

## **MAHARASHTRA TAX ON SALE OF ELECTRICITY ACT, 1963**

**21 of 1963**

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## **MAHARASHTRA TAX ON SALE OF ELECTRICITY ACT, 1963**

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An Act to levy a tax on the sale of electricity in the State of Maharashtra, and to provide for the creation of a Fund therefrom for the improvement and development of power supply in the State. Whereas it is expedient to levy a tax on the sale of electricity in the State of Maharashtra, and to provide for the creation of a Fund therefrom for the improvement and development of power supply in the State; It is hereby enacted in the Fourteenth Year of the Republic of India as follows:-

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

- (1) This Act may be called the MAHARASHTRA TAX ON SALE OF ELECTRICITY ACT, 1963 .
- (2) It extends to the whole of the State of Maharashtra.

(3) It shall be deemed to have come into force on the 1st day of January 1963.

## **2. Definitions :-**

In this Act unless the context otherwise requires ,- For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1963, Part. V, Extra page 11. This indicates the date of commencement of this Act.

(a) "bulk licensee" means any person licenced under Part II of the Indian Electricity Act, 1910, who sells energy in bulk, and is deemed to include the State Electricity Board constituted under Section 5 of the Electricity (Supply) Act, 1948 ;

(b) "distributing licensee" means any person licenced under Part II of the Indian Electricity Act, 1910 , to supply energy, not being a bulk licensee;

(c) "energy" means electrical energy when generated, transmitted and sold for any purpose other than the transmission of messages;

(d) "prescribed" means prescribed by rules made under this Act.

(e) "tax" means a tax imposed under this Act;

(f) "to sell in bulk" with its cognate expressions, means to sell in any year not less than five million units of energy to a distributing licensee or any other consumer;

(g) "year" means the year commencing on the 1st day of January.

## **3. Incidence of tax :-**

(1) Subject to the provisions of this Act, there shall be levied and paid a tax, at the rate of [one half of a paisa] on every unit of energy sold by a bulk licensee, in respect of all his sales of energy in bulk:

Provided that, for the year commencing on the 1st day of January 1963, energy sold during the period ending with the 31st day of March 1963 shall not be liable to tax.

(2) Sales of energy in bulk for any bulk for any year may be decided with reference to the sales in bulk in the previous year; but if the sale to a distributing licensee or to any consumer is less than five million units of energy in any year, any sums collected by way of tax in that year shall be refunded to the bulk licensee as

provided in section 10.

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

Every bulk licensee shall pay to the State Government at the time or times and in the manner prescribed, the amount of tax payable under this Act.

#### **5. State Electricity Fund :-**

(1) The proceeds of the tax (together with any interest payable under section 9) recovered under this Act, shall first be credited to the Consolidated Fund of the State, and under appropriation duly made by law in this behalf be entered in, and transferred to, a separated fund called the State Electricity Fund.

(2) Any amount transferred to the State Electricity Fund under sub-section (1) shall be charged on the Consolidated Fund of the State.

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#### **5A. Purposes for which Fund may be expended :-**

The Fund may be expended for executing schemes for development and improvement of power supply in the State and for operating rural electrification schemes therein and in furtherance of this purpose, the State Government may, from out of the Fund give subsidies or loans or ways and means advances, to the State Electricity Board constituted under Section 5 of the Electricity (Supply) Act, 1948 .

#### **6. Licensee to keep books of account and submit returns :-**

Every bulk licensee who is required to pay tax shall keep books of account in the prescribed form, and submit to the State Government or to an officer authorised by that Government in this behalf, returns, in such form, and at such times, as may be prescribed, showing the units of energy sold by him and the amount of tax payable thereon and the amount of tax already paid by him.

#### **7. Power to exempts :-**

Subject to such condition (if any) as it may impose, the State Governme may, if it considers it necessary in the interest of the development of power supply so to do, by notification in the Official Gazette, exempt the sale of energy to any class of distributing licensee or customers from the payment of the whole or any part of the tax payable under this Act.

## **8. Inspecting officers :-**

(1) The State Government may, by notification in the Official Gazette, appoint any persons, having the prescribed qualifications, to be the Inspectors for the purposes of this Act

(2) Every Inspector shall perform "such duties and exercise such powers, as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860

## **9. Recovery of tax :-**

Any sum due on account of the tax, if not paid at the time and in the manner prescribed, shall be deemed to be in arrears; and thereupon, interest on such sum shall be payable at the rate of 18 per cent per annum for the first three months immediately after the time such sum has become due and thereafter, at the rate of 24 per cent per annum till such sum is paid;] and the sum together with the interest thereon, shall be recoverable either through a civil court or as an arrear of land revenue at the option of the State Government, or any officer authorised by the State Government in this behalf.

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

The State Government may by rules prescribed that in such circumstances and subject to such conditions (including any period of limitation) as may be specified in the rules, a refund of the whole or part of the tax may be granted to the bulk licensee.

## **11. Penalties :-**

any person

(a) fails to keep books of account, or to submit returns, in accordance with the provisions of section 6 and the rules made in that behalf, or

(b) willfully obstructs an Inspector in the exercise of the powers conferred, or in the discharge of duties imposed, upon him, by or under this Act, or

(c) contravenes any rule, he shall, on conviction, be punished, with fine which may extend to one thousand rupees.

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

(1) Where an offence under this Act has been committed by a

company, every person who at the time 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 had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent and 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 proceeded against and punished accordingly.

Explanation - For the purposes 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.

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

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

(2) In particular and without prejudice to the generality of the foregoing power, such rules may

(a) prescribe the time or times and the manner of payment of tax under section 4;

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(c) prescribe the form of books of account to be kept and the times at which and the form in which, the returns required by section 6 shall be submitted;

(d) prescribe the qualifications, the powers and duties of Inspectors under section 8;

(e) prescribe the circumstances in which, and conditions subject to which, refund may be granted under section 10;

(f) provide for giving effect to the provisions of this Act.

(3) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication.

(4) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.