

**GUJARAT TAX ON LUXURIES (HOTELS AND LODGING  
HOUSES) ACT, 1977**

**24 of 1977**

**[August 11, 1977]**

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Levy and collection of luxury tax
4. Mode of collection of tax
5. Returns
6. Assessment and collection of tax
7. Imposition of penalty in certain cases
- 7A. Liability of proprietor to pay interest
8. Payment of 2[tax, penalty and interest]
- 8A. Authorities for implementation of the Act
9. Appeal
10. Revision
11. Court fees on appeal and application for revision
12. Refunds
13. Offences
14. Offences by companies
15. Compounding of offences
16. Power to enforce attendance etc
17. Powers of inspection of accounts and documents and search of hotels
18. Certain provision of Limitation Act to apply to appeal and revision applications
19. Bar of proceedings
20. Delegation of powers
21. Power to make rules

**GUJARAT TAX ON LUXURIES (HOTELS AND LODGING  
HOUSES) ACT, 1977**

**24 of 1977**

**[August 11, 1977]**

An Act to provide for the levy and collection of a tax on luxuries provided in hotels and lodging houses and for matters connected therewith. 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 Tax on Luxuries (Hotels and Lodging Houses) 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) "Charges for lodging" include charges for air conditioning telephone, television, radio, music and extra beds and the like but do not include any charges for food, drink or other amenities.

Explanation If any question arises whether any charges are charged for lodging, such question shall be referred to the State Government and the decision of the State Government shall be final and shall not be called in question in any court;

(b) "Collector" includes any officer appointed by the State Government to exercise the powers and perform the functions of the Collector under this Act;

(c) "Concessional rate", in relation to a luxury provided in a hotel means a rate lower than the normal rate fixed for such luxury by the hotel or lower than that fixed by the Government or any other authority under any law for the time being in force;

(d) "Hotel" means a building or part of a building where lodging accommodation, with or without board is, by way of business provided for a monetary consideration, and includes a lodging house;

(e) "Luxury provided in a hotel" means accommodation for lodging provided in a hotel the rate of charges for which (including charges for airconditioning, telephone, television, radio, music or extra beds and the like but excluding charges for food, drink and other amenities) is not less than thirty five rupees per person per day;

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

(g) "Proprietor" in relation to a hotel, includes the person who for the time being is in charge of the management of the hotel;

(h) "Tax" means the luxury tax levied and collected under this Act.

### **3. Levy and collection of luxury tax :-**

(1) Subject to the provisions of this Act, with effect on and from the date on which this Act comes into force, there shall be levied and collected from every person a tax (to be known as "luxury tax") in respect of any luxury provided to him in a hotel, at the following rates, namely:

(a)	Where the charges for lodging are not more	Nil.
	than hundred rupees per day per person.	
(b)	Where the charges for lodging are more than	10 percent of such charges.
	hundred rupees but not more than two	
	hundred rupees per day per person.	
(c)	Where the charges for lodging are more than	Rs. 20 plus 15 percent of
	two hundred rupees but not more than	such charges in excess of
	three hundred rupees per day per person.	Rs. 200 per person per
		day.
(d)	Where the charges for lodging are more than	Rs. 35 plus 20 percent of
	three hundred rupees per day per person.	such charges in excess of
		Rs. 300 per persons per
		day:

Provided that where charges for lodging are levied otherwise than on daily basis or person, then, for the purpose of determining the tax liability of any person under this section, the charges shall be computed as for a day and per person, based on the period of lodging for which charges are payable and the number of persons actually lodging or permitted to lodge according to the rule or custom of the hotel;

Provided further that where any charges for lodging are paid by any person other than a citizen of India in any foreign exchange, then such person or where such charges are paid by any person or class of persons as the State Government may, by order, direct such as foreigners staying as guests in India of any Government or of any Corporation or Company owned or controlled by Government, or such other person as in the opinion of the State Government it is expedient in the public interest to exempt, then

such person or persons shall be exempt from the payment of tax.

(2) Where luxury is provided in a hotel to representatives or employees of any company and charges for such luxury are to be borne by the company, there shall be levied and collected the tax from company.

Explanation In this sub-section "Company" means any body corporate and includes a firm or other association of persons.

(3) The tax payable under this section shall be collected by the proprietor and be paid into a Government treasury within the time and in the manner provided in the Act.

(4) In computing the amount of tax payable under this section, the amount shall, if it is not a multiple of five paise, be increased to the next higher multiple of five paise.

#### **4. Mode of collection of tax :-**

(1) Where the rate of charges for luxury provided in a hotel is inclusive of the charges for food drink or other amenities, if any (being amenities referred to in clause (e) of section 2 , then the Collector may, from time to time, after giving the proprietor an opportunity of being heard, fix separate rates of charges for such luxury and for food or drink or other amenities, if any, being amenities referred to in clause (e) of Section 2 for the purpose of calculating the tax under this Act.

(2) Where, in addition to the charge for luxury provided in a hotel, service charges are levied an appropriated to the proprietor and not paid to the staff, then such charges shall be deemed to be part of the charges for luxury provided in hotel.

(3) Where luxury provided in a hotel to any person (not being an employee of the hotel) is not charged, at all or is charged at a concessional rate, then also there shall be levied and collected the tax on such luxury, as if full charges for such luxury were paid to the Proprietor of the hotel.

(4) Where luxury provided in a hotel for a specified number of persons is shared by more than the number specified, then, in addition to the tax paid for luxury provided to the specified, number of persons, there shall be levied and collected separately, the tax in respect of the charge made for the extra persons accommodated.

(5) Where any proprietor fails to neglects to collect the tax payable under this Act, the tax shall be paid by the proprietor as if the tax was recovered by the proprietor from the person to whom the luxury provided and who was accordingly liable to pay the same.

## **5. Returns :-**

(1) Every proprietor liable to pay tax under this Act shall furnish a monthly return in the prescribed form to the Collector within eight days after the expiry of the month to which the return relates.

(2) Every such returns shall show the number of rooms or other accommodation in the hotel which is intended to be occupied, the number of persons who occupied such rooms or accommodation, the periods of their stay, the days of their arrival and departure, the amount of charges recovered from them together with such other information as may be prescribed.

(3) A proprietor furnishing a return as required by sub-section (1) shall-first pay into Government treasury, in the manner prescribed, the whole amount of tax due from him according to such return and enclose a receipt of such payment with the return.

(4) Every return shall be verified in the prescribed manner.

## **6. Assessment and collection of tax :-**

(1) If the Collector is satisfied that the return furnished under sub-section (1) of Section 5 is complete and he has on reasons to believe that it, is incorrect, he shall assess the amount to tax due from the proprietor on the basis of such return.

(2)

(a) If the Collector is not satisfied that the return furnished under sub-section(1) of Section 5 is complete or he has reasons to believe that it is incorrect and he thinks it necessary to require the presence of the proprietor or the production of further evidence, he shall serve on such proprietor in the prescribed manner a notice requiring him on a date at a place specified therein either to attend and produce or cause to be produced all evidence on which such proprietor relies in support of his return or to produce such evidence as is specified in the notice.

(b) On the date specified in the notice, or as soon as may be thereafter, the Collector shall, after considering all the evidence

which may be produced, assess the amount of tax due from the proprietor.

(c) If the proprietor fails to comply with the terms of the notice issued to him under clause (a) the Collector shall assess to the best of his judgement, the amount of tax due from him.

(3) If a proprietor liable to Pay tax under this Act fails to furnish a return in respect of any period within the period specified in sub-section(1) of Section 5 , the Collector shall, after giving the proprietor a reasonable opportunity of being heard, assess to the best of his judgment the amount of tax if any, due from him.

(4) Any assessment made under this section shall be without prejudice to any penalty or prosecution for an offence under this Act.

### **7. Imposition of penalty in certain cases :-**

Where any proprietor liable to pay tax under this Act

(a) fails, without sufficient cause or neglects to furnish a return as required by sub-section (1) of Section 5 , or

(b) while furnishing a return under sub-section (1) of Section 5 fails without sufficient cause, or neglects to pay into Government treasury the whole amount of tax due from him according to such return as required by sub-section (2) of Section 5 , or

(c) fails, without sufficient cause to comply with the terms of notice issued to him under clause (a) of sub-section (2) of Section 6 , or

(d) has concealed the particulars of any transaction or has deliberately furnished inaccurate particulars of any transaction liable to tax, the Collector may impose upon such proprietor by way of penalty, in addition to any tax assessed under Section 6 , a sum not exceeding one and one half times the amount of the tax.

### **7A. Liability of proprietor to pay interest :-**

Where any proprietor does not pay the tax within the time and in the manner provided in the Act, he shall, without prejudice to any other consequences and liabilities which he may incur, be liable to pay, in addition to the amount of tax, simple interest at two percent, of the amount of the tax due for each month or part thereof for the period for which the tax remains unpaid.]

### **8. Payment of 2[tax, penalty and interest] :-**

(1)

(a) The amount of tax

(i) due where return has been furnished without full payment therefor;

(ii) assessed for any period under Section 6 less any sum already paid by the proprietor in respect of such period ;

(b) the amount of penalty, if any, levied under Section 7 ;

<sup>1</sup>[(c) the amount of interest, if any, payable under Section 7A ;] shall be paid by the proprietor liable therefor into a Government treasury by such date as may be specified in the notice issued by the Collector for this purpose, being a date not earlier than thirty days from the date of service of notice;

Provided that the Collector or the appellate authority in an appeal under Section 9 may, in respect of any particular proprietor and for reasons to be recorded in writing, extend the date of payment, or allow him to pay the <sup>2</sup>[tax, penalty or interest] (if any) instruments.

(2) Any <sup>2</sup> [tax, penalty, or interest] which remains unpaid as per the date specified in the notice of payment or after the extended date of payment, and any instalment not duly paid, shall be recoverable as an arrear of land revenue.

1. Added by Guj. 8 of 1989, w.e.f. 22-12-1988.

2. Subs. by Guj. 8 of 1989 w.e.f. 22-12-1988.

### **8A. Authorities for implementation of the Act :-**

(1)

(a) For carrying out the purpose of this Act, the State Government may appoint;

(i) the Commissioner of Luxury Tax for the whole of the State of Gujarat; and

(ii) such number of other officers and persons (with suitable designations) as the State Government thinks necessary.

(b) An officer appointed under paragraph (ii) 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 shall, vest in the Commissioner of Luxury Tax.

(2) It shall be lawful for the Commissioner of Luxury Tax and an officer duly authorised by the Commissioner of Luxury 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 purpose of this Act and such proprietor shall, when even called upon to do so, produce such books, registers, accounts or documents, for inspection by any such officer.

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

## **9. Appeal :-**

(1) Any proprietor aggrieved by the order of assessment made under Section 6 or by an order imposing penalty under Section 7 may within three

(2) On receipt of an appeal under sub-section (1) the appellate authority shall, after giving to the appellant an opportunity of being heard, confirm annual or modify the assessment or penalty.

## **10. Revision :-**

(1) The State Government or such officer (not below the rank of a Deputy Secretary to Government) as may be designated by the State Government in this behalf (hereinafter referred to as "the designated officer") may suo motu <sup>1</sup>[xxx] call for and examine the record of the proceedings of any order made by the Collector or, as the case may be, the appellate authority and pay such order thereon as it or he thinks just and proper:

<sup>2</sup>[Provided that no record of any proceeding of the Collector 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>3</sup>[2) No order shall be revised under sub-section (1) after the expiry of the years from the date of such order.]

<sup>2</sup>[(2A) The Commissioner of Luxury Tax 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 two years 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.

Explanation. In computing the period of limitation for the purposes of sub-sections (2) and (2A)

(a) any period during which the record of any proceeding has not been 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 of injunction of any Civil Court, shall be excluded.]

(3) No order which adversely affects any person shall be passed under this section, unless such person has been given a reasonable opportunity of being heard <sup>3</sup>[by the State Government, the designated officer or, as the case may be, the commissioner of Luxury Tax.]

(4) Where an appeal lies under Section 9 and no appeal is made no proceedings in revision shall be entertained upon an application.

<sup>6</sup> [(5) Where the Commissioner of Luxury Tax rejects any application for revision under this section, he shall record the reasons for such rejection.]

1. By Guj. 1 of 1984, the following words are omitted "or on an application made in that behalf.

2. Ins. by Guj. 1 of 1984 w.e.f. 28-11-1983.

3. Subs. by Guj. 1 of 1984 w.e.f. 28-11-1983.

6. Subs. by Guj. 1 of 1984, w.e.f. 28-11-1983.

**11. Court fees on appeal and application for revision :-**

Notwithstanding anything contained in the Bombay Court Fees Act, 1959 , (Bom. XXXVI of 1959) an appeal made under Section 9 and an application for revision made under Section 10 shall bear a court fee stamp of such value as may be prescribed.

**12. Refunds :-**

].

(1) If any proprietor satisfies the Collector that on account of any clerical or arithmetical error in calculating the amount of tax, the amount of <sup>1</sup> [tax, penalty or interest paid by him] or recovered from him in respect of any period exceeds the amount with which he is properly chargeable under this Act for that period, he shall be entitled to a refund of the excess so paid or recovered.

(2) Where as a result of an order passed under Section 9 or Section 10 the refund of any amount becomes due to a proprietor, the Collector shall refund such amount to him.

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

1. Subs. by Guj. 8 of 1989, w.e.f. 22-12-1988.

**13. Offences :-**

(1) Any person who, being a proprietor liable to pay tax under this Act

(a) furnish or allows or causes to be furnished an incorrect or incomplete return or fails to submit the returns as required by or under the provisions of this Act, or

(b) fraudulently evades or allows to be evaded the payment of any tax due from him, or

(c) fraudulently makes or causes or allows to be made wrong entry in, or fraudulently omits or causes or allows to be omitted any entry from, any statement furnished or any accounts or register, or

(d) knowingly collects from any person any amount by way of tax in excess of the amount of tax payable by him under the provisions of this Act, or

(e) wilfully acts in contravention of any of the provisions of this Act or the rules made thereunder or any lawful orders passed in accordance therewith, 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 or with both.

(2) No court shall take cognizance of any offence punishable under sub-section (1) except upon a report in writing of the facts constituting such offence made by the Collector.

#### **14. Offences by companies :-**

(1) Where an offence under this Act has been committed by a company every person who, at the time when 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 with 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 provided that the offence has been committed with the consent or conveyance 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 be liable to be proceeded against and punished accordingly.

Explanation. For the purpose of this section

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

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

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

(1) Subject to such conditions as may be prescribed, the Collector may, either before or after this institution of proceedings for an offence under this Act, permit any person charged with the offence to compound the offence on payment of such sum, not exceeding

double the amount of tax to which the offence relates, as the Collector may determine.

(2) On payment of such sum as may be determined by the Collector under sub-section (1), no further proceedings shall be taken against the person in respect of the same offence.

**16. Power to enforce attendance etc :-**

All authorities under this Act, shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 , (5 of 1908), while trying a suit in respect of enforcing the attendance of, and examining, any person on oath or affirmation or for compelling the production of any document.

**17. Powers of inspection of accounts and documents and search of hotels :-**

(1) The Collector may, subject to such conditions as may be prescribed, require any proprietor to produce before him the working records of accounts, registers or other documents or to furnish any information relating to the business of the hotel as may be necessary for the purpose of this Act.

(2) All working records of accounts, registers or other documents relating to the business of any hotel shall, at all reasonable times, be open to inspection by the Collector, and the Collector may take or causes to be taken such copies or extracts of such records as may be necessary for the purposes of testing the accuracy of charges for such luxury or for informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules thereunder as would appear to him necessary.

(3) If the Collector has reason to believe that any proprietor has evaded or is attempting to evade the payment of tax due from him, he may for reasons to be recorded in writing, seize such records of accounts, registers or other documents of the proprietor as may be necessary and shall grant a receipt for the same and shall retain the same so long as may be necessary in connection with any proceeding under this Act or for a prosecution.

(4) For the purposes of this Act, the Collector may enter and search any hotel or any place of business of the proprietor or any other place where the Collector has reason to believe that the proprietor keeps, or is for the time being keeping, any records of accounts, registers or other documents of his business in relation to the hotel.

**18. Certain provision of Limitation Act to apply to appeal and revision applications :-**

The provisions of S.4 of the Indian Telegraph Act, 1885, Section 5 of the Land Acquisition Act, 1894 and Section 12 of the Limitation Act, 1963 , (36 of 1963), shall as far as may be, apply in computing the period for making an appeal under Section 9 or an application for revision under Section 10 .

**19. Bar of proceedings :-**

(1) No suit shall lie in any Civil Court to set aside or modify any assessment made or order passed under this Act.

(2) No suit, prosecution or other legal 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.

**20. Delegation of powers :-**

The Collector may delegate to any officer not lower in rank than that of a Deputy Collector, all or any of the powers conferred or duties imposed on him by or under this Act.

**21. 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 :

(a) the form in which a monthly return shall be furnished by a proprietor under sub-section (1) of Section 5 , the other information which shall be shown in a return under sub-section (2) of that section, the manner in which the proprietor shall pay tax into the Government treasury under sub-section (3) of that section, and the manner in which a return shall be verified under sub-section (4) of that section ;

(b) the manner in which notice, under clause (a) of sub-section (2) of Section 6 shall be served on the proprietor ;

(c) the authority to which an appeal under Section 9 shall made ;

(d) the value of court fee stamp which an appeal and an application for revision shall bear, under Section 11 ;

(e) the conditions subject to which the Collector may compound an offence, under sub-section (1) of Section 15 ;

(f) the conditions which the State Government may impose under sub- section (1) of Section 17 ;

(g) any other matter which is to be or may be, prescribed under this Act.

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

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

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