

Gujarat State Tax On Professions, Trades, Callings And Employments (Amendment) Act, 2008

15 of 2008

[14 March 2008]

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Gujarat State Tax On Professions, Trades, Callings And Employments (Amendment) Act, 2008

15 of 2008

[14 March 2008]

A BILL further to amend the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976. It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

1. Short Title And Commencement :-

(1) This Act may be called the Gujarat State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2008. (2) It

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

2. Amendment Of Long Title Of Presidents Act No. 11. Of 1976 :-

In the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (hereinafter referred to as "the principal Act"), Presidents Act No. 11 of 1976. in the long title, for the word "State", the words "Panchayats, Municipalities, Municipal Corporations and the State" shall be substituted.

3. Amendment Of Section 2 Of Presidents Act No. 11 Of 1976 :-

In the principal Act, in section 2, - (1) after clause (a), the following clause shall be inserted, namely:- "(aa) "Designated Authority" means, - (a) a taluka panchayat constituted under section 10 of the said Act; and (b) a district panchayat constituted under section 11 of the said Act; or, as the case may be, the State Government, and includes, where such Municipal Corporation, Municipality or, as the case may be, Panchayat has been superseded or dissolved, a person or persons appointed to exercise the powers or to perform the functions of such Municipal Corporation, Municipality or Panchayat, designated as such, subject to such conditions and for such class of persons mentioned in column 2 of Schedule I for such area, by the State Government by notification in the Official Gazette for the purposes of levy and collection of tax under this Act;"; (i) a Municipal Corporation of a City constituted under section 5 of the Bombay Provincial Municipal Corporations Act, 1949; (Born. LIX of 1949). (ii) a Municipality as defined in clause (14) of section 2 of the Gujarat Municipalities Act, 1963; (Guj. 34 of 1964) (iii) (a) a village panchayat constituted under section 9 of the Gujarat Panchayats Act, 1993; (Guj. 18 of 1993) (2) in clause (d), the following explanation shall be added, namely:- "Explanation.- Every branch of a firm, company, corporation or other corporate body, any society, club or association shall be deemed to be a person and a separate assessee for the purpose of levy of tax under this Act;".

4. Amendment Of Section 3 Of Presidents Act No. 11 Of 1976 :-

In the principal Act, in section 3,- (1) in sub-section (1), for the words "for the benefit of the State", the words "by the Designated Authorities for the benefit of the Panchayats, Municipalities,

Municipal Corporations or, as the case may be, the State" shall be substituted; (2) for sub-section (2), the following sub-section shall be substituted, namely:- "(2) Every person engaged in any Profession, Trade, Calling or Employment and falling under one or the other of the classes mentioned in column 2 of Schedule I shall be liable to pay the tax to the Designated Authority at such rate fixed by it but not exceeding the amount mentioned against the class of such person in the said Schedule: Provided that the rates of tax for the class of persons mentioned in entry 1 of the said Schedule shall be fixed by the State Government by notification in the Official Gazette Provided further that the tax so payable in respect of anyone person shall not exceed two thousand and five hundred rupees in any year: Provided also that the State Government may, by notification in the Official Gazette, specify the minimum rate of tax for each of such class mentioned in column 2 of Schedule I, below which tax shall not be levied by the Designated Authority and different limits may be fixed for different Designated Authorities and the minimum rate so notified shall be levied till the Designated Authority fixes some other rate under the provisions of this Act: Provided also that the State Government may, by notification in the Official Gazette, specify the class of persons other than those mentioned in entries 1 to 9 in Schedule I, to whom entry 10 in that Schedule shall apply: Provided also that the tax shall not be levied from the persons mentioned below Schedule I ";. (3) in sub-section (3), for the words " State Government", the words "Designated Authority" shall be substituted; (4) after sub-section (4), the following sub-section shall be inserted, namely:- "(5) Where a person falling under any of the entries in Schedule I is liable to pay the tax to more than one Designated Authority, he shall pay the tax to the Designated Authority where the tax liability is highest: Provided that where a person produces a certificate to the effect that the tax has been paid by him to the Designated Authority where the liability of tax is highest, the tax shall not be levied by any other Designated Authority."

5. Amendment Of Section 5 Of Presidents Act No. 11 Of 1976 :-

In the principal Act, in section 5, in sub-section (5), for the words "five rupees", the words "ten rupees" shall be substituted.

6. Amendment Of Section 6 Of Presidents Act No. 11 Of 1976 :-

In the principal Act, in section 6, in sub-section (3), for the words "five rupees", the words "ten rupees" shall be substituted.

7. Amendment Of Section 11 Of Presidents Act No. 11 Of 1976 :-

In the principal Act, in section 11, in sub-section (2),- (1) in clause (I), for the words "the Additional Commissioners of Profession Tax and the Joint Commissioners of Profession Tax", the words "and the Additional Commissioner of Profession Tax" shall be substituted; (2) in clause (ii), the words "the Assistant Commissioners of Profession Tax and" shall be deleted; (3) clause (iv) shall be deleted.

8. Amendment Of Section 12 Of Presidents Act No. 11 Of 1976 :-

In the principal Act, in section 12,- (1) in sub-section (1), - (i) for clause (a), the following clause shall be substituted, namely:- "(a) For carrying out the purposes of this Act, the State Government may, for each Designated Authority, appoint an officer to be the Commissioner of Profession Tax."; (ii) after clause (a), the following clause shall be inserted, namely:- "(aa) For carrying out the purposes pf this Act, the Designated Authority may appoint such other officers as an Additional Commissioner of Profession Tax and such number of Deputy Commissioners of Profession Tax, Profession Tax Officers and other officers and persons not below such ranks, as the State Government may specify in this regards, with such designation."; (iii) in clause (b),- (a) for the words "paragraph (if) or (iif) of clause (a)", the words, "clause (a) or (aa)" shall be substituted; (b) for the words "State Government may, by notification in the Official Gazette", the words "Designated Authority may, by order" shall be substituted; (2) sub-sections (3), (4),(4A),(5), and (6) shall be deleted.

9. Amendment Of Section 13 Of Presidents Act No. 11 Of 1976 :-

In the principal Act, in section 13, in sub-section (1), in clauses (b) and (c), for the words "the Joint Commissioner", the words "the Additional Commissioner" shall be substituted.

10. Amendment Of Section 14 Of Presidents Act No. 11 Of 1976 :-

I n the principal Act, in section 14,- (1) in sub-section (1), in clauses (a) and (b), for the words "the Joint Commissioner", the words "the Additional Commissioner" shall be substituted; (2) in sub-section (3), for the words "the Joint Commissioner", the words

"the Additional Commissioner" shall be substituted.

11. Amendment Of Section 16 Of Presidents Act No. 11 Of 1976 :-

In the principal Act, in section 16, in sub-section (2), for the words "five rupees", the words "ten rupees" shall be substituted.

12. Amendment Of Section 18 Of Presidents Act No. 11 Of 1976 :-

In the principal Act, in section 18,- (1) for the words "Any authority", the words "The Commissioner or any officer authorised by the Commissioner" shall be substituted; (2) in the proviso, for the words "the said authority", the words "the Commissioner or any officer authorised by the Commissioner" shall be substituted.

13. Amendment Of Section 26 Of Presidents Act No. 11 Of 1976 :-

In the principal Act, in section 26, -. (1) in sub-section (1), - (i) for the words "The State Government may, by notification in the Official Gazette", the words "The Designated Authority may by passing a resolution in this behalf and by publishing the same in the Official Gazette" shall be substituted; (ii) for clause (a), the following clause shall be substituted, namely:- (a) its power of appointments of officers and persons other than an Additional Commissioner under clause (aa) of sub-section (1) of section 12, and"; (iii) for the words "in the notification", the words "in the resolution" shall be substituted; (2) in sub-section (2), the words "or to the officer authorised by the Collecting Agent under sub-section (4) of section 12" shall be deleted.

14. Substitution Of Section 26A Of Presidents Act No. 11 Of 1976 :-

In the principal Act, for section 26A, the following section shall be substituted, namely:- "26A. Power to exempt. Subject to such conditions as it may impose, the Designated Authority may, after obtaining prior approval of the State Government, if it considers it necessary so to do in public interest, by resolution to be published in the Official Gazette, exempt any class of person from payment of whole or any part of the tax payable under the provisions of this Act. "

15. Amendment Of Section 27 Of Presidents Act No. 11 Of 1976 :-

In the principal Act, in section 27,- (1) in sub-section (2), clause (f)

shall be deleted; (2) sub-section (3) and the proviso thereunder shall be deleted; (3) in sub-section (4), after the words "All rules made", the words "by the State Government" shall be inserted; (4) after sub-section (5), the following sub-section shall be inserted, namely:- "(6) For carrying out the purposes of this Act, the Designated Authority may make such rules not inconsistent with the provisions of this Act under its relevant law mentioned in clause (aa) of section 2 of this Act.".

16. Substitution Of Section 28 Of Presidents Act No. 11 Of 1976 :-

In the principal Act, for section 28, the following section shall be substituted, namely:- 28. Amendment of certain enactments. "The enactments specified in column 2 of Schedule II are hereby amended in the manner and to the extent, specified in column 3 thereof."

17. Substitution Of Section 29 Of Presidents Act No. 11 Of 1976 :-

In the principal Act, for section 29, the following section shall be substituted, namely;- 29. Grants to Designated Authorities. "Out of the proceeds of the tax and penalties, interest and fees recovered before the commencement of the Gujarat Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2008 (hereinafter referred to as "the said Act") or recoverable after such commencement as a result of previous operation of the Act under clause (a) of section 31, there shall, under the appropriation duly made by law, be paid annually to such local authorities as were levying a tax on professions, trades, callings and employments before the commencement of the said Act."

18. Insertion Of New Sections 30 And 31 In Presidents Act No. 11 Of 1976 :-

In the principal Act, after section 29, the following new sections shall be added, namely:- 30. Power of State Government to give directions. "The State Government shall have the powers, to issue directions to the Designated Authorities from time to time as may be required for the compliance of the provisions of this Act and the rules made thereunder and the Designated Authority shall, notwithstanding any provision in the relevant law, be bound to comply with such directions. 31. Savings. Nothing in the amendments made by the Gujarat State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2008

(Guj.... of 2008.) (hereinafter referred to as "the said Act") shall affect or be deemed to have affected, - (a) the previous operation of any provision of the Act or anything done or suffered under the said provisions before the commencement of the said Act; (b) any right, privilege, obligation or liability acquired, accrued or incurred under the said provisions before the commencement of the said Act; (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the provisions of the Act before the commencement of the said Act; 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 or punishment may be imposed as if the said Act had not been passed."

19. Substitution Of Schedule I And Schedule Ii To Presidents Act No. 11 Of 1976 :-

Sr. No	Class of Persons	Maximum Rate of Tax (in Rs.)
1.	2.	3.
1.	(A) Salary and Wage earners of the State Government, Central Government, Panchayats, Public Sector Undertakings of the State and the Central Government, and Grant-in-aids institutions, whose monthly salaries or wages are -	
	(i) less than Rs.3,000/-	Zero
	(ii) Rs.3,000/- or more but less than Rs.6,000/-	200/- per month
	(iii) Rs.6,000/- or more but less than Rs.9,000/-	200/- per month
	(iv) Rs.9,000/- or more but less than Rs.12,000/-	200/- per month
	(v) Rs. 12,000/- or more.	200/- per month
	Explanation 1.- Where any salary or wages are payable according to any period other than a month, the monthly salary or wages shall, for the purpose of this entry, be reckoned on the basis of the actual amount of salary or wages paid or payable for a month. Explanation 11.- Where a person ceases to be a salary or wages earner before the end of any month, his liability to pay the tax for that month shall be proportionately reduced.	
	(B) Salary and Wage earners other than those mentioned in sub-entry (A), whose monthly	

	salaries or wages are -	
	(i) less than Rs.3,000/-	Zero
	(ii) Rs:3,000/- or more but less than Rs.6,000/-	200/- per month
	(iii) Rs.6,000/- or more but less than Rs.9,000/-	200/- per month
	(iv) Rs.9,000/- or more but less than Rs.12,000/-	200/- per month
	(v) Rs. 12,000/- or more	200/- per month
	<p>Explanation I.- Where any salary or wages are payable according to any period other than a month, the monthly salary or wages shall, for the purpose of this entry, be reckoned on the basis of the actual amount of salary or wages paid or payable for a month.</p> <p>Explanation II.- Where a person ceases to be a salary or wages earner before the end of any month, his liability to pay the tax for that month shall be proportionately</p>	
2	(a) Legal Practitioners including Solicitors and Notaries Public.	2500/- per annum
	(b) Medical Practitioners including Medical Consultants and Dentists.	2500/- per annum
	(c) Technical and professional consultants, including Architects, Engineers, RCC Consultants, Tax Consultants, Chartered Accountants, Actuaries and Management Consultants.	2500/- per annum
	(d) Chief Agents, Principal Agents, Special Agents, Insurance Agents and Surveyors or Loss Assessors, registered or licenced under the Insurance Act, 1938 (4 of 1938).	2500/- per annum
	(e) All Contractors other than building contractors.	2500/- per annum
	(f) Commission Agents, Da/a/s and Brokers other than Estate Brokers.	2500/- per annum
	(g) Automobile Brokers.	2500/- per annum
	(h) Tour Operators and Travel Agents.	2500/- per annum
	(i) Cable T.V. Operators.	2500/- per annum
	(j) Film Distributors.	2500/- per annum
	(k) Owners of Advertisement Agencies.	2500/- per annum
	(I) Owners of Tuition Classes or Tutorial Institutions.	2500/- per annum
	(m) Owners of Institution or Service Providers engaged in Computer Education or Training, or	2500/- per annum

	Online Information and Data Base Service through Computer Network.	
	(n) Owners of Driving Schools.	2500/- per annum
	(o) Owners of Marriage Halls and Party Plots.	2500/- per annum
	(p) Angadia or Courier Service Providers.	2500/- per annum
	(q) Owners of Health Club and Recreation Clubs.	2500/- per annum
3.	(i) Members of Association recognised under the Forward Contract (Regulation) Act, 1952 (74 of 1952).	2500/- per annum
	(ii) Members of Stock Exchanges recognised under the Securities Contracts (Regulation) Act, 1956 (42 of 1956).	2500/- per annum
	(iii) Owners of Oil Pumps and Service Stations and where any oil pumps and service stations are leased, the lessees thereof.	2500/- per annum
	(iv) licenced foreign liquor vendors and employers of residential hotels and theatres as defined in the Bombay Shops and Establishments Act, 1948.	2500/- per annum
	(v) Public Limited or Private Limited Companies registered under the Companies Act, 1956 (1 of 1956) and engaged in any profession, trade or calling.	2500/- per annum
	(vi) Individuals or Institutions conducting Chit Funds.	2500/- per annum
	(vii) Banking companies as defined in the Banking Regulation Act, 1949 (10 of 1949).	2500/- per annum
	(viii) Co-operative Societies registered or deemed to be registered under the Gujarat Co-operative Societies Act, 1961 (Guj. X of 1962)-	2500/- per annum
	(a) State Level Societies and District Level Societies engaged in any profession, trade or calling.	2500/- per annum
	(b) Co-operative Sugar Factories and Co-operative Spinning Mills.	2500/- per annum
	(ix) Estate Agents or Estate Brokers or Building Contractors.	2500/- per annum
	(x) Owners of Video Parlours or Video Libraries or both and where any Video Parlours or Video Libraries or both are leased, the lessees thereof.	2500/- per annum
4.	Firms registered under the Indian Partnership Act, 1932 (IX of 1932) which are engaged in any professions, trades or callings.	2500/- per annum
5.	Occupiers of factories as defined in the Factories Act, 1948 (63 of 1948).	2500/- per annum
	Employers of establishments as defined in the	2500/- per

6.	Bombay Shops and Establishments Act, 1948 (Bom. XXXIX of 1948), where on an average employees employed in the establishment during a year are more than five per day.	annum
7.	Dealers as defined in the Gujarat Value Added Tax Act, 2003 (Guj. 1 of 2005) whose annual gross turnover of all sales or of all purchases is-	
	(i) not more than RS.2,50,000/-	Zero
	(ii) more than RS.2,50,000/- but not more than RS.5,00,000/-	2500/- per annum
	(iii) more than RS.5,00,000/- but not more than Rs.10,00,000/-	25001/- per annum
	(iv) more than Rs. 10,00,000/- Explanation.- For the purpose of this entry, the term, year shall mean the year as defined in clause (36) of section 2 of the Gujarat Value Added Tax Act, 2003 (Guj.1 of 2005).	2500/- per annum
8.	Holders of permits for transport vehicle granted under the Motor Vehicles Act, 1988 (59 of 1988) which are used or adapted to be used for hire or reward, where any such person hold permits for more than two transport vehicles buses, taxis, trucks or three wheelers goods vehicles.	2500/- per annum
	Explanation.- Persons residing together as members of one family and holding separate permits shall be one person for the purposes of this entry.	
9.	Money lender licensed under the Bombay Money-Lenders Act, 1946 (Born. XXXI of 1947).	2500/- per annum
10.	Persons. other than those mentioned in any of the preceding entries, who are engaged in any professions, trades, callings or employments and in respect of whom a notification is issued under the fourth proviso to sub-section (2) of section 3.	2500/- per annum

Exemptions:- The following persons shall be exempted from the payment of tax under any of the entries 2 to 10 of this Schedule:- (1) Companies in respect of which orders for winding up are passed under the Companies Act, 1956 (1 of 1956) from the date of such orders. (2) Co-operative Societies under liquidation from the date of the commencement of liquidation proceedings. (3) A primary co-operative society, the members of which are workers who are carrying on the activity of the society by their own labour.

SCHEDULE - II		
(See section 28)		
Sr. No.	Enactments	Amendments
1.	2.	3.
1.	The Bombay Provincial Municipal Corporations Act, 1949(Bom. LIX of 1949).	In section 127, in sub-section (2), - (1) after clause (a), the following clause shall be inserted, namely:-

		<p>"(b) subject to and in accordance with the provisions of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (Presidents Act NO.11 of 1976) and the rules made thereunder, a tax on professions, trades, callings and employments;"</p> <p>(2) in clause (f), the words "a tax on professions, trades, callings and employments or" shall be deleted.</p>
2.	The Gujarat Municipalities Act, 1963 (Guj. 34 of 1964).	<p>In section 99, in sub-section (1), -</p> <p>(1) after clause (xiv), the following clause shall be inserted, namely:-</p> <p>(xiv-a) subject to and in accordance with the provisions of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (Presidents Act NO.11 of 1976) and the rules made thereunder, a tax on professions, trades, callings and employments;"</p> <p>(2) in clause (xv), the words "a tax on professions, trades, callings and employments or" shall be deleted."</p>
3.	The Gujarat Panchayats Act 1993 (Guj. 18 of 1993).	<p>1. In section 200, -</p> <p>(1) in sub-section (1), -</p> <p>(a) after clause (ix), the following clause shall be inserted, namely:-</p> <p>"(ix-a) subject to and in accordance with the provisions of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (Presidents Act NO.11 of 1976) and the rules made thereunder, a tax on professions, trades, callings and employments,</p> <p>(b) in clause (x), the words "or tax on professions, trades, callings and employments" shall be deleted;</p> <p>(2) after sub-section (S), the following sub-section shall be inserted, namely:-</p> <p>"(5A) Notwithstanding anything contained in sub-section (1), where a tax on professions, trades, callings and employments has been imposed by any panchayat under the provisions of this Act in the area within the limits of a</p>

village panchayat, it shall not be lawful for any other panchayat, so long as the tax is being so imposed, to levy such tax within such limits.":

2. In section 206, in sub-section (2), -

(1) clause (b) shall be renumbered as sub-clause (I) of that clause, and in sub-clause (i) as so renumbered, after the words "such tax or fee", the brackets, words, figures and letters " (other than tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976, (Presidents Act No. 11 of 1976) read with clause (ix-a) of sub-section (1) of section 200)" shall be inserted;

(2) after sub-clause (i), as so renumbered, the following sub-clause shall be inserted, namely:-

"(ii) Total amount of gross collection of tax levied, under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (Presidents Act No. 11 of 1976) read with clause (ix-a) of sub-section (1) of section 200, in any financial year in any area within the jurisdiction of a village panchayat shall not form part of the taluka fund, but shall be assigned to the concerned village panchayat.".

3. In section 210, -

(1) clause (b) shall be renumbered as sub-clause (I) of that clause, and in sub-clause (I) as so renumbered, after the words "such tax or fee", the brackets, words, figures and letters " (other than tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (Presidents Act No. 11 of 1976) read with clause (ix-a) of sub-section (1) of section 200)" shall be inserted;

(2) after sub-clause (i), as so renumbered, the following sub-clause shall be inserted, namely:-

"(ii) total amount of gross collection of tax levied under section 3 of the

		Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (Presidents Act No. 11 of 1976) read with clause (ix-a) of sub-section (1) of section 200, in any financial year in any area within the jurisdiction of a village panchayat shall not form part of the district fund, but shall be assigned to the concerned village panchayat.".
<p>STATEMENT OF OBJECTS AND REASONS</p> <p>Under the existing provisions of the Gujarat State Tax on Professions, Trade, Callings and Employments Act, 1976 tax is levied and collected from various persons engaged in Trade, Professions, Callings or Employments. The certain local authorities were appointed as collecting agents and were authorised to collect tax with effect from 15th October, 2006. However, they had to deposit the tax first in the Consolidated Fund of the State and thereafter amount collected by local authorities was given back by the State Government as collection charges. This system is found time consuming. Therefore, it is considered necessary to amend the said Act in such a way that it allows certain local authority to levy, collect and retain the tax with them without depositing the same in the Consolidated Fund of the State. By this amendment, it is proposed to empower the Panchayats, Municipalities and Municipal Corporations to levy, collect and appropriate the Professional Tax on certain categories of professions and employees to augment their financial resources.</p> <p>Clause 2 of the Bill seeks, to amend long title of the Act. Until now the tax was levied and collected by the State Government for the benefit of the State. Now, it is intended that the tax shall be levied and collected by the State Government or, as the case may be, the Panchayats, Municipalities or Municipal Corporations for their benefit. Hence, the long title of the said Act is proposed to be amended accordingly.</p> <p>Sub-clause (1) of clause 3 of the Bill seeks to add definition of the Designated Authority. As per the proposed definition of "designated authorities" the State Government will be able to empower local government bodies such as Panchayats, Municipalities and Municipal Corporations to levy and collect the tax.</p> <p>Sub-clause (2) of clause 3 of the Bill seeks to explain the definition of the "person" for the purpose of levy of tax. It is intended that every branch of a firm, company, corporation or other corporate body, any society, club or pssociation should be deemed to be a separate person for the purpose of assessment and levy of tax. To achieve this object an explanation is proposed to be inserted in the definition of the person.</p> <p>Clause 4 of the Bill seeks to amend section 3 to empower the Designated Authority to levy and collect the tax, and decide the rates thereof.</p> <p>The Bill proposes to provide for the maximum rate of tax to be levied by a Designated Authority in the Schedule I. The State Government will have power to fix the rate of tax for sub-entries (A) and (B) of entry 1 of Schedule I and also specify the minimum rate of tax for each of such class mentioned in column 2 of Schedule I. This will empower the Designated Authorities to fix the rate of tax</p>		

within the limits provided. However, till the time a Designated Authority revises the rate of tax as provided in the limits, the minimum rate so prescribed by the State Government shall remain the operative rate.

It is also provided that where a person is liable to pay tax to more than one Designated Authority, he shall pay the tax where the tax liability is highest.

Clause 5 of the Bill seeks to amend section 5 of the Act dealing with penalty.

Clause 6 of the Bill seeks to amend section 6 of the Act. The Bill proposes for enhancement of penalty from Rs. 5/- to Rs. 10/- per day in case of default in filing of return.

Clauses 7, 8, 9 and 10 of the Bill seek to amend sections 11, 12, 13 and 14 of the Act, whereby the authorities appointed by the State Government or as the case may be Designated Authority shall exercise the powers under sections 7, 7 A, 11, 13 and 14. It is proposed that, Commissioners for Designated Authority shall be appointed by the State Government and Additional Commissioner, Deputy Commissioners and Profession Tax Officers and other Officers and persons shall be appointed by the Designated Authority. The posts of Joint Commissioners and Assistant Commissioners are removed.

Clause 11 of the Bill seeks to amend section 16 to enhance the limit of penalty from Rs. 5 to Rs. 10.

Clause 12 of the Bill seeks to amend section 18 and enables an officer to carry out search and inspection.

Clause 13 of the Bill seeks to amend section 26 dealing with procedure of appointment of officers.

Clause 14 of the Bill seeks to amend section 26A. The Designated Authorities are proposed to be given power of exemption with prior approval of the State Government.

Clause 15 of the Bill seeks to amend section 27. A new sub-section (6) of section 27 is proposed to be inserted whereby the Designated Authority may make rules for carrying out the purposes of this Act not inconsistent with the provisions of the Act under their relevant statute.

Clause 16 of the Bill seeks to amend section 28. Prior to commencement of the Act i.e. before the 1st April 1976, certain local authorities were empowered to collect the Profession Tax. On account of the enactment of the Act the powers to levy and collect the tax were withdrawn from these local authorities. Now it is proposed again to empower the same local authorities to levy and collect the Professional Tax. Therefore, the power is proposed to be restored so as to enable them to levy and collect the tax as per the provisions of this Act. Clause 16 provides for substitution of section 28 and Schedule II accordingly.

Clause 17 of the Bill seeks to substitute section 29 to provide for payment of grant to the Designated Authorities of the tax recovered or recoverable due to previous operation of the Act before the proposed amendment.

Clause 18 of the Bill seeks to insert a new section 30. This clause seeks to empower the State Government to issue direction to the Designated Authorities

and the Designated Authorities shall be bound to comply with such direction. This new section is proposed to be added to issue directions to remove the difficulties that may arise in implementing the new scheme of levy of tax by Designated Authority through the said Act as amended and for development of homogeneous and uniform process through out the State. This clause also seeks to insert the saving clause.

This Bill seeks to amend the Gujarat State Tax on Professions, Trade, Callings and Employments Act, 1976 to achieve the aforesaid objects.

VAJUBHAI VALA

FINANCIAL MEMORANDUM

Sub-section (1) of section 12 proposed to be amended by clause 8 of the Bill empowers the State Government to appoint an officer to be the Commissioner of Profession Tax for each Designated Authority. The existing officer working in the State Government or the Designated Authority in the regular establishment are to be used for the purpose. No new or additional expenditure is to be incurred from the Consolidated Fund of the State if clauses (a) and (aa) of sub-section (1) of section 12 are amended and brought into force.

Clause (aa) in sub-section (1) proposed to be inserted in section 12 empowers the Designated Authority to appoint such other officers as an Additional Commissioner of Profession Tax, Deputy Commissioners of Profession Tax, Profession Tax Officers and other Officers and persons for carrying out the purposes of the Act. These powers are proposed to be vested with the Municipal Corporations, Municipalities and Panchayats or, as the case may be, the State Government. Officers from regular establishment will be used by the Government, where as Designated Authorities will use their own staff and expenditure for that will be borne by them.

No additional expenditure to be incurred on this account from the Consolidated Fund of the State.

VAJUBHAI VALA,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:-

Clause 1.- Sub-clause (2) of this clause empowers the State Government to appoint by notification in the Official Gazette, the date on which the Act shall come into force.

Clause 3.- Clause (aa) proposed to be inserted in section 2 empowers the State Government by notification in the Official Gazette, to notify the Designated Authority for the purposes of levy and collection of tax for such class of persons mentioned in column 2 of Schedule I for such area and subject to such conditions as may be specified..

Clause 4.- (i) Sub-section (2) of section 3 proposed to be substituted by sub-clause (2) of this clause empowers the Designated Authority to fix the rate of tax not exceeding the amount mentioned against the class of such person in column 3

of the said Schedule I;

(ii) the first proviso to sub-section (2) empowers the State Government by notification in the Official Gazette, to fix the rate of tax for the class of persons mentioned in entry 1 of the said Schedule I;

(iii) the third proviso to sub-section (2) empowers the State Government to specify by notification in the Official Gazette, the minimum rate of tax for such class mentioned in column 2 of Schedule I and different limits for different Designated Authority;

(iv) the fourth proviso to sub-section (2) empowers the State Government by notification in the Official Gazette, to specify the class of persons other than those mentioned in entries 1 to 9 in Schedule I to whom entry 10 in that Schedule shall apply.

Clause 8.- (i) Clause (a) of sub-section (1) of section 12 proposed to be substituted by sub-clause (1) of this clause empowers the State Government to appoint an officer to be the Commissioner of Profession Tax for each Designated Authority;

(ii) clause (aa) of sub-section (1) of section 12 proposed to be inserted by sub-clause (1) of this clause empowers the Designated Authority to appoint the Additional Commissioner of Profession Tax, Deputy Commissioners of Profession Tax, Profession Tax Officers and such other officers and persons with such designations as the Designated Authority deems fit subject to the designations as may be specified by the State Government;

(iii) clause (b) of sub-section (1) of section 12 proposed to be amended by sub-clause (1) of this clause empowers the Designated Authority by order to specify the jurisdiction within which the officers appointed by it, shall exercise such powers and perform such duties conferred or imposed upon him by or under the Act.

Clause 13.- Sub-section (1) of section 26 proposed to be amended by sub-clause (1) of this clause empowers the State Government by notification in the Official Gazette and the Designated Authority by resolution publishing in the Official Gazette delegate its power to the Commissioner to appoint the Additional Commissioner of Profession Tax, Deputy Commissioners of Profession Tax, Profession Tax Officers and such other officers and persons for carrying out the purposes of the Act.

Clause 14.- Section 26A proposed to be substituted by this clause empowers the Designated Authority to exempt, any class of persons from payment of whole or any part of the tax payable under the provisions of the Act after obtaining the prior approval of the State Government.

Clause 15.- Sub-section (6) proposed to be inserted in section 27 by sub-clause (4) of this clause empowers the Designated Authority to prescribe rules not inconsistent with the provisions of the relevant law.

Clause 18.- Section 30 proposed to be inserted by this clause empowers the State Government to issue directions to the Designated Authority as may be required for the compliance of the provisions of the Act and the rules made there under.

The delegation of legislative powers as aforesaid is necessary and of is a normal character.

Vajubhai Vala.