

## **GUJARAT ENTERTAINMENT TAX ACT, 1977**

**16 of 1977**

[ ]

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## **GUJARAT ENTERTAINMENT TAX ACT, 1977**

**16 of 1977**

[ ]

<sup>1</sup>1 . Enforced w.e.f. 12-8-1977 vide Notification No. (GHN-28)MNR/1077/SI(3)-TX. dated 4-8-1977, published in the Gujarat Government Gazette, Extraordinary, Part IV-B, dated 4-8-1977 at page 248. An Act to consolidate and amend the law relating to the imposition of a tax on entertainments in the State of Gujarat. It is hereby enacted in the Twenty-eighth Year of the Republic of India as follows:-

### **1. Short title, extent and commencement :-**

(1) This Act may be called the Gujarat Entertainments Tax Act, 1977.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may by notification in the Official Gazette, appoint.

### **2. Definitions :-**

In this Act, unless the context otherwise requires,-

(a) "admission to an entertainment" includes admission to any place in which the entertainment is held :

[(aa) "antenna" means an apparatus which receives television signals which enable viewers to tune into transmissions including national or international satellite transmissions and is erected or

installed for exhibition of films or moving pictures or series of pictures, or serials or any other programme by means of transmissions of television signals by wire where subscribers' television sets at the residential or non-residential place are linked by metallic coaxial cable or optic-fibre cable to a central system called the head-end, on payment by the connection holder of any contribution or subscription or installation charges or connection charges or any other charges collected in any manner whatsoever;

(b) "appellate authority" means the authority prescribed under Section 12 :

(c) "assessment" includes reassessment;

<sup>1</sup>(cc) "cable television" means a system organised on payment by a connection holder of any contribution or subscription or installation charges or connection charges or any other charges collected in any manner whatsoever, for exhibition of films or moving pictures or series of pictures or serials by means of transmission of television signals by wire where subscriber's television set is linked by metallic coaxial cable or optic-fibre cable to a central system called the head-end, by using a video cassette or disc or both, recorder or player or similar such apparatus on which pre-recorded video cassettes or discs or both are played or replayed and the films or moving pictures or series of pictures or serials or any other programme which are viewed and heard on the television receiving set at a residential or non-residential place of a connection holder:]

(d) "complimentary ticket" means a ticket, pass, invitation card or such other document for admission to an entertainment free of any payment or at a reduced rate of payment for such admission',

(e) "entertainment" includes any exhibition, performance, amusement, game or sport to which persons are admitted for payment [or in case of television exhibition with the aid of any type of antenna with a cable network attached to it or cable television, for which persons are required to make payment by way of contribution or subscription or installation charges or connection charges or any other charges collected in any manner whatsoever.

Explanation.-For the purpose of this clause, the expression "exhibition" includes any exhibition by cinematograph including video exhibition or television exhibition with the aid of any type of antenna with a cable network attached to it or cable television.];

[(f) "local area" means-

(i) a City as defined in clause (8) of Section 2 of the Bombay Provincial Municipal Corporations Act, 1949 (Born. LIX of 1949):

(ii) a municipal borough as defined in clause (13) of Section 2 of the Gujarat Municipalities Act, 1963 (Gujarat 34 of 1964):

(iii) a village as specified by the Governor under clause (g) of Article 243 of the Constitution of India;

(iv) a taluka or a district as defined in clause (25) or, as the case maybe, clause (5) of Section 2 of the Gujarat Panchayats Act, 1993 (Gujarat 18 of 1993);

(v) a cantonment as constituted for the time being under the Cantonments Act, 1924 (2 of 1924).];

(g) "payment of admission" includes-

(i) any payment made by a person who, having been admitted to one part of a place of entertainment, is subsequently admitted to another part thereof for admission to which a payment involving tax or more tax is required:

(ii) any payment for seats or other accommodation in a place of entertainment;

(iii) any payment for a programme or synopsis of an entertainment;

(iv) any payment made for the loan or use of any instrument or contrivance which enables a person to get a normal or better view or hearing of the entertainment which, without the aid of such instrument or contrivance, such person would not get;

(v) any payment for any purpose whatsoever connected with an entertainment which a person is required to make as a condition of attending or continuing to attend the entertainment in addition to the payment, if any, for admission to the entertainment;

(vi) any payment for admission of a motor vehicle into the auditorium of a cinema known as Drive-in-Cinema;

<sup>2</sup> [(vii) any payment made by a person by way of contribution or subscription or installation charges or connection charges or any other charges collected in any manner whatsoever for television exhibition with the aid of any type of antenna with a cable network attached to it or cable television;]

(h) "prescribed" means prescribed by rules made under this Act;

[(i) "prescribed office" means such officer as may be prescribed.].

(j) "proprietor" in relation to any entertainment, includes the owner thereof and any person-

(i) responsible for. or for the time being in charge of, the management thereof, or

(ii) connected in whatsoever manner with the organisation of the entertainment for any duration, or

(iii) charged or entrusted or authorised with the work of admission to the entertainment, or

(iv) responsible for. or for the time being in charge of, management of providing or maintaining or operating cable connection from any type of antenna or cable television: whether or not he has obtained licence or Certificate of Registration, if any, for such entertainment under any law for the time being in force;]

[(k) "tax" means a tax levied under this Act.

1. Inserted by Gujarat 13 of 1993.

2. Substituted by Gujarat 13 of 1986 [1.4.86].

### **3. Tax on payments for admission to entertainments :-**

(1) There shall be levied and paid to the State Government on-

(a) every payment for admission to an entertainment, other than the payment for admission referred to in clause (b), a tax, at the following rates, namely :-

[(I) within the limits of a local area, the population of which as ascertained at the last preceding census and notified by the State Government in the Official Gazette after such census is more than 1,00,000,-

(i) out of the first 100 paise of the payment for admission or any part thereof, 40 percent of such payment;

(ii) out of the next 100 paise of the payment for admission or any part thereof, 50 percent of such payment;

(iii) out of the next 200 paise of the payment for admission or any part thereof, 60 percent of such payment;

(iv) out of the next amount of the payment for admission to any extent, 65 percent of such payment.

(II) [in any other local area]-

(i) out of the first 100 paise of the payment for admission or any part thereof, 35 percent of such payment:

(ii) out of the next 100 paise of the payment for admission or any part thereof, 45 percent of such payment;

(iii) out of the next 200 paise of the payment for admission or any part thereof, 55 percent of such payment:

(iv) out of the next amount of the payment for admission to any extent, 60 percent of such payment.].

(b) every payment for admission of a motor vehicle into the auditorium of a cinema known as Drive-in-Cinema, if such payment is separately charged by the proprietor for such admission, a tax at the following rates, namely :-

(i) out of the first 100 paise of the payment for admission or any part thereof, [45] percent of such payment;

(ii) out of the next amount of the payment for admission to any extent, 50 percent of such payment.

(1A) <sup>1</sup>[x x x]

(2)<sup>1</sup>[x x x]

(3) Where the payment for admission to an entertainment is made wholly or partly by means of lump sum paid as a subscription or contribution to any person, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time or for any privilege, right, facility or thing combined with the right of admission to any entertainment or involving such right of admission without further payment or at a reduced rate, the tax shall be levied on the amount of the lump sum but where the prescribed officer is of opinion that the payment of lump sum or any payment for a ticket, represents payment for other privileges, rights or purposes besides the admission to an entertainment the tax shall be levied on such an amount as appears to the prescribed officer to represent the right of admission to the entertainment in respect of which the tax is payable.

[(4) Save as otherwise provided in this Act, every ticket, pass or other document issued for admission to an entertainment shall state therein the amount of payment for admission to such entertainment, and the amount of tax payable under Sec.3 or 4 <sup>3</sup> [x x x] on such payment for admission.]

1. Deleted by Gujarat 10 of 1981.

3. Deleted by Gujarat 10 of 1981

### **3A. Certain entertainments free from tax :-**

Notwithstanding any thing contained in Section3, there shall not be levied and paid the tax to the State Government on any payment for admission to entertainments specified in the Schedule III.]

### **4. Tax on complimentary tickets :-**

(1) There shall be levied and paid to the State Government on every complimentary ticket issued by the proprietor, a tax at the appropriate rate specified in Section3, as if full payment had been made for admission to the enteretainment according to the class of seat or accomodation which the holder of such ticket is entitled to occupy or use and such holder shall be deemed to have been admitted for the purposes of this Act.

(2) Where a person to whom a complimentary ticket is issued is not reaquired to make payment for admission of a motor vehicle into the auditorium of a Drive-in-Cinema or is required to make payment for such admission at a reduced rate, a tax at the rate specified in clause (b) of sub-Section(1) of Sec.3 shall be levied and paid as if full payment had been made by that person for such admission.

### **5. . :-**

<sup>1</sup> [\* \* \*]

1. Deleted by Gujarat 10 of 1981.

### **6. Consolidated payment of tax :-**

<sup>1</sup>[(1)] The State Goverment may, on the application of <sup>2</sup>[a proprietor of any entertainment, <sup>3</sup>[other than the entertainment to which sub-Section(2) of this section and] sub-Section(3) of Section6-A <sup>4</sup>[and Section6-B] applies] in respect of which tax is <sup>5</sup>[payable under sub-Section(1) of Section3], allow the proprietor on such conditions as the State Government may impose, to compound the tax payable in respect of such entertainment for a

fixed sum.

<sup>3</sup>[(2) Notwithstanding anything contained in sub-Section(1) of Section3 every proprietor of a cinema in a <sup>7</sup>[xxx] specified area shall have an option of payment of tax at the rates specified in sub-Section(5) to be exercised as provided in sub-Section(3) within ninety days from the date of the commencement of the <sup>8</sup>[Gujarat Entertainments Tax (Amendment) Act, 1993 (Gujarat 13 of 1993)] and any person who becomes a proprietor on any day after the date of such commencement may exercise such option within ninety days from the day on which he becomes the proprietor:

Provided that an application under sub-Section(3) may be entertained by the prescribed officer after the expiry of the period specified in this sub-section if the applicant satisfies the prescribed officer that he had sufficient cause for not making application within such period.]

(3) A proprietor of a cinema desiring to exercise the option referred to in sub-Section(2), shall make an application to the prescribed officer in such form as may be prescribed to permit him to make, in lieu of the amount of tax payable by him [under sub-Section(1) of Section3], payment of tax at the rates specified [in Schedule-I].

(4) On an application made under sub-Section(3) the prescribed officer may grant such permission and thereupon subject to sub-Section(6), the payment of tax shall be made accordingly.

<sup>9</sup>[(5) Where a proprietor has been permitted to pay tax under sub-sec. (4), he shall be liable to pay tax weekly at the rates specified in the Schedule-I irrespective of the number of shows held in a week.

Explanation.-For the purpose of this section,-

<sup>10</sup>[(i) The expression "specified area" means a local area, the population of which is within the limits shown in column 3 of Schedule I against any of the serial numbers mentioned in column 1 thereof:

Provided that where any specified area is within a radius of five kilometres from any other local area. the population of which is more than three lakhs, such specified area shall not be construed to be a specified area for the purpose of this section:]



(ii) The expression "gross tax collection" means the amount of tax that would have been leviable at the rates specified in item (1) or (II) of clause (a) of sub-Section(1) of Section 3, on the total amount of payment for admission to an entertainment by cinema in a specified area as if admissions were to the extent of full sitting capacity of the auditorium of cinema as specified in the licence issued by Licensing Authority under the Bombay Cinema Rules, 1954";

(iii) The expression "touring cinema" means an outfit comprising the cinematograph apparatus and plant and enclosures taken from place to place for giving cinematograph exhibition in local theatres or halls.]

#### **11 [(6)**

(a) A proprietor of a cinema who had opted for payment of tax under sub-Section(2) may at the time but not before the expiry of a period of twelve months from the date of commencement of option give a notice in such form and in such manner as may be prescribed, addressed to the prescribed officer, to revoke his option :

Provided that any proprietor of a cinema who has opted for payment of tax at any time [before the commencement of the Gujarat Entertainments Tax (Amendment) Act, 1993 (Gujarat 13 of 1993)] may at any time but not before the expiry of a period of three months from the date of commencement of option give such notice to revoke the option.

(b) The option shall stand revoked on the expiry of 30 days after the receipt of notice by the prescribed officer under clause (a).

(c) Notwithstanding anything contained in sub-Section(2), a proprietor of a cinema who has revoked his option, may at any time but not before the expiry of a period of twelve months from the date of revocation of the option exercise the option referred to in that sub-section.)

1. Renumbered by Gujarat 17 of 1982.
2. Substituted by Gujarat 18 of 1987.
3. Substituted by Gujarat 10 of 1989.
4. Inserted by Gujarat 13 of 1993.
5. Substituted by Gujarat 17 of 1982.
7. Deleted by Gujarat 13 of 1993.
8. Substituted by Gujarat 13 of 1993.

9. Substituted by Gujarat 13 of 1993.
10. Substituted by Gujarat 14 of 1997.
11. Substituted by Gujarat 10 of 1989.

**6A. Tax on entertainment by video :-**

<sup>1</sup>[x x x]

(3)

<sup>2</sup>[(a) Notwithstanding anything contained in clause (a) of sub-Section(1) of Section3, every proprietor of an entertainment by video cassette recorder or video cassette player on television or videoscope shall have an option of payment of tax at the rate specified in clause (d) to be exercised as provided in clause (b) within ninety days from the date of commencement of the <sup>3</sup>[Gujarat Entertainments Tax (Amendment) Act, 1989 (Gujarat 10 of 1989)] and any person who becomes such proprietor after that date may exercise such option within <sup>3</sup>[ninety day] from the date on which he becomes such proprietor:

Provided that any option exercised immediately before the commencement of the <sup>5</sup>[Gujarat Entertainments Tax (Amendment) Act, 1989 (Gujarat 10 of 1989)] by a proprietor to whom this clause applies shall be deemed to be an option exercised under this clause until it is revoked under clause (e) :]

[Provided further that an application made under clause (b), may be entertained by the prescribed officer after the expiry of the period specified in this clause if the applicant satisfied the prescribed officer that he had sufficient cause for not making application within such period.]

(b) A proprietor desiring to exercise an option referred to in clause (a) shall make an application to the prescribed officer in such form as may be prescribed, to permit him to make in lieu of tax payable by him [under clause (a) of sub-Section(1) of Section3] payment of tax at the rates specified in clause (d).

(c) On an application made under clause (b). the prescribed officer may grant such permission and thereupon subject to clause (e), the payment of tax shall be made accordingly.

[(d) Where a proprietor has been permitted to pay tax under clause (c), he shall be liable to pay tax in advance latest by the 15th day of the month preceding the month to which the tax relates, at the

following rates, namely:- Where he holds entertainment in an auditorium, the sitting capacity of which -

(i) does not exceed 30 seats, at the rate of [Rs. 1500] per month or for part of a month',

(ii) exceeds 30 seats but does not exceed 50 seats, at the rate of <sup>6</sup>[Rs. 2000] per month or for part of a month;

(iii) exceeds 50 seats but does not exceed 75 seats, at the rate of <sup>5</sup>[Rs. 2500] per month or for part of a month;

(iv) exceeds 75 seats but does not exceed 100 seats, at the rate of <sup>5</sup>[Rs. 3000] per month or for part of a month;

(v) exceeds 100 seats but does not exceed 125 seats, at the rate of <sup>5</sup>[Rs. 4000] per month or for part of a month;]

**10** [(e)

(i) A proprietor who has opted for payment of tax under clause (a) may, at any time but not before the expiry of a period of twelve months from the date of the commencement of option give a notice in such form and in such manner as may be prescribed, addressed to the prescribed, officer, to revoke his option:

Provided that any proprietor, who has opted for payment of tax at any time before the assent to the Gujarat Entertainments Tax (Amendment) Act, 1989 is first published in Official Gazette may at any time but not before the expiry of a period of three months from the date of commencement of option give such notice to revoke the option.

(ii) The option shall stand revoked on the expiry of thirty days after the receipt of notice by the prescribed officer under sub-clause (i).

(f) Notwithstanding anything contained in clause (a), proprietor who has revoked his option may, at any time but not before the expiry of a period of twelve months from the date of revocation of the option, exercise the option referred to in that clause.]

1. Sub-sections (1) and (2) deleted by Gujarat 18 of 1987.

2. Substituted by Gujarat 18 of 1987.

3. Substituted by Gujarat 10 of 1989.

5. Added by Gujarat 10 of 1989.

6. Substituted by Gujarat 11 of 1990.

10. Substituted by Gujarat 10 of 1989.

**6B. Tax on exhibition of entertainment by means of any type of antenna or cable television :-**

<sup>1</sup>[(1) Notwithstanding anything contained in Sees. 3, 4, 6 or 6-A of this Act, where the proprietor provides entertainment by way of maintenance or operation of cable connections, there shall be levied and paid by every proprietor, to the State Government, for exhibition of films or moving pictures or series of pictures or serials or any other programme with the aid of any type of antenna or cable television, a tax at the following rates, namely :- For urban area <sup>2</sup>[For the area other than urban area and rural area]

(a) in case of such cable Rs. 600 per month Rs. 300 per month. connections not exceeding one hundred.

(b) in case of such cable Rs. 600 plus Rs. 300 Rs. 300 plus Rs. 150 for connections exceeding for every additional every additional fifty one hundred, fifty connections or connections or any part any part thereof, per thereof, per month.

(2) Where such number of cable connections increase in any quarter during the financial year, the proprietor shall be liable to pay the tax at the rates specified under sub-Section(1) of such quarter].

(3) The tax leviable under this section shall be paid in advance in quarterly instalment of one fourth of the annual rate within such period and in such manner as may be prescribed.

Explanation.-For the purpose of this section,-

[(a) the expression "urban area" means-

(i) a city as defined in clause (8) of Section2 of the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949):

(ii) a municipal borough as defined in clause (13) of Section2 of the Gujarat Municipalities Act, 1963 (Gujarat 34 of 1964):

(iii) a cantonment as constituted for the time being under the Cantonments Act, 1924 (2 of 1924).]

<sup>3</sup> [(b) the expression "rural area" means the area of a village specified by the Governor under clause (g) of Article 243 of the Constitution of India:

Provided that where any area of a village is within a radius of five

kilometres from any city as defined in clause (8) of Section 2 of the Bombay Provincial Municipal Corporations Act, 1949 (Bom. 59 of 1949) or from any municipal borough as defined in clause (13) of Section 2 of the Gujarat Municipalities Act, 1963 (Gujarat 34 of 1964), such area shall not be construed as rural area.]

(c) "quarter" means a period of three months commencing on the 1st day of April, 1st day of July, 1st day of October or the 1st day of January of each year; and the term "quarterly" shall be construed accordingly;

(d) the number of connection holders shall be considered as on the 1st April of every year.

1. Substituted by Gujarat 11 of 1995.
2. Substituted by Gujarat 14 of 1997 [1.4.1997].
3. Substituted by Gujarat 14 of 1997 [1.4.1997].

#### **6C. Registration :-**

(1) No proprietor providing an entertainment with the aid of any type of antenna or cable television shall carry on television exhibition without obtaining a valid Certificate of Registration from the <sup>1</sup>[prescribed officer].

(2) The provisions of sub-Section (1) shall not be deemed to have been contravened if the proprietor having applied for such registration as provided in this section within three months from the date of the commencement of the Gujarat Entertainments Tax (Amendment) Act, 1993 (Gujarat 13 of 1993) carries on television-exhibition with the aid of any type of antenna with a cable network attached to it or cable television.

(3) Every proprietor providing an entertainment with the aid of any type of antenna or cable television shall apply in such form, in such manner and on payment of such fee as may be prescribed to the <sup>2</sup>[prescribed officer] <sup>3</sup> [xxx].

(4) If the [prescribed officer] is satisfied that the requirements of provisions of this Act and the rules made thereunder have been complied with, he shall issue a Certificate of Registration.

1. Substituted by Gujarat 11 of 1995.
2. Substituted by Gujarat 11 of 1995.
3. Omitted by Gujarat 11 of 1995.

#### **6D. Power to revoke or suspend the Certificate of**

**Registration :-**

In the event of any contravention by the holder of Certificate of Registration of any of the provisions of this Act or rules made thereunder or any of the conditions or restrictions upon or subject to which Certificate of Registration is granted or in the public interest, the <sup>1</sup> [prescribed officer] may revoke or suspend the Certificate of Registration or suspend it for such period, as he may think fit.]

1. Substituted by Gujarat 11 of 1995.

**7. Admission to entertainments :-**

(1) Save as otherwise provided by this Act, where a tax under Section 3 or Section 4 <sup>1</sup> [or Section 6 or Section 6-A] is leviable. in respect of the admission of a person to an entertainment, no person other than a person who has to perform any duty in connection with such entertainment shall be admitted to any entertainment, except,-

(a) with a ticket, or complimentary ticket, as the case may be, issued in such manner and subject to such conditions as may be prescribed:

(b) in special cases, with the approval of the State Government, through a barrier which, or by means of mechanical contrivance which, automatically registers the number of persons admitted.

(2) Except in the cases referred to in <sup>^</sup>[sub-sec. (1) of Section 6 and clause (b) of sub-Section(1)], no proprietor shall conduct the entertainment unless he has given security for such amount and in such manner as may be approved by the State Government.

(3) Nothing in sub-Section(1) or sub-Section(2) shall be deemed to preclude the State Government from requiring security from the proprietor for the payment of the tax in any case.

1. Inserted by Gujarat 13 of 1993.

**8. Returns and assessment :-**

(1)

<sup>1</sup> [a] Every proprietor shall furnish such returns relating to payments for admission and complimentary tickets issued by him, to such officer, in such manner, for such period and before such date, not being earlier than ten days from the date on which the

entertainment is held, as may be prescribed.

[(b) Every proprietor providing an entertainment with the aid of any type of antenna or cable television shall furnish such return relating to number of connection holders and the payment of tax, to such officer, in such manner and within such period as may be prescribed.]

(2) If the prescribed officer is satisfied that any return furnished under sub-Section(1) is correct and complete, he shall assess the tax due from the proprietor for the period concerned on the basis of such return.

(3) If no return is furnished by a proprietor under sub-Section(1) before the date prescribed or if the return furnished by him appears to the prescribed officer to be incorrect or incomplete, the prescribed officer shall, after making such inquiry as he considers necessary, assess to the best of his judgment the tax due from the proprietor :

Provided that before taking action under this sub-section, the proprietor shall be given a reasonable opportunity of proving that no return was due from him or of proving the correctness and completeness of any return furnished by him.

1. Renumbered by Gujarat 13 of 1993.

**9. Assessment of escaped payments for admission and re-assessment of payments for admission assessed at lower rate and assessment on failure to pay tax under Section6-B] :-**

(1) Where for any reason any payment for admission to any entertainment or any complimentary ticket has escaped assessment to tax, <sup>1</sup>[or-the proprietor has failed to pay tax payable under Section6-B], the prescribed officer may, subject to the provisions of sub-Section(3) and at any time within such period as may be prescribed, assess to the best of his judgment the tax due on such payment or ticket [or on failure to pay tax under Section6-B], after making such inquiry as he may consider necessary and after giving the proprietor a reasonable opportunity to show cause against such assessment.

(2) Where for any reason any payment for admission to any entertainment or any complimentary ticket has been assessed at a rate lower than the rate at which it is assessable under Section3 or

Section 4, as the case may be, the prescribed officer may, subject to the provisions of sub-Section (3) and at any time within such period as may be prescribed, re-assess the tax due on such payment or ticket, after making such inquiry as he may consider necessary and after giving the proprietor a reasonable opportunity to show cause against such re-assessment.

(3) In making any assessment or re-assessment under sub-Section (1) or sub-Section (2), as the case may be, the prescribed officer may, if he is satisfied that due to wilful mis-statement or suppression of the facts by the proprietor, the tax has not been levied or has been levied at a rate lower than the rate at which it is leviable, direct the proprietor to pay, in addition to the tax assessed or re-assessed under sub-Section (1) or sub-Section (2), as the case may be, and without prejudice to any other liability that he may incur under the provisions of this Act, a penalty not exceeding one and a half times the tax so assessed or re-assessed :

Provided that no penalty under this sub-section shall be imposed unless the proprietor affected has had a reasonable opportunity of showing cause against such imposition.

(4) The power under sub-Section (1) or sub-Section (2) may be exercised by the prescribed officer, notwithstanding that the original order of assessment, if any, passed in the matter has been the subject matter of an appeal or revision.

(5) In computing the period of limitation for assessment or re-assessment under this section, the time during which proceedings for assessment or re-assessment may have remained stayed under the orders of a civil court or other competent authority shall be excluded. in any case where for any reason, tax [under Sees. 6, 6-A or 6-B] has escaped assessment.]

<sup>2</sup> [(6) The provisions of sub-sees. (1) to (5) shall, so far as may be, apply

1. Inserted by Gujarat 13 of 1993.

2. Substituted by Gujarat 10 of 1989.

## **10. Payment of tax :-**

(1) The tax shall be recoverable from the proprietor and shall be paid by him in such manner and at such time as may be prescribed.

(2) If a proprietor does not pay any amount of tax within the time



prescribed for its payment under sub-Section(1), there shall be paid by such proprietor for the period commencing on and the day next after the date of expiry of the prescribed time and ending ^n the date of payment of the amount of tax, simple interest at the rate of twenty four percent per annum on the amount of tax not so paid or on any less amount thereof remaining unpaid during such period.

### **11. Refund :-**

(1) If on an application made by the proprietor the prescribed officer is satisfied that on account of any clerical or arithmetical error in calculating the tax the amount of tax paid by him or recovered from him has exceeded the amount with which he is properly chargeable under this Act, he shall be entitled to a refund of the excess.

(2) Where as a result of an order passed in appeal or revision, refund of any amount becomes due to the proprietor, the prescribed officer shall refund the amount to the proprietor without his having to make any claim in that behalf.

(3) The refund may be given either by cash payment or at the option of the proprietor by deduction of such excess from the amount of tax due from the proprietor in respect of any other period.

(4) No application for refund under sub-Section(1) shall be entertained by the prescribed officer unless it is made within a period of three years from the date of payment or recovery of the amount so claimed to have been paid or recovered in excess.

### **11A. Authorities for implementation of the Act :-**

(1)

(a) For carrying out the purposes of this Act, the State Government may appoint-

(i) an officer to be the Commissioner of Entertainments Tax for the whole of the State of Gujarat;

(ii) the Collector of a district or any other officer, not below the rank of a Collector, to be the Collector of Entertainments Tax for each district; and

(iii) such number of other officers and persons (with suitable

designations) as the State Government thinks necessary.

(b) An officer appointed under paragraph (iii) of clause (a) shall, within the limits of such area, exercise such powers and duties conferred or imposed on any other officer by or under this Act, as the State Government may, by notification in the Official Gazette, specify.

(c) The superintendence and control for the proper execution of the provisions of this Act and the rules made thereunder relating to the levy and collection of the tax and the additional tax shall,-

(i) in relation to the whole of the State, vest in the Commissioner of Entertainments Tax, and

(ii) in relation to a district and subject to the superintendence and control of the Commissioner of Entertainments Tax under sub-clause (i), vest in the Collector of Entertainments Tax for the district.

(2) It shall be lawful for the Commissioner of Entertainments Tax and the Collector of Entertainments Tax or Officer duly authorised by the Commissioner of Entertainments Tax to have access to and to cause production and examination of books, registers, accounts or other documents maintained or required to be maintained by a proprietor for the purposes of this Act and such proprietor shall, whenever, called upon to do so, produce such books, registers, accounts or documents, for inspection of any such officer.

(3) The State Government may, by notification in the Official Gazette, delegate to the Commissioner of Entertainments Tax the powers conferred on it by paragraph (iii) of clause (a) and by clause (b) of sub-Section(1) and the Commissioner may exercise the powers so delegated to him subject to such conditions as may be specified in such notification.

## **12. Appeal :-**

Any proprietor who is aggrieved by the decision of the prescribed officer under sub-Section(3) of Section8, Section9, Section10 or Section20 [or by the decision of the [prescribed officer] under Section6-C or 6-D] may make an appeal to such authority, in such manner within such time, and on payment of such fees as may be prescribed.

## **13. Revision of orders :-**

(1) The State Government may, of its own motion <sup>1</sup>[or on application of any aggrieved proprietor made within ninety days from the date of order] call for and examine the record of any proceeding under this Act for the purpose of satisfying itself as to the legality or propriety of any order passed therein by the prescribed officer, or as the case may be, the appellate authority and if it shall appear to it that any order passed therein requires to be modified, annulled, or reversed, it may, after giving the proprietor affected by such order an opportunity of being heard and after making, or causing to be made, such inquiry as it deems necessary, pass such order thereon as the circumstances of the case justify:

Provided that no record of any proceeding of the prescribed officer shall be called for-

(i) in a case where an appeal from the order passed therein has been made, when such appeal is pending, and

(ii) in a case where an appeal has not been made from such order, before the expiry of the time prescribed for making such appeal.

<sup>2</sup>[(2) No order shall be revised under sub-Section(1) after the expiry of two years from the date of such order.]

Explanation.-In computing the period of limitation [for the purposes of sub-sees. (2) and (3)]-

(a) any period during which the record of any proceeding shall not be called for under the proviso to sub-Section(1), and

(b) any period during which any proceeding under this section is stayed by an order or injunction of any civil court, shall be excluded.

[(3) The Commissioner of Entertainments Tax <sup>1</sup> [where he is not an appellate authority] may, on the application of any aggrieved proprietor made in that behalf, exercise the powers of the State Government under sub-Section(1):

Provided that no application under this sub-section by any aggrieved proprietor for revision of any order shall be entertained by the Commissioner after the expiry of [ninety days] from the date of such order unless the Commissioner is satisfied that the proprietor was prevented by sufficient cause from making the application within that period.]

1. Inserted by Gujarat 13 of 1993.
2. Substituted by Gujarat 10 of 1981 [5-1-1981].

**14. Appeal or revision not to operate as stay :-**

Where an appeal has been made under Section12 or any record of any proceeding has been called for under Section13, the making of such appeal or calling for such record shall not operate as a stay of the order of the prescribed officer, or, as the case may be, appellate authority.

**15. Punishment for contravention of Section7 :-**

Where any proprietor admits any person to any place of entertainment in contravention of the provisions of Section7, such proprietor shall on conviction, be punished ' [with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees].

**16. Punishment for contravention of other provisions :-**

Any person who contravenes any of the provisions of this Act other than Section7, shall on conviction, be punished <sup>1</sup> [with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both].

1. Inserted by Gujarat 10 of 1989.

**17. Offences by companies :-**

(1) Where an offence under this Act has been committed by a company, every person who, at the time of the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-Section(1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed

to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section,-

(a) "company" means any body corporate, and includes a firm or other association of individuals;

(b) "director" in relation to a firm, means a partner in the firm.

### **18. Compounding of offences :-**

Any officer authorised by the State Government in this behalf, by a general or special order in writing, may, either before or after the institution of proceedings for any offence punishable under this Act or the rules made thereunder, against any person who has committed such offence, recover from him by way of composition of such offence-

<sup>1</sup>[(a) where the offence consists of the failure to pay, or the evasion of, any tax payable under this Act, in addition to tax so payable,-

(i) a sum of money not less than one thousand rupees but not more than two thousand rupees; or

(ii) double the amount of the tax payable, whichever is greater;]

(b) in other cases, a sum of money not exceeding <sup>1</sup> [one thousand rupees]. and on such recovery no proceedings shall be taken or continued against such person in respect of the same offence.

1. Substituted by Gujarat 10 of 1989.

### **19. Tax or penalty to be recoverable as arrears of land revenue :-**

Any sum due on account of tax, penalty or interest under this Act shall be recoverable as arrears of land revenue.

### **20. Forfeiture of security :-**

Where a proprietor who has furnished security under sub-Section(2) or sub-Section(3) of Section7, fails to submit returns as required by Section8 or to pay the tax at the time prescribed under Sec. 10, the prescribed officer may, after giving the proprietor a week's notice for an opportunity to be heard, direct that the security shall be forfeited to the State Government:

Provided that nothing in this sub-section shall affect the liability of

the proprietor to pay the tax.

**20A. Imposition of penalties in certain cases :-**

Where a proprietor-

(a) fails to pay any tax including any penalty or interest due from him under any provisions of this Act: or

(b) contravenes or has contravened any provisions of this Act or the rules made thereunder; or

(c) has been convicted of an offence under this Act, the prescribed officer shall recommend to the licencing authority empowered to grant licences under the Bombay Cinemas (Regulation) Act, 1953 (Bom. XI of 1953), to revoke or suspend the licence granted to the proprietor under that Act.

**20B. Rounding off of tax :-**

In computing the tax payable under this Act, the tax shall, wherever necessary, be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored.]

**21. Accounts :-**

(1) Every proprietor shall maintain regularly, correct and complete accounts relating to the entertainment conducted by him, in such form and containing such particulars as may be prescribed.

(2) If the prescribed officer considers that the accounts are so kept as not to enable a proper scrutiny of the returns furnished by a proprietor, such officer may, subject to such rules as may be prescribed, require the proprietor, by notice in writing, to maintain such accounts, in such form and in such manner as in his opinion is necessary for the purpose of proper scrutiny of returns.

**22. Production and inspection of accounts and documents and search of premises :-**

(1) The prescribed officer, may require any proprietor to produce before him any accounts or documents relating to the entertainment conducted by him or to furnish any information relating to payments for admission, complimentary tickets, or any other matters relating to such entertainment, as may be necessary

for the purposes of this Act.

(2) All accounts and documents of the nature referred to in sub-Section(1) as well as documents containing information relating to the entertainment conducted by a proprietor shall at all reasonable times be open to inspection by the prescribed officer and, the prescribed officer may take or cause to be taken such copies or extracts therefrom or may place or cause to be placed such marks of identification thereon, as appear to him to be necessary for the purposes of this Act.

(3) The prescribed officer may, for the purposes of this Act, impound and retain in his custody for such period as he considers necessary any accounts or other documents produced before him in any proceeding under this Act has evaded or is attempting to evade the payment of any tax due from him, he may, for reasons to be recorded in writing, seize such accounts or documents of the proprietor as may be necessary, and shall grant receipt for the same and shall retain the same for so long as may be necessary, in connection with any proceeding under this Act.

(4) If the prescribed officer has reason to believe that any proprietor

(5) For the purposes of sub-Section(2) or sub-Section(4) the prescribed officer may enter and search any place of business of any proprietor or any other place where the prescribed officer has reason to believe that proprietor keeps or is for the time being keeping any accounts, or document relating to the entertainment conducted by him, and may make a note or an inventory of any articles or things found in the course of any search which in his opinion will be useful for or relevant to, any proceeding under this Act.

(6) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches shall, so far as may be, apply to a search made under sub-Section(5).

### **23. Power of entry :-**

(1) Any officer authorised by the State Government in this behalf by a general or special order in writing (hereafter in this section referred to as 'the authorised officer') may enter any place of entertainment while the entertainment is in progress and any place or dinarily used as a place of entertainment [or any place

connected with the management of providing cable connection from any type of antenna with a cable network attached to it or cable television] at any time, with a view to satisfying himself as to whether the provisions of this Act and the rules made thereunder are being complied with.

(2) The proprietor of any entertainment or the owner or person in charge of any place, which is ordinarily used as a place of entertainment shall give reasonable assistance to the authorised officer of his duties under sub-sec. (1).

(3) If any person prevents or obstructs the entry of an authorised officer under sub-Section(1) or fails to give any reasonable assistance referred to in sub-Section(2) he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be punished with fine which may extend to five hundred rupees.

(4) Every authorised officer shall be deemed to be public servant within the meaning of Section 21 of the Indian Penal Code (45 of 1860).

(5) Nothing in this Act shall be deemed to require any authorised officer or any other officer who has to enter a place of entertainment to perform any duty imposed on him by this Act or any other law for the time being in force in connection with an entertainment, to pay for his admission to such entertainment.

**24. Protection of action taken in good faith :-**

No suit or other proceeding shall lie against the State Government or any officer or employee of the State Government, for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

**25. Bar of jurisdiction :-**

No civil court shall have jurisdiction to deal with or decide any question which by or under this Act is required to be dealt with or decided by the prescribed officer, the appellate authority or the State Government.

**26. Inquiries and proceedings to be judicial proceedings :-**

All inquiries and proceedings before the prescribed officer, appellate authority and the State Government shall be deemed to be judicial proceedings within the meaning of Secs. 193, 219 and 228 of the Indian Penal Code (45 of 1860).



## **27. Certain provisions of Limitation Act to apply to appeals**

**:-**

The provisions of Sees. 4, 5 and 12 of the Limitation Act, 1963 (36 of 1963), shall, so far as may be, apply in computing the period for making an appeal under Section12.

## **28. Delegation of powers by State Government :-**

Any of the powers and duties conferred or imposed upon the State Government by or under this Act other than the power of revision under Section13 and the power to make rules under Section31, may be exercised or performed, subject to such conditions as the State Government may prescribe, by such officer as the State Government may, by general or special order, specify in this behalf.

## **29. Exemption :-**

(1) The State Government may, by notification in the Official Gazette, exempt either wholly or partly, any entertainment or class of entertainments from payment of tax. [x x x] subject to such conditions as may be specified therein-

(a) where such entertainment is provided for any educational, medical, charitable, philanthropic or such other purpose; or

(b) where the State Government considers it necessary so to do in the public interest.

(2) Every notification issued under sub-Section(1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which it is so laid or the session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

## **30. Liability to pay tax in the event of breach of condition of exemption :-**

(1) Where any entertainment is exempted under Section29 from the whole or any part of the tax payable under this Act subject to any condition, then, in the event of a breach of any such condition the proprietor shall, notwithstanding such exemption, be liable to pay tax in relation to such entertainment.

(2) Where the prescribed officer has reason to believe that any proprietor has incurred liability to pay tax under sub-Section( 1), he shall serve on the proprietor, a notice requiring him on a date and a place specified therein, either to attend and produce or cause to be produced all evidence on which such proprietor relies in connection with his liability under this section or to produce such evidence as is specified in the notice.

(3) On the date specified in the notice, or as soon as may be thereafter, the prescribed officer, after considering all the evidence which may be produced, assess to the best of his judgment the tax due from the proprietor.

### **31. Power to make rules :-**

(1) The State Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely ', -

[(aa) the form in which an application shall be made by a proprietor under sub-Section(3) of Section6 and the form in which a notice shall be addressed to the prescribed officer under sub-Section(6) of that section;]

<sup>1</sup> [(ab) the manner in which and the period within which the tax shall be payable under Section6-B;

(ac) the form in which, the manner in which and fees on payment of which the proprietor shall apply under Section6-C;]

(a) the manner in which, and the conditions subject to which, a ticket or complimentary ticket may be issued under clause (a) of sub-Section(1) of Section7;

(b) the returns to be furnished under sub-Section(1) of Section8, and the officer to whom the manner in which, the periods for which and the dates before which such returns shall be furnished;

(c) the manner in which and the times at which the tax shall be paid under sub-Section(1) of Section10;

(d) the authority to which, the manner in which, the time within which and the fees on payment of which an appeal may be made under sub-Section(1) of Section12;

(e) the manner in which an appeal shall be heard and decided under sub-Section(2) of Section12;

(f) the form in which accounts shall be maintained by a proprietor and the particulars which such accounts shall contain under sub-Section(1) of Section21;

(g) the conditions subject to which any of the powers and duties conferred or imposed upon the State. Government may be exercised or performed by any officer under Section28;

(h) any other matter which is to be, or may be prescribed.

(3) In making any rules under this section, the State Government may direct that a breach thereof shall be punishable with fine not exceeding five hundred rupees, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the continuance of the offence.

(4) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication:

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.

(5) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(6) Any rescission or modification so made by the State Legislature shall be published in all Official Gazette and shall thereupon take effect.

1. Inserted by Gujarat 13 of 1993.

### **32. Amendment of certain enactments :-**

The enactments specified in column 2 of <sup>1</sup> [Schedule-11] shall stand amended to the extent specified against them in column 3 thereof.

1. Cl. (aa) ins. by Gujarat 17 of 1982 w.e.f. 1-4-1982.

### **33. Repeal and savings :-**

(1) On the commencement of this Act, the Bombay Entertainments Duty Act, 1923 (Bom. I of 1923) shall stand repealed:

Provided that such repeal shall not affect-

(a) the previous operation of the Act so repealed, or anything duly done or suffered thereunder;

(b) any right, privilege, obligation or liability acquired, accrued and incurred under the Act so repealed;

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed under the Act so repealed; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture and punishment may be imposed, as if this Act had not been passed :

Provided further that subject to the preceding proviso, anything done or any action taken (including any rules made, notifications or orders issued returns or security furnished, the levy, assessment or collections made, powers delegated, exemptions granted) under the repealed Act, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

(2) Where any proprietor is in possession of any stamped tickets, or of stamps intended to be used for the purpose of stamping tickets, for admission to an entertainment, which have been rendered useless on the commencement of this Act, the prescribed officer shall upon such proprietor delivering up within six month from such commencement, such stamped tickets or as the case may be stamps refund to such proprietor the value of the stamps.

#### **SCHEDULE 1**

The Rates of Tax

Sr.	Class	Limit of	Rate of tax for	Rate of tax for
No.	of	population	cinema (other than	touring cinema
	specified		touring cinema)	

	area			
(1)	(2)	(3)	(4)	(5)
1.	A	1 to 15,000	Twenty per cent of gross tax collection of a show multiplied by twelve.	Twenty per cent. of gross tax collection of a show multiplied by seven.
2.	B	15,001 to 50,000	Thirty per cent. of gross tax collection of a show multiplied by fourteen	Thirty per cent. of gross tax collection of a show multiplied by seven.
3.	C	50,001 to 1,00,000	Thirty-five per cent. of gross tax collection of a show multiplied by twenty-four.	Thirty-five per cent. of gross tax collection of a show multiplied by seven.
4.	D	1,00,001 to 3,00,000	Forty per cent. of gross tax collection of a show multiplied by twenty-six.	Thirty five per cent. of gross tax collection of a show multiplied by seven.
Explanation.-The population in relation to the specified area means the population thereof as ascertained at the last preceding census of which the relevant figures have been published.]				

**SCHEDULE 2**  
**SCHEDULE**

- (See Section 32)

Sr. No.	Enactments	Amendments
1	2	3
1.	The Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949).	In Sec. 127, sub-sec. (2), in clause (f), after the words "& not being a tax on professions, trades, callings and employment" the words "or a tax on payments for admission to any entertainment & shall be inserted.
2.	The Gujarat Panchayats Act, 1961 (Guj. VI of 1962).	In Sec. 178, in sub-sec. (1), (a) in clause (iv), the following shall be added at the end, namely :- "(i) not being a tax on payments for admission to any entertainment;" (b) in clause (ix), after the words "or a tax on professions, trades, callings and

		employments & the words "or a tax on
		payments for admission to any
		entertainment" shall be inserted.
3.	The Gujarat	In Section 99, in sub-section (1), in
	Municipalities Act, 1963	clause (xv), after the words "not being a
	(Guj. XXXTV of 1964).	tax on professions, trades, callings and
		employments& the words &or a tax on
		payments for admission to any
		entertainment" shall be inserted.

### SCHEDULE 3

#### SCHEDULE

(Sec Section 3A ) (1) All kinds of musical programmes including musical nights and opera, (2) All kinds of dances, (3) All types of dramas and plays, (4) Circus, (5) Magic show, (6) Puppet show and plays, (7) Mushayara and Kavi Sammelan, (8) Ras Garba (9) Bhawai and Ram Leela, (10) Duha, Mimikri. Dayaro (11) LokNatya, (12) Any type of exhibition of arts, skills and things, (13) All kinds of sports excluding the sports or rides provided in the water park and holiday resorts.]