such proceeding shall be continued in the manner prescribed under the provision of the said Act and the Rules framed thereunder as if the amendment to sub-Section (1) of Section 1 has not come into force; (g) any proceeding for refund or recovery of tax under the Bihar Taxation on Luxuries in Hotels Act, 1988 has not been initiated before the commencement of the amendment to sub-Section (1) of Section 1 of the said Act, such proceeding shall be initiated and disposed of in the manner prescribed under the provision of the said Act and the Rules framed thereunder as if the amendment to sub-Section (1) of Section-1 has not come into force; (h) any proceeding under Section 12 of the Bihar Taxation on Luxuries in Hotels Act, 1988 has not been initiated before the commencement of the amendment to sub-Section (1) of Section 1 of the said Act, such proceeding shall be continued and disposed of in the manner prescribed under the Provisions of the said Act and the Rules framed thereunder as if the amendment to sub-Section (1) of Section-1 has not come into force."

CHAPTER 3

Amendments in Bihar Motor Vehicles Taxation Act, 1994

13. Repeal Of The Proviso To Sub-Section-3 Of Section-5 Of The Bihar Motor Vehicles Taxation Act, 1994 :-

The following proviso to subsection-3 of section-5 of the said Act is hereby repealed:- "Provided that no such increase shall, during any year exceed fifty per cent of the rate of taxes prescribed in the Schedules."

14. Substitution Of The Part A And Part B Of The Schedule I Of The Bihar Motor Vehicles Taxation Act, 1994 :-

Part A and Part B of Schedule I of the Act shall be substituted by the following:-

SCHEDULE 1**Schedule I****Part A**

Rate chart of one-time tax for Personal Vehicles

[See Sub-section(1) of Section-7]

| Clause | Sl. No. | Stages of Registration | Class of Motor Vehicles | |
|---------------|----------------|---|---|--|
| | | | Motor Cycles | Motorcars and Omnibuses upto seating capacity of 12 used for personal use |
| 1 | 2 | 3 | 4 | 5 |
| A | | Upto one year of age at the time of registration or first registration | One time tax at the rate of 5% of cost of vehicle excluding sales tax | One time tax at the rate of 5% of cost of vehicle excluding sales tax |
| B | | If the Motor vehicle is already registered and its age from the first registration is | Percentage of one time tax levied under Clause A-Column(4) | Percentage of one time tax levied under Clause A-Column(5) |
| | 1 | More than one year but not more than two years | 95% | 95% |
| | 2 | More than two year but not more than three years | 90% | 90% |
| | 3 | More than three year but not more than four years | 85% | 85% |
| | 4 | More than four year but not more than five years | 80% | 80% |
| | 5 | More than five year but not more than six years | 75% | 75% |
| | 6 | More than six year but not more than seven years | 70% | 70% |
| | 7 | More than seven year but not more than eight years | 65% | 65% |
| | 8 | More than eight year but not more than nine years | 60% | 60% |
| | 9 | More than nine year but not more than ten years | 55% | 55% |
| | 10 | More than ten year but | 50% | 50% |

| | | | | |
|--|----|--|-----|-----|
| | 10 | More than ten year but not more than eleven years | 30% | 30% |
| | 11 | More than eleven year but not more than twelve years | 45% | 45% |
| | 12 | More than twelve year but not more than thirteen years | 40% | 40% |
| | 13 | More than thirteen year but not more than fourteen years | 35% | 35% |
| | 14 | More than fourteen year but not more than fifteen years | 30% | 30% |
| | 15 | More than fifteen year | 25% | 25% |

Schedule I

Part B

Chart Indicating the Rate of Refund for Personal Vehicles

[See Sub-section(2) of Section-7]

| | | Class of Motor Vehicles | |
|--------|--|---|---|
| Sl.No. | Scale of Refund | Motor Cycles | Motorcars and Omnibuses upto seating capacity of 12 used for personal use |
| 1 | 2 | 3 | 4 |
| | If after registration, cancellation of registration of the vehicle or its exit from the State takes place- | Refund of the tax paid as a percentage of one time tax levied under Schedule I Part A | Refund of the tax paid as a percentage of one time tax levied under Schedule I Part A |
| 1 | Within one year | 95% | 95% |
| 2 | After one year but within two years | 90% | 90% |
| 3 | After two year but within | 85% | 85% |
| 4 | After three year but within four years | 80% | 80% |
| 5 | After four year but within five years | 75% | 75% |
| 6 | After five year but within six years | 70% | 70% |
| 7 | After six year but | 65% | 65% |

| | | | |
|----|---|-----|-----|
| | After six year but within seven years | 55% | 55% |
| 8 | After seven year but within eight years | 60% | 60% |
| 9 | After eight year but within nine years | 55% | 55% |
| 10 | After nine year but within ten years | 50% | 50% |
| 11 | After ten year but within eleven years | 45% | 45% |
| 12 | After eleven year but within twelve years | 40% | 40% |
| 13 | After twelve year but within thirteen years | 35% | 35% |
| 14 | After thirteen year but within fourteen years | 30% | 30% |
| 15 | After fourteen year | Nil | Nil |

15. Substitution Of The Sub Serial No. (A), (B), (C), (D) And (E) Of Serial No.-2 Of Part-C Of Schedule-I Of The Bihar Motor Vehicles Taxation Act, 1994 :-

The Sub serial (a), (b), (c), (d) and (e) of the serial no.-2 of Part-C of Schedule I shall be substituted by the following respectively:-

(a) Upto 1000 kgs registered laden weight capacity (i) One time tax of Rs.7700/- at the time of registration in the State for a period of ten years from the date of first registration shall be levied for goods vehicles upto 1000 kg weight capacity. Provided that one time tax payable by such vehicles already registered shall be calculated after deducting the tax amount already paid before ten years; Provided further that no one time tax shall be payable if the vehicle has already paid more than Rs 7700/- as taxes. (ii) For goods vehicles more than ten years old a onetime tax of Rs 7700/- for a period of every five years thereafter, shall be levied; Provided that one-time tax payable by such vehicles shall be calculated after deducting the tax amount already paid after the ten years period or fifteen years period as applicable. Provided further that no one-time tax shall be payable if the vehicle has already paid more than

Rs 7700/- as taxes. (b) Exceeding 1000 kgs but not exceeding 3000 kgs of registered laden weight capacity (i) One time tax of Rs.5500/- per ton or part thereof at the time of registration for a period of ten years from the date of first registration shall be levied on goods vehicles registered upto 1001 to 3000 kg weight capacity. Provided that one time tax payable by such vehicles already registered shall be calculated after deducting the tax amount already paid before ten years; Provided further that no one time tax shall be payable if the vehicle has already paid more than Rs 5500/- per ton or part thereof as taxes. (ii) For vehicles more than ten years old a one-time tax of Rs 5500/- per ton or part thereof for a period of every five years thereafter shall be levied; Provided that one-time tax payable by such vehicles shall be calculated after deducting the tax amount already paid after the ten years period or fifteen years period as applicable; Provided further that no one- time tax shall be payable if the vehicle has already paid more than Rs 5500/- per ton or part thereof as taxes. (c) Exceeding 3,000 kgs but not exceeding 16,000 kgs of registered laden weight capacity. Rs 700/- per ton or part thereof (d) Exceeding 16,000 kgs but not exceeding 24,000 kgs of registered laden weight capacity. Rs 600/- per ton or part thereof (e) Exceeding 24,000 kgs of registered laden weight capacity. Rs 500/- per ton or part thereof

16. Repeal Of Serial No.1 Of Schedule Ii Of The Bihar Motor Vehicles Taxation Act, 1994 :-

Serial no.1 of Schedule II is hereby repealed.