

Maharashtra Tax Laws (Levy And Amendment) Act, 2010

12 of 2010

[29 April 2010]

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Maharashtra Tax Laws (Levy And Amendment) Act, 2010

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PREAMBLE

An Act further to amend certain tax laws in operation in the State of Maharashtra.

WHEREAS it is expedient further to amend certain tax laws in operation in the State of Maharashtra, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-first Year of the Republic of India as follows:--

CHAPTER 1 PRELIMINARY

1. Short title and commencement :-

(1) This Act may be called the Maharashtra Tax Laws (Levy and Amendment) Act, 2010.

(2) (a) Sections 1 to 6 shall come into force on the date of publication of this Act in the Official Gazette.

(b) Save as otherwise provided in this Act, the remaining sections shall come into force with effect from the 1st May, 2010.

CHAPTER 2 AMENDMENTS TO THE BOMBAY MOTOR VEHICLES TAX ACT, 1958

2. Amendment of section 3 of Bom. LXV of 1958 :-

In section 3 of the Bombay Motor Vehicles Tax Act, 1958 (Bom. LXV of 1958) (hereinafter, in this Chapter, referred to as "the Motor Vehicles Tax Act"), after sub-section (1E), the following sub-section shall be inserted, namely:---

"(1F) Subject to the provisions of this Act, there shall be levied and collected on all motor vehicles (including tricycles) plying for hire or reward, fitted with fare meters and used or kept for use in the State for the carriage of not more than six passengers, a one time tax for the life time of such vehicles,--

(i) if registered after the date of commencement of the Maharashtra Tax Laws (Levy and Amendment) Act, 2010 (Mah. XII of 2010) (hereinafter, in this sub-section, referred to as "the said date"), at the rates specified in Part I of the Second Schedule;

- (ii) if already registered before the said date and on which tax is already paid under sub-section (1), at the rates specified in Part II of the Second Schedule;
- (iii) if first registered in any other State and thereafter on transfer thereof in the State of Maharashtra, a new registration mark is assigned to the same after the said date, then having regard to the month of the first registration in the other State, at the rates specified in Part II of the Second Schedule."

3. Amendment of section 4 of Bom. LXV of 1958 :-

In section 4 of the Motor Vehicles. Tax Act, in sub-section (2),--

(a) for the brackets, figures, letters and word "(1C), (1D) or (1E)" the, brackets, figures, letters and words "(1C), (1D), (1E) or (1F)" shall be substituted;

(b) in clauses (a), (b) and (c); for the brackets, figures, letters, and words "(1C), (1D) and or (1E)" the, brackets, figures, letters and words "(1C), (1D), (1E) or (1F)" shall be substituted;

4. Amendment of section 9 of Bom. LXV of 1958 :-

In section 9 of the Motor Vehicles Tax Act,--

(a) in sub-section (6), for the brackets, figures, letters and words "(1C), (1D) or (1E)" the, brackets, figures, letters and words "(1C), (1D), (1E) or (1F)" shall be substituted;

(b) in sub-section (6A), for the brackets, figures, letters and words "(1C), (1D) or (1E)" the, brackets, figures, letters and word "(1C), (1D), (1E) or (1F)" shall be substituted;

(c) in sub-section (7),--

(i) for the brackets, figures, letters and words "(1C), (1D) or, as the case may be, (1E)" the brackets, figures, letters and words "(1C), (1D), (1E) or, as the case may be, (1F)" shall be substituted;

(ii) in clause (a), in sub-clause (i), for the brackets, figures, letters and words "(1C), (1D) or, as the case may be, (1E)" the brackets, figures, letters and words "(1C), (1D), (1E) or, as the case may be, (1F)" shall be substituted.

5. Amendment of section 16 of Bom. LXV of 1958 :-

In section 16 of the Motor Vehicles Tax Act, in sub-section (1), in clause (c), in sub-clause (iii), for the words, brackets, figures and letters "subsection (1C) or, sub-section (1D) or as the case may be, sub-section (1E)" the following shall be substituted, namely:--

"sub-section (1C), (1D), (1E) or, as the case may be, sub-section (1F)".

6. Amendment to SECOND SCHEDULE of Bom. LXV of 1958 :-

In the SECOND SCHEDULE appended to the Motor Vehicles Tax Act,

(a) in the heading, for brackets, figures, letters and word "(1C) and (1E)" the brackets, figures, letters and word "(1C), (1E) and (1F)" shall be substituted;

(b) in PART I, after entry 2, the following entry shall be added, namely:---

"3. Motor vehicles (including tricycles) plying for hire or reward, fitted with fare meters and not used for carriage of not more than six passengers. 11 times the annual rate of tax payable for the relevant class of the vehicles mentioned in sub-clause IV of clause A under the FIRST SCHEDULE." (c) in PART II, after the words "goods or materials" the words "or for carriage of not more than six passengers for hire or reward and fitted with fare meter" shall be inserted;

(d) in PART III, after the words "goods or materials" the words "or for carriage of not more than six passengers for hire or reward and fitted with fare meter" shall be inserted;

CHAPTER 3 AMENDMENT TO THE MAHARASHTRA STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS ACT, 1975

7. Insertion of section 7A in Mah. XVI of 1975 :-

After section 7 of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975), the following section shall be inserted, namely:---

"7A. Application of provisions of section 22 of Maharashtra Value Added Tax Act, 2002 and certain provisions of rules made thereunder:-- Subject to the provisions of this Act and the rules made thereunder in this behalf, the provisions related to audit under section 22 of the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005) and the provisions of the rules made thereunder, so far as they relate to the electronic filing of returns and electronic payment of tax, or any amount payable under this Act, shall mutatis mutandis apply for the purposes of this Act."

CHAPTER 4 AMENDMENTS TO THE MAHARASHTRA TAX ON LUXURIES ACT, 1987

8. Amendment of section 3 of Mah. XLI of 1987 :-

In section 3 of the Maharashtra Tax on Luxuries Act, 1987 (Mah. XLI of 1987) (hereinafter, in this Chapter, referred to as "the Luxuries Tax Act"), in sub-section (2), for clauses (a) and (b), the following clauses shall be substituted, namely:---

"(a) Where the charge for luxury provided in a hotel is not exceeding rupees seven hundred and fifty per day, per residential accommodation. Nil (b) Where the charge for luxury provided in a hotel exceeds rupees seven hundred and fifty but does not exceed rupees twelve hundred per day, per residential accommodation. 4 per centum of such turnover of receipts."

9. Insertion of section 12A in Mah. XLI of 1987 :-

After section 12 of the Luxuries Tax Act, the following section shall be inserted, namely:---

"12A. Application of certain provisions of rules made under Maharashtra Value Added Tax Act, 2002:-- Subject to the provisions of this Act and the rules made thereunder in this behalf, the provisions of the rules made under the provisions of the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005), so far as they relate to the electronic filing of returns or, electronic payment of tax or any amount payable under this Act, shall mutatis mutandis apply for the purposes of this Act."

CHAPTER 5 AMENDMENTS To THE MAHARASHTRA VALUE ADDED TAX ACT, 2002

10. Amendment of section 18 of Mah. IX of 2005 :-

In section 18 of the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005) (hereinafter, in this Chapter, referred to as "the Value Added Tax Act"), in sub-section (1), after clause (f), the following clauses shall be added, namely:---

"(g) undertakes any change in the nature of business, or
(h) effects any changes in the Bank account,".

11. Amendment of section 20 of Mah. IX of 2005 :-

In section 20 of the Value Added Tax Act, in sub-section (4), in clause (b), for the word "after" the word "before" shall be substituted.

12. Amendment of section 23 of Mah. IX of 2005 :-

In section 23 of the Value Added Tax Act, in sub-section (5),--

(a) in clause (a), for the portion beginning with the words "During the course" and ending with the words "to be evaded" the following portion shall be substituted, namely:---

"During the course of any proceedings under this Act, if the prescribed authority is satisfied that the tax has been evaded or sought to be evaded or the tax liability has not been disclosed correctly or excess set-off has been claimed by any dealer or person";

(b) in clause (d), after the proviso, the following Explanation shall be added, namely

Explanation.--For the purposes of this sub-section, "prescribed authority", "the said authority", "such authority" and "any authority" shall mean the Commissioner or, as the case may be, the authorities appointed under section 10 and other officers or persons to whom the Commissioner has delegated his powers in this behalf."

13. Amendment of section 29 of Mah. IX of 2005 :-

In section 29 of the Value Added Tax Act,--

(a) in sub-section (6), for the words "one hundred words" the words "one thousand rupees" shall be substituted

(b) in sub-section (7), for the words "one thousand rupees" the words "five thousand rupees" shall be substituted;

(c) in sub-section (11), for the words "five years" the words "eight years" shall be substituted.

14. Amendment of section 42 of Mah. IX of 2005 :-

In section 42 of the Value Added Tax Act, after sub-section (3), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st April 2010, namely:---

"(3A) The State Government may, by notification published in the Official Gazette,--

(a) provide a scheme of composition for the registered dealers who undertake the construction of flats, dwellings or buildings or premises and transfer them in pursuance of an agreement along with the land or interest underlying the land;

(b) prescribe the rate of tax by way of composition, in lieu of the amount of tax payable on the transfer of goods (whether as goods

or in some other form), in the execution of such works contracts by such registered dealer under this Act."

15. Amendment of section 51 of Mah. IX of 2005 :-

In section 51 of the Value Added Tax Act, to sub-section (1), the following proviso shall be added, namely:--

"Provided that, the Commissioner may, subject to such conditions and restrictions as may be prescribed, reduce the refund and grant only part of the refund claimed in such application."

16. Amendment of section 61 of Mah. IX of 2005 :-

In section 61 of the Value Added Tax Act, in subsection (1),--

(1) in clause (a), for the words "exceed or exceeds rupees forty lakh" the words "exceeds rupees sixty lakh" shall be substituted;

(2) after clause (b), the following clause shall be inserted, namely:-

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"(c) if he holds an Entitlement Certificate in respect of any Package. Scheme of incentives, granted under this Act or, as the case may be, under the Bombay Sales Tax Act, 1959 (Bom. LI of 1959),".

17. Amendment of section 85 of Mah. IX of 2005 :-

In section 85 of the Value Added Tax Act, in sub-section (2),--

(1) after clause (b-2), the following clauses shall be inserted, namely:---

"(b-3) an order passed under sub-section (2) or (4) of section 30 regarding the interest payable by the dealer under any provision of this Act, or

(b-4) an intimation issued under sub-section (7) of section 63, or";

(2) after clause (d), the following clause shall be inserted, namely:-

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"(d-1) the order passed under sub-sections (1) and (2) of section 35, or".

18. Amendment of section 86 of Mah. IX of 2005 :-

In section 86 of the Value Added Tax Act, in sub-section (2), in clause (b), for the words "as well as the name and address of the purchasing dealer" the words "as well as the name, address and the registration certificate number of the purchasing dealer" shall be substituted.

19. Amendment to SCHEDULE A of Mah. IX of 2005 :-

In SCHEDULE A appended to the Value Added Tax Act,--

(1) in entry 4, in sub-entry (c), after the word "pulses," the words "sarki pend," shall be inserted;

(2) the existing entry 55 shall be re-numbered as sub-entry (a) thereof; and after sub-entry (a) as so re-numbered, the following sub-entries shall be added, namely:---

"(b) Camphor Nil %

(c) Dhoop including Loban Nil %";

(3) after entry 56, the following entries shall be added, namely:--

"57 Katha (catechu) Nil % 58 Handmade Laundry Soap manufactured by units certified by the Maharashtra State Khadi and Village Industries Board constituted under the Bombay Khadi and Village Industries Act, 1960 (Bom. XIX of 1960), but excluding detergent. Nil %";

20. Amendment to SCHEDULE B of Mah. IX of 2005 :-

In SCHEDULE B appended to the Value Added Tax Act, in entry 4, in column (2), for the words "Imitation Jewellery" the words "Hairpins, Imitation Jewellery" shall be substituted.

21. Amendment to SCHEDULE C of Mah. IX of 2005 :-

In SCHEDULE C appended to the Value Added Tax Act,--

(1) in the heading, after the figure and sign "4%" the word, figure and sign "or 5%" shall be added;

(2) in entry 30, in column (2), for the words "oil cakes" the words "oil cakes excluding sarki pend" shall be substituted;

(3) in entry 44, in column (2), the words and brackets "katha (catechu)," shall be deleted;

(4) entry 51 shall be deleted;

(5) after entry 114, the following entry shall be added, namely:--
"115 Vehicles operated on Battery or Solar power. 5%".