

## **Tamil Nadu Duty On Transfers Of Property (In Municipal Areas) Act, 2009**

**32 of 2009**

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### **SCHEDULE 1 :- SCHEDULE I**

## **Tamil Nadu Duty On Transfers Of Property (In Municipal Areas) Act, 2009**

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Statement of Objects and Reasons<sup>2</sup> The Government have decided to implement the "Tamil Nadu Urban Road Infrastructure Project" in the Municipalities and Municipal Corporations of the State, at an estimated cost of Rs. 1000 Crores per annum. The project will have multiple sources of financing which includes a portion from the assigned revenue payable to Municipalities and Municipal Corporations on account of surcharge on stamp duty. To give effect to the above decision, it has been decided to enact a separate Legislation for levy and collection of a duty on transfer of property in the form of a surcharge on stamp duty in municipal areas and for crediting fifty percent of the amount so collected in the Tamil Nadu Urban Road Infrastructure Fund for execution of specific infrastructure scheme, project, programme or plan in any Municipality or Municipal Corporation or in a group of Municipalities or Municipal Corporations. 2. The Bill seeks to give effect to the above decision. MEMORANDUM REGARDING DELEGATED LEGISLATION Clauses 1(2), 3(b), 5, 6,7, 8(1) and (2) of the Bill authorise the Government to issue notification or order or direction

or to make Rules, as the case may be, for the purposes specified therein. 2. The powers delegated are normal and not of an exceptional character. PREAMBLE An Act to provide for the levy and collection of duty on transfers of property in the municipal areas in the State of Tamil Nadu. Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixtieth Year of the Republic of India as follows:-- 1. Received the Assent of the Governor of Tamil Nadu on August 12, 2009 -- Published in Tamil Nadu Government Gazette, Extraordinary, Part IV, Section 2, Iss. No.211, page 123-125, dated August 17, 2009. 2. Vide L.A. Bill No.26 of 2009-- Published in T.N. Govt. Gazette, 'Extra.', Part IV, Section 1, Issue No. 179, pages 115-120, dated July 20, 2009.

### **1. Short Title And Commencement :-**

- (1) This Act may be called the Tamil Nadu Duty on Transfers of Property (in Municipal Areas) Act, 2009.
- (2) It shall come into force on such date as the State Government may, by notification, appoint.

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

In this Act, unless the context otherwise requires,--

- (1) "Government" means the State Government;
- (2) "municipal area " means the territorial area of a municipality;
- (3) "municipality " means--
  - (a) the Municipal Corporations of Chennai, Madurai, Coimbatore, Tiruchirappalli, Tirunelveli, Salem, Tiruppur, Erode, Vellore, Thoothukudi or any other Municipal Corporation that may be constituted under any law for the time being in force; or
  - (b) "a municipal council" constituted under the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920).

### **3. Levy Of Duty On Transfers Of Property :-**

There shall be levied a duty on transfers of property in every municipal area,--

- (a) in the form of a surcharge on the duty imposed by the Indian Stamp Act, 1899 (Central Act II of 1899) (hereinafter referred to as the Stamp Act) as in force for the time being in the State of Tamil Nadu, on every instrument of the description specified below, which relates to immovable property situated within the limits of the municipal area; and

(b) at such rate as may be fixed by the Government, not exceeding five per centum, on the amount specified below against such instrument:--

Description of instrument Amount on which duty should be levied.

(i) Sale of immovable property. The market value of the property as set forth in the instrument, and in a case where the market value is finally determined by any authority under Section 47-A of the Stamp Act, the market value as so determined by such authority.

(ii) Exchange of immovable property. The market value of the property of the greater value as set forth in the instrument, and in a case where the market value is finally determined by any authority under Section 47-A of the Stamp Act, the market value as so determined by such authority.

(iii) Gift of immovable property. The market value of the property as set forth in the instrument, and in a case where the market value is finally determined by any authority under Section 47-A of the Stamp Act, the market value as so determined by such authority.

(iv) Mortgage with possession of immovable property. The amount secured by the mortgage, as set forth in the instrument.

(v) Lease in perpetuity of immovable property. An amount equal to one-sixth of the whole amount or value of the rents which would be paid or delivered in respect of the first fifty years of the lease, as set forth in the instrument.

#### **4. Application Of Certain Provisions Of Stamp Act :-**

(a) Section 27 of the Stamp Act, shall be read as if it specifically required the particulars to be set forth separately in respect of property situated within the limits of a municipal area and outside such limits;

(b) Section 64 of the Stamp Act shall be read as if it referred to the municipality concerned as well as the Government.

#### **5. Apportionment Of Duty On Transfers Of Property :-**

Fifty per cent of the duty on transfers of property collected under this Act in respect of any property situated in a municipal area, shall be credited to the municipal fund, within whose territorial area such property is situated and the balance of fifty per cent shall be credited to the Tamil Nadu Urban Road Infrastructure Fund (hereinafter referred to as the Fund), in such manner as may be

prescribed:

Provided that the duty on transfers of property collected under this Act in respect of any property situated in a panchayat town shall be credited to the fund of the town panchayat within whose territorial area such property is situated.

## **6. Power To Remove Difficulties :-**

If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, published in the Tamil Nadu Government Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

## **7. Power To Give Directions :-**

The Government may, from time to time, issue such directions to the municipalities or any other authorities as it may deem fit, for giving effect to the provisions of this Act, and it shall be the duty of the municipalities or the other authorities to comply with such directions.

## **8. Power To Make Rules :-**

(1) The Government may make Rules to carryout the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may provide for,--

- (a) regulating the collection of duty on transfers of property;
- (b) deduction of the expenses incurred by the Government in the collection of duty on transfers of property;
- (c) the distribution of the Fund among the municipalities;
- (d) any other matter which has to be or may be prescribed.

(3) All Rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(4) Every Rule made or order or notification issued under this Act shall, as soon as possible after it is so made or issued, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the

Legislative Assembly makes any modification in any such Rule or order or notification or the Legislative Assembly decides that the Rule or order or notification should not be made or issued, the Rule, order or notification shall, thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Rule or notification or order.

## **9. Repeal Of Certain Enactments :-**

On and from the date of commencement of this Act, the relevant provisions in the enactments mentioned in the Schedule to this Act shall stand repealed.

### **SCHEDULE 1**

#### **SCHEDULE I**

(See Section 9).

#### **PART I**

THE CHENNAI CITY MUNICIPAL CORPORATION ACT, 1919 (T.N. Act IV of 1919)

Repeal of Sections 135, 136 and 137.--

Sections 135, 136 and 137 of the Chennai City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919) are hereby repealed.

#### **PART II**

THE MADURAI CITY MUNICIPAL CORPORATION ACT, 1971 (T.N. Act 15 of 1971)

Repeal of Sections 164, 165 and 166.--

Sections 164, 165 and 166 of the Madurai City Municipal Corporation Act, 1971 (Tamil Nadu Act 15 of 1971) are hereby repealed.

#### **PART III**

THE COIMBATORE CITY MUNICIPAL CORPORATION ACT, 1981

(T.N. Act 25 of 1981)

Repeal of Sections 164, 165 and 166.--

Sections 164, 165 and 166 of the Coimbatore City Municipal Corporation Act, 1981 (Tamil Nadu Act 25 of 1981) are hereby repealed.

#### **PART IV**

THE TAMIL NADU DISTRICT MUNICIPALITIES ACT, 1920 (T.N. Act V of 1920)

Repeal of Sections 116-A, 116-B and 116-C-- Sections 116-A, 116-B and 116-C of the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920) are hereby repealed.