

Tamil Nadu Tax On Luxuries Act, 1981

6 of 1981

CONTENTS

1. Short Title And Commencement
2. Definitions
3. Authorities
4. Levy And Collection Of Luxury Tax
 - 4A. Intimation Of Revised Rate To The Assessing Authority
 - 4B. Levy And Collection Of Luxury Tax On Tobacconist
 - 4BB. Levy And Collection Of Tax On Scheduled Commodity
 - 4C. Collection Of Tax By Proprietor
5. Mode Of Collection Of Tax
6. Returns
7. Assessment And Collection Of Tax
 - 7A. Liability Of Firms
 - 7 B . Liability To Tax Of Partitioned Hindu Undivided Family, Dissolved Firm, Etc
8. Imposition Of Penalty In Certain Cases
9. Payment Of Tax And Penalty
 - 9A. Registration
10. Appeal
11. Revision
12. Court-Fees On Appeal And Application For Revision
13. Refund Of Tax
14. Offences
15. Offences By Companies
16. Compounding Of Offences
17. Powers To Enforce Attendance, Etc
18. Powers Of Inspection Of Accounts And Documents And Search
[***]
19. Certain Provisions Of The Limitation Act To Apply To Appeal And Revision Applications
 - 19 A . Prohibition Of Disclosure Of Particulars Produced Before Authorities
20. Bar Of Proceedings
21. Power To Make Rules
22. Power To Remove Difficulties
23. Power To Alter The Rates Bf Tax
 - 23A. Power Of Government To Notify Exemption, Reduction Or Remissions Of Tax
24. Repeal And Saving

SCHEDULE 1 :- THE SCHEDULE

Tamil Nadu Tax On Luxuries Act, 1981

6 of 1981

AN Act to provide for the levy and collection of a tax on luxuries 2[***]. BE it enacted by the Legislature of the State of Tamil Nadu in the Thirty - Second Year of the Republic of India as follows :-- 1 Published in Tamil Nadu Government Gazette (Extraordinary), dated 3rd March 1981. 2 The expression "in Hotels and Lodging Houses" was omitted by the Tamil Nadu Act No. 13 of 1999, dated 10th June, 1999.

1. Short Title And Commencement :-

(1) This Act may be called the Tamil Nadu Tax on Luxuries 1[***] Act, 1981.

(2) It shall be deemed to have come into force on the 13th October 1980.

1 The expression "in Hotels and Lodging Houses" was omitted by the Tamil Nadu Act No. 13 of 1999, dated 10th June, 1999.

2. Definitions :-

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

(a) "appellate authority" means an appellate authority appointed under sub-section (2) of Section 3 ;

(b) "assessing authority" means an assessing authority appointed under sub-section (1) of Section 3 ;

(c) "Commissioner of Commercial Taxes" means the Commissioner in-charge of commercial taxes ;

(d) "concessional rate" in relation to 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 ;

1[(dd) "day" means a period not exceeding twenty-four hours for which charges for accommodation for residence are collected as for a day by a hotel and includes part of the day for which such charges are collected in full according to the normal practice followed by it ;]

(e) "Government" means the State Government.

(f) "hotel" means a building or part of a building where residential accommodation with or without board is by way of business

provided for a monetary consideration and includes a lodging house ;

2[(ff) "Joint Commissioner of Commercial Taxes" means a Joint Commissioner of Commercial Taxes appointed under Section 28 of the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act I of 1959)].

3(fff) "luxury" means luxury provided in hotel or any tobacco product supplied by a Tobacconist 4[or the scheduled commodity which is] for enjoyment over and above the necessities of life ;]

5[(g) "luxury provided in a hotel" means accommodation for residence provided in a hotel, the rate of charges for which (including charges for air-conditioning, television, radio, music, extra beds and the like but excluding charges for food, drink and telephone calls) is 6[two hundred rupees or more.]]

7[(h) "proprietor", in relation to a hotel means the person who for the time being is in-charge of the management of the hotel, and Tobacconist;]

8[(hh) "receipt" in relation to a Tobacconist means in respect of supply of luxury made by him or by others on his behalf, by way of sale, the amount of valuable consideration received or receivable by him for such sale including any sum charged for anything done by him in respect of such luxury so sold at the time of or before the delivery thereof and the price, if charged separately, of any primary or secondary packing ;"]

*[(hha) "scheduled commodity" means the commodity specified in the Schedule to this Act ;

(hhb) "State" means the State of Tamil Nadu ;

(hhc) "stockist" means a person who deals in, being possessing of or having control over a stock of, scheduled commodity for vending, supplying or distributing for the purpose of business thereof ;

(hhd) "stock of scheduled commodity" means the quantity of the scheduled commodity in the stock or in the record or accounts of a stockists or the quantity of scheduled commodity which a stockists receives or procures during any year for vending, supplying or distributing to a wholesaler, retailer or any other person].

(i) "tax" means the luxury tax levied and collected under this Act ;

9(ii) "Tobacconist" means a person who supplies by way of sale, luxury like tobacco products manufactured by him or purchased or procured or received by him from other States or from other persons in this State and includes any person who for the purpose of business gets the manufacturing done from any person, whether or not on job work basis ;

(iii) "tobacco product" means any goods or preparation made of tobacco or tobacco substitutes including cigarettes, cigarillos, cigar, charoots, mixtures of tobacco for pipes, cut-tobacco, hookah tobacco, snuff of tobacco and chewing tobacco, but excluding beedies ;

10(iia) "turnover" means in relation to a tobacconist, the aggregate of the amount of the receipt in a year and in relation to a stockist, the aggregate of the value of the stock of scheduled commodity in a year or part thereof;

(j) "value of stock of scheduled commodity" means, --

(i) in respect of stockist, being a manufacturer of any of the scheduled commodity, the value of such scheduled commodity calculated at the ex-factory price at the time of receipt or entry thereof in his stock ;

(ii) in respect of any other stockist, the value of such scheduled commodity calculated at the price thereof, as per the bill, invoice or consignment note or other document of like nature, of any person within the State or outside the State, from whom such scheduled commodity are received ;

and includes --

(A) Excise Duty or Countervailing Duty paid or payable on such scheduled commodity by a manufacturer or importer thereof, as the case may be ;

(B) transport charges, insurance charges, packing charges, forwarding and handling charges, if any, for carrying such scheduled commodity to any premises, godown, warehouses or any other place of the stockists in the State:

Provided that where the purchase invoice or bill is not produced or when the invoice or bill produced is reasonably believed to be false or if, the scheduled commodity is acquired or obtained otherwise than by way of purchase, the value of goods shall be the value at which the scheduled commodity of like kind or quality are sold or are capable of being sold in the open market ;

(k) "year" means the financial year].

1. Inserted by the Tamil Nadu Act No. 37 of 1986.

2. Added by Section 2 of the Tamil Nadu Act No. 37 of 1992, dated 16th June, 1992.

3 Clause (fff) was added from 10th June, 1999 by the Tamil Nadu Act No. 13 of 1999.

4 Inserted by the Tamil Nadu Act No. 24 of 2002, with effect from 1-7-2002.

5 Substituted by Tamil Nadu Act No. 37 of 1986.

6 Substituted for the words "Fifty rupees or more" by the Tamil Nadu Act 32 of 1996 (with effect from 1st September, 1996].

7 Clause (h) was substituted by the Tamil Nadu Act No. 13 of 1999. The clause (h) which existed upto 9th June, 1999 is indicated below :

"(h) "proprietor" in relation to a hotel, includes the person who for the time being is in-charge of the management of the hotel."

Clause (h) substituted by the Tamil Nadu Act No. 24 of 2002. Date of effect on 1st July, 2002. The clause (h) which existed upto 30th June, 2002 is indicated below: "(h) "proprietor" in relation to a hotel means the person who for the time being is in-charge of the management of the hotel and a Tobacconist ;"

8 Clause (hh) was added from 10th June, 1999 by the Tamil Nadu Act No. 13 of 1999.

* Clauses (hha), (hhb), (hhc) and (hhd) were inserted by the Tamil Nadu Act No. 24 of 2002. Date of effect : 1st July. 2002.

9 Clauses (ii) to (iv) were added from 10th June, 1999 by the Tamil Nadu Act No. 13 of 1999. The clauses should have been numbered as (j), (k) and (l) instead of (ii), (iii) and (iv) by renumbering Clause (j) as Clause (m) and Clause (k) as Clause (n).

10 Clauses (iv) and (j) were substituted by the Tamil Nadu Act No. 24 of 2002, date of effect: 1st July, 2002. The clauses (iv) and (j) which existed upto 30th June, 2002 is indicated below :

"(iv) "turnover" in the case of a Tobacconist, means the aggregate of the amounts of the receipts in a year ;

(j) "year" means the financial year".

3. Authorities :-

(1) The Government may, by notification, appoint such officers as they think fit to be assessing authorities for the purposes of this Act and may assign to them such local limits as the Government may think fit.

(2) The Government may, by notification, appoint such officers as they think fit to be appellate authorities for the purposes of this Act and may assign to them such local limits as the Government may think fit.

4. Levy And Collection Of Luxury Tax :-

1[(1) Subject to the provisions of the Principal Act, there shall be levied and collected a tax on luxury provided in a hotel in respect of every room under occupation by any person (to be known as

"luxury tax") at the following rates, namely --

Rate of Tax

2[Where the rate of charges for accommodation for residences is not less than rupees two hundred but less than rupees five hundred per room per day. Fifteen per centum of such rate

Where such rate is not less than rupees five hundred but less than rupees one thousand per room per day. Twenty per centum of such rate

Where such rate is rupees one thousand or more per room per day. Twenty five per centum of such rate]

3[* * *].

4(1-A) Where the luxury provided in a hotel to any person is charged otherwise than on daily basis or per room, the chargeability shall be determined as per room per day and the tax shall be levied as provided in sub-section (1)].

5[* * *]

1 Substituted by the Tamil Nadu Act No. 32 of 1996 (with effect from 1st September, 1996). Sub-section (1) of Section 4 which existed upto 31st August, 1996 is indicated below :

(1) Subject to the provisions of this Act, there shall be levied and collected a tax on the luxury provided in a hotel in respect of every room under occupation by any person (to be known as "luxury tax") at the following rates, namely :--

Rate of Tax

(a) Where the rate of charges for accommodation for residence (including charges for air-conditioning, television, radio, music, extra beds and the like but excluding charges for food, drink and telephone calls) is not less than rupees fifty but less than rupees one hundred per room per day. 10% of such rate

(b) Where such rate is not less than rupees one hundred but less than rupees two hundred per room per day. 15% of such rate

(c) Where such rate is rupees two hundred or more per room per day. 20% of such rate]

2 Substituted by the Tamil Nadu Act No. 11 of 2000 (with effect from 1st April, 2000) for the following words "at the rate of twenty per centum of the rate of charges for accommodation".

3 Omitted for the words "Provided that....of the hotel" by Section 3(1) of the Tamil Nadu Act No. 37 of 1992 dated 16th June 1992.

4 Inserted by Section 3(2) of the Tamil Nadu Act No. 37 of 1992, dated 16th June 1992.

5 1[(2) The tax payable under this section shall be collected by the proprietor and be paid into Government 2[account] within the time

and in the manner provided by or under this Act.

(3) 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].

1 Sub-sections (2) and (3) of Section 4 indicated above were omitted from 10th June, 1999 by Act No. 13 of 1999.

2 Substituted for the word "treasury" by Tamil Nadu Act No. 37 of 1986.

4A. Intimation Of Revised Rate To The Assessing Authority

:-

1[Where any proprietor intends to revise any rate of charge for any luxury provided in a hotel, he shall intimate in writing to the assessing authority seven days prior to the date of giving effect to such revised rates. The proprietor shall be liable to pay tax at the revised rate after the expiry of seven days from the date of receipt of such intimation by the assessing authority.]

1 Inserted by the Tamil Nadu Act No. 37 of 1986.

4B. Levy And Collection Of Luxury Tax On Tobacconist :-

1[(1) Subject to the provisions of this Act, there shall be levied and collected a tax on the turnover of a Tobacconist relating to the supply of luxury of tobacco products, at the rate of five per cent of his turnover at the first point of supply of such luxury in the State :

Provided that a Tobacconist whose turnover in a year is less than rupees three lakhs, shall be exempted from tax :

Provided further that no tax under this sub-section shall be payable on that part of the turnover which relates to --

(i) the tobacco products which are supplied by way of consignment to another State, whether the consignment is to himself or to any other person and in support of such claim, the proprietor produces on demand a certificate as may be prescribed ; and

(ii) the tobacco products which are supplied by way of sale in the course of inter-State trade or commerce or by way of sale in the course of export outside the territory of India and in support thereof, the proprietor produces such proof of such sale or export as may be prescribed.

(2) The net turnover on which a Tobacconist shall be liable to tax shall, be determined after making such deductions from his turnover and in such manner, as may be prescribed.

(3) For the purpose of the second proviso to subsection (1), a sale shall be deemed to have taken place --

(i) in the course of inter-State trade, if such sale has occasioned the movement of tobacco products from Tamil Nadu to any other State ; and

(ii) in the course of export outside the territory of India, if the supply of luxuries occasions such export].

1. Section 4-B was added from 10th June, 1999 by the Tamil Nadu Act No. 13 of 1999.

4BB. Levy And Collection Of Tax On Scheduled Commodity :-

1[Subject to the provisions of this Act there shall be levied and collected a tax on the turnover of stock of scheduled commodity at the rate and at the point as

specified in the Schedule :

Provided that this section shall not apply to a stockist whose turnover of scheduled commodity in a year is less than rupees three lakhs.]

[See the Notification No. II (1) / CT / 82(a-5) / 2004, dated 29th December 2004].

1 Section 4BB inserted by the Tamil Nadu Act No. 24 of 2002. Date of effect: 1st July, 2002.

4C. Collection Of Tax By Proprietor :-

1[(1) The tax payable under Section 4 or 4-B shall be collected by the proprietor and be paid into Government account within the time and in the manner provided by or under this Act.

(2) In computing the amount of tax, penalty or other amount payable or refundable under this Act, the amount shall be rounded off to the nearest rupee and for this purpose, where such amount contains a part of rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored.]

1 Section 4-C was added from 10-6-1999 by the Tamil Nadu Act No. 13 of 1999.

5. Mode Of Collection Of Tax :-

(1) Where no separate charges for luxury provided in a hotel and for food or drink or telephone calls are specified, but a consolidated payment is required to be made both for luxury provided in a hotel and for food or drink or telephone calls, then, the assessing authority 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 telephone calls for the purpose of calculating the tax under this Act.

(2) Where, in addition to the charges for luxury provided in a hotel, service charges are levied and 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 the 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 the tax on luxury shall be levied and collected as if full charges for such luxury were paid to the proprietor of the hotel :

1[Provided that where luxury provided in a hotel to any person, whether an Indian or a foreigner, on tours organised by the Department of Tourism of the Government of India or the State Government is charged at a concessional rate, then tax on such luxury shall be levied and collected on such concessional rate paid to the proprietor of the hotel.]

2[(4) [***]

(5) Where any proprietor fails or neglects to collect the tax payable under this Act, the tax shall be paid by the proprietor as if the tax

was collected by the proprietor from the person to whom the luxury was provided and who was accordingly liable to pay the same.

1 Inserted by the Tamil Nadu Act No. 37 of 1986.

2 Omitted by ibid.

6. Returns :-

(1) Every Proprietor liable to pay tax under this Act shall furnish a monthly return in the prescribed Form to the assessing authority within 1[twenty] days after the expiry of the month to which the return relates.

(2) Every such return 2[in the case of a hotel] 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 dates of their arrival and departure, the amount of charges recovered from them and such other information as may be prescribed.

(3) A proprietor furnishing a return as required by sub-section (1) shall first pay into Government 3[account] in the manner prescribed, the whole amount of the 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.

4[(5) If no return is furnished in respect of any month, the assessing authority shall, after making such enquiry as he considers necessary and after giving the proprietor an opportunity of being heard, determine the tax payable for the month. If the assessing authority has reason to believe that the return, if any, furnished is incorrect or incomplete, he shall issue a notice to the proprietor calling upon him to produce his accounts, registers, records or other documents of evidence and prove the correctness and completeness of the return at a time and place to be specified in the notice. If the proprietor fails to comply with the terms of the notice or if the return is found to be incorrect or incomplete after such verification, the assessing authority shall after giving the proprietor an opportunity of being heard, determine to the best of its judgment, the tax payable for the month. The tax payable as determined under this sub-section shall be paid in the prescribed manner within the prescribed time.]

1 Substituted for the word, "eight" by ibid.

2 Substituted for the expression "such return" by the Tamil Nadu Act No. 13 of 1999 w.e.f. 10th June 1999.

3 Substituted for the word "treasury" by the Tamil Nadu Act No. 37

of 1986.

4 Inserted by ibid.

7. Assessment And Collection Of Tax :-

1[(1) After the completion of the year, the assessing authority shall, after, such enquiry as it considers necessary, satisfy itself that the returns furnished under Section 6 are correct and complete and finally assess the proprietor and determine the tax payable for the year. If no return is filed or if the assessing authority has reason to believe that the returns filed are incomplete and incorrect, the assessment shall be made in the manner and after following the procedure prescribed in sub-section (5) of Section 6. Any assessment made under this section shall be without prejudice to any penalty or prosecution for an offence under this Act.

(2) Where for any reason the whole or part of any luxury 2[***] has escaped assessment or has been assessed at a rate lower than the rate at which it is assessable, the assessing authority may, at any time within a period of five years from the expiry of the year to which the tax relates, assess or, as the case may be, re-assess the tax due after making such enquiry as it may consider necessary and after giving the proprietor a reasonable opportunity to show cause against such assessment or, as the case may be, re-assessment.

(3) In making an assessment or re-assessment under sub-section (2), the assessing authority may, if it is satisfied that the escape from assessment is due to wilful non-disclosure of any facts in the return or in the accounts, registers or records or other documents maintained by the proprietor and produced before such authority, direct the proprietor to pay, in addition to the tax assessed under sub-section (2) a penalty not exceeding one and half times the tax so assessed:

Provided that no penalty under this sub-section shall be imposed unless the proprietor affected has a reasonable opportunity of showing cause against such imposition.

(4) The powers under sub-sections (2) and (3) may be exercised by the assessing authority even though the original order of assessment, if any, passed in the matter had been the subject matter of an appeal or revision.

(5) In computing the period of limitation under this section the time during which the proceedings for assessment or re-assessment remained stayed under the orders of a Civil Court, or other

competent authority shall be excluded.

(6) In computing the period of limitation for assessment or re-assessment under this section, the time during which any appeal or other proceeding in respect of any, other assessment or re-assessment is pending before the High Court or the Supreme Court, involving a question of law having direct bearing on the assessment or re-assessment in question, shall be excluded.]

1 Substituted by the Tamil Nadu Act No. 37 of 1986.

2 The expressions "provided in a hotel" after the expression "any luxury" was omitted from 10th June, 1999 by the Tamil Nadu Act No. 13 of 1999.

7A. Liability Of Firms :-

1[(1) Where any Firm or proprietor is liable to pay any tax or other amount under this Act, the Firm and each of the partners of the Firm shall be jointly and severally liable for such payment.

(2) Where a partner of a Firm liable to pay tax or any amount under this Act retires, he shall, notwithstanding any contract to the contrary, be liable to pay the tax or other amounts remaining unpaid at the time of his retirement and any tax or other amount due upto the date of retirement, though un-assessed.

1 Inserted by the Tamil Nadu Act No XXXVII of 1986.

7B. Liability To Tax Of Partitioned Hindu Undivided Family, Dissolved Firm, Etc :-

Where a Proprietor is a Hindu Undivided Family, Firm or other association of persons and such family, firm or association is partitioned, or dissolved as the case may be, --

(a) the tax payable [under this Act by such family, firm or association of persons for the period upto the date of such partition or dissolution shall be assessed as if no such partition or dissolution had taken place and all the provisions of this Act shall apply accordingly ; and

(b) every person who was at the time of such partition or dissolution, a member or partner of the Hindu Undivided Family, Firm or association of persons, and the legal representative of any such person who is deceased shall, notwithstanding such partition or dissolution, be jointly and severally liable for the payment of the tax, or other amount payable under this Act by such family, Firm or association of persons, whether assessment is made prior to or after such partition or dissolution.]

8. 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 a sub-section (1) of Section 6, or

(b) while furnishing a return under sub-section (1) of Section 6 fails, without sufficient cause or neglects, to pay into Government 1[account] the whole amount of tax due from him according to

such return as required by sub-section (3) of Section 6, 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 7, or
(d) conceals the particulars of any transaction or deliberately furnishes inaccurate particulars of any transaction liable to tax, the assessing authority may impose upon such proprietor by way of penalty, in addition to any tax assessed under Section 7, a sum not exceeding one and half times the amount of the tax.

1 Substituted for the word "treasury" by the Tamil Nadu Act No. 37 of 1986.

9. Payment Of Tax And Penalty :-

(1) (a) The amount of tax --

(i) due where returns have been furnished without full payment therefor ;

(ii) assessed for any period under Section 7 less any sum already paid by the proprietor in respect of such period ;

(b) the amount of penalty, if any levied under Section 8, shall be paid by the proprietor into Government 1[account] by such date as may be specified in the notice issued by the assessing authority for this purpose, being a date not later than thirty days from the date of service of notice :

Provided that the 2[***] appellate authority in an appeal under Section 10 may, in respect of any proprietor and for reasons to be recorded in writing, extend the date of payment, or allow him to pay the tax or penalty (if any) by instalments.

(2) Any tax or penalty which remains unpaid on 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 Substituted for the word "treasury" by the Tamil Nadu Act No. 37 of 1986.

2 The words "assessing authority or" omitted by *ibid*.

9A. Registration :-

1[(1) Every Proprietor of a hotel where the rate of charges for accommodation for residence per room per day is not less than rupees one hundred shall get it registered under this Act and 2[every Tobacconist or every stockist] whose turnover in any year is not less than rupees three lakhs, shall get himself registered under this Act. For this purpose, he shall make an application to such authority, in such manner and within such period, as may be prescribed. Every such application shall be accompanied by a fee of rupees five hundred.

(1-A) 3[In the case of Tobacconist or stockist], who is having more than one place

of business, he shall, in addition to the payment of a fee of rupees five hundred for the principal place of business, pay a further fee of rupees one hundred in respect of each such additional place of business, as registration fee.]

(2) If the prescribed authority is satisfied that the application is in order, he shall register the application and issue a certificate in the prescribed Form. The certificate shall take effect from such date as may be prescribed.

(3) Every hotel which is in existence on the date of coming into force of the Tamil Nadu Tax on Luxuries in Hotels and Lodging Houses (Amendment) Act, 1986, where the rate of charge for accommodation per room per day is not less than rupees forty shall be registered under this section within such period as may be prescribed.

(4) A certificate issued under sub-section (2) shall be valid for a year and shall be renewed from year to year on payment of the 4[fee specified in sub-section (1) or (1-A)].

1 For sub-section (1) of Section 9-A indicated below, sub-sections (1) and (1-A) of Section 9-A were substituted from 10th June, 1999 by the Tamil Nadu Act No. 13 of 1999 :--

"9-A. Registration.-- (1) Every Proprietor of a hotel where the rate of charges for accommodation for residence per room per day is not less than rupees forty shall get it registered under this Act. For this purpose, he shall make an application to such authority, in such manner and within such period, as may be prescribed. Each application shall be accompanied by a fee of one hundred rupees."

2 Substituted for the expression "every Tobacconist" by the Tamil Nadu Act No. 24 of 2002. Date of effect: 1st July, 2002.

3 Substituted for the expression "In the case of Tobacconist" by the Tamil Nadu Act No. 24 of 2002. Date of effect: 1st July, 2002.

4 Substituted for the expressions "fee specified in sub-section (1)" by the Tamil Nadu Act No. 13 of 1999 w.e.f. 10th June, 1999.

10. Appeal :-

(1) Any proprietor aggrieved by the order of assessment made under Section 7 or by an order imposing penalty under Section 8 may within three months from the date of receipt of the order, make an appeal to the appellate authority.

(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, annul or modify the assessment or penalty.

11. Revision :-

(1) 1[The Joint Commissioner of Commercial Taxes empowered by the Government in this behalf may suo motu or on an application made in that behalf call for and examine the record of the preceding year or any order made by the assessing authority or, as the case may be, the appellate authority and pass such orders thereon as he thinks just and proper.

(2) No application under sub-section (1) shall be entertained if it is not made within a period of four months from the date of the order.

(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 by the 1[Joint Commissioner of Commercial Taxes referred to in sub-section (1)].

(4) Where an appeal lies under Section 10 and no appeal is made, no proceedings in revision shall be entertained upon an application.

(5) Where the 2[Joint Commissioner of Commercial Taxes referred to in sub-section (1)] rejects any application for revision under this section, he shall record the reasons for such rejection.

1 Substituted for the words "the Commissioner of Commercial Taxes" by Section 4(1) of the Tamil Nadu Act No. 37 of 1992, dated 16th June, 1992.

2 Substituted for the words, "the Commissioner of Commercial Taxes" by *ibid*.

12. Court-Fees On Appeal And Application For Revision :-

Notwithstanding anything contained in the Tamil Nadu Court-Fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955), an appeal made under Section 10 and an application for revision made under Section 11 shall bear a Court-fee stamp of such value as may be prescribed.

13. Refund Of Tax :-

(1) If any proprietor satisfies the assessing authority that on account of any clerical or arithmetical error in calculating the amount of tax, the amount of tax 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 10 or 11 the refund of any amount becomes due to a proprietor, the assessing authority 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.

14. Offences :-

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

(a) furnishes 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 any 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 not exceeding 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 assessing authority.

15. 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 to 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 exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in subsection (1), where an offence under this Act has been committed by a Company and if it is proved that the offence has been committed with the consent or 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 be liable to 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.

16. Compounding Of Offences :-

(1) Subject to such conditions as may be prescribed, the assessing authority may, either before or after the institution of proceedings for an offence under this Act, permit any person who has committed or is suspected to have committed an offence to compound an offence on payment of such sum, not exceeding double the amount of tax to which an offence relates as the assessing authority may determine.

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

17. Powers To Enforce Attendance, Etc :-

All authorities under this Act, shall for the purpose of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (Central Act V 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.

18. Powers Of Inspection Of Accounts And Documents And Search [*] :-**

7(1) 1[Any officer empowered by the Government in this behalf] may subject to such conditions, as may be prescribed require any proprietor to produce 2[before him] the working records of accounts, registers or other documents or to furnish any information relating to the 3[business of hotels or the 4[supply of tobacco products or the stock of scheduled commodities], as the case may be] as may be necessary for the purposes of this Act.

(2) All working records of accounts, registers or other documents relating to the 5[business of any hotel or the 4[supply of tobacco products or the stock of scheduled commodities] shall at all reasonable times be open to 6[inspection by such officer and he may] take or cause to be taken such copies or extracts of such records as may be necessary for the purpose of testing the accuracy of the 8[charges for such luxury or the accuracy of the receipts] or for informing 9[himself] as to the particulars regarding which information is required for the purpose of this Act or any Rules made thereunder as would appear 10[to him] necessary.

(3) 11[If any such officer] has reason to believe that any proprietor

has evaded or is attempting to evade the payment of tax due from him, 12[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 only as may be necessary in connection with any proceeding under this Act or for a prosecution : 13[Provided that such records of accounts, registers or other documents shall not be retained for more than thirty days at a time, except with the permission of the next higher authority, in which case they could be retained upto a period of ninety days at a time.

14[(4) Any such officer shall, for the purposes of subsection (2) or sub-section (3), also have power to enter and search any hotel or any place of business of the proprietor or any other place where such officer 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. 15[* * *]

Explanation.-- It shall be open to the Government to empower different classes of officers for the purpose of taking action under sub-sections (1), (2) and (3)].

1 Substituted for the words "The assessing authority* by Section 5(1)(i) of the Tamil Nadu Act No. 37 of 1992, dated 16th June, 1992.

2 Substituted for the words, "before it", by ibid.

3 Substituted for the expression, "business of hotel" by the Tamil Nadu Act 13 of 1999 w.e.f. 10th June, 1999.

4 Substituted for the expression "supply of tobacco products" by the Tamil Nadu Act No. 24 of 2002. Date of effect: 1st July, 2002.

5 Substituted for the expression "business of any hotel" by the Tamil Nadu Act No. 13 of 1999 w.e.f. 10th June 1999.

6 Substituted for the words, "inspection by the assessing authority and the assessing authority may" by Section 5(2)(i) of the Tamil Nadu Act No. 37 of 1992, dated 16th June, 1992.

7 The expression "of hotels" was omitted by the Tamil Nadu Act 13 of 1999 w.e.f. 10th June 1999.

8 Substituted for the expression "charges for such luxury" by the Tamil Nadu Act 13 of 1999 w.e.f. 10th June, 1999.

9 Substituted for the word, "itself by Section 5(2)(ii) of the Tamil Nadu Act No. 37 of 1992, dated 16th June, 1992.

10 Substituted for the words, "to it" by ibid.

11 Substituted for the words, "If the assessing authority" by Section 5(3)(i) of the Tamil Nadu Act No. 37 of 1992, dated 16th

June, 1992.

12 Substituted for the words, "It may" by Section 5(3)(ii) of the Tamil Nadu Act No. 37 of 1992, dated 16th June, 1992.

13 Added by Section 5(4) of the Tamil Nadu Act No. 37 of 1992, dated 16th June, 1992.

14 Substituted by Section 5(5) of the Tamil Nadu Act No. 37 of 1992, dated 16th June, 1992.

15 The expressions, "in relation to the hotel" were deleted from 10th June, 1999, by the Tamil Nadu Act No. 13 of 1999.

19. Certain Provisions Of The Limitation Act To Apply To Appeal And Revision Applications :-

The provisions of Sections 4, 5 and 12 of the Limitation Act, 1963 (Central Act XXXVI of 1963) shall as far as may be, apply in computing the period for making an appeal under Section 10 or an application for revision under Section 11.

19A. Prohibition Of Disclosure Of Particulars Produced Before Authorities :-

1[(1) All particulars contained in any statement made, return furnished or accounts, registers, records or documents produced under the provisions of this Act or in any evidence given or affidavit or deposition made in the course of any proceeding under this Act or in any record of any proceeding relating to the recovery of a demand prepared for the purposes of this Act shall be treated as confidential and shall not be disclosed.

(2) Nothing contained in sub-section (1) shall apply to the disclosure of any such particulars,--

(i) for the purpose of investigation of, or prosecution for an offence under this Act or under Indian Penal Code (Central Act XLV of 1860) or under any other law for the time being in force ; or

(ii) to any person enforcing the provisions of this Act where it is necessary to disclose the same to him for the purposes of this Act ; or

(iii) occasioned by the lawful employment under this Act of any process for the recovery of any demand ; or

(iv) to a Civil Court in any suit to which the Government are party and which relates to any matter arising out of any proceeding under this Act ; or

(v) occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899 (Central Act II of 1899) to impound an insufficiently stamped document ; or

(vi) to an officer of --

(a) the Government of India ; or

(b) the Government of any State or Union Territory in India with which an arrangement for disclosure on a reciprocal basis has been entered into by the Government of the State ; or

(vii) to an officer of any department other than the Commercial Taxes Department of the State Government after obtaining --

(a) the permission of the Assistant Commissioner of Commercial Taxes of the district where such particulars are to be furnished by an officer subordinate to the Assistant Commissioner of Commercial Taxes ; and

(b) the permission of the Commissioner of Commercial Taxes where such particulars are to be furnished by Assistant Commissioner of Commercial Taxes or any higher authority :

Provided that such particulars shall be furnished under clause (vii) only in exceptional cases and that any officer obtaining such particulars shall keep them as confidential and use them only in the lawful exercise of the powers conferred by or under any enactment.]

1 Inserted by the Tamil Nadu Act No. 37 of 1986.

20. Bar Of Proceedings :-

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

(2) No suit, prosecution or other legal proceeding shall lie against the Government for anything which is in good faith done or intended to be done in pursuance of this Act or any Rules made thereunder.

21. Power To Make Rules :-

(1) The Government may make Rules for securing payment of the tax and generally for carrying into effect the provisions of this Act.

(2) (a) 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.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(3) Every Rule made or notification issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of 1[the Legislative Assembly], and if before the expiry of the session in which it is so placed or the next session, 2[the Legislative Assembly agrees] in making any modification in any such Rule or notification or 2[the Legislative Assembly agrees] that the Rule or notification should not be made or issued the Rule 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.

1 Substituted for the words "both Houses of the Legislature" by Section 3(2) of the Tamil Nadu Adaptation of Laws Order, 1987.

2 Substituted for the words "both Houses agree" by *ibid*.

22. Power To Remove Difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with such provisions which appear to it to be necessary or expedient for the purpose of removing any difficulty.

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the date of publication of this Act in the Tamil Nadu Government Gazette.

23. Power To Alter The Rates Bf Tax :-

(1) The Government may, by notification, alter the rates of tax specified in 1[sub-section (1) of Section 4 or subsection (1) of Section 4-B] and where a notification has been issued, there shall, unless the notification is in the meantime rescinded, be introduced in the Legislative Assembly as soon as may be but in any case during the next session of the Legislative Assembly following the date of issue of the notification a Bill on behalf of the Government, to give effect to the alteration of tax specified in the notification and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications, but without prejudice to the validity of anything previously done thereunder :

Provided that if the notification is issued when the Legislative Assembly is in session, such a Bill shall be introduced in the Legislative Assembly during that session:

Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislative Assembly, the notification shall cease to have effect on the expiration of the said period of six months.

(2) Any reference to rate of tax made under this Act shall be considered as relating to the rate of tax as for the time being amended in exercise of the powers conferred by sub-section (1).

1 Substituted by the Tamil Nadu Act No. 13 of 1999 w.e.f. 10th June, 1999.

23A. Power Of Government To Notify Exemption, Reduction Or Remissions Of Tax :-

1[(1) The Government may, by notification, issue whether prospectively or retrospectively, make an exemption, or reduction in rate, in respect of any tax payable under this Act 2[by any person or class of persons or institutions or organisations or in respect of any tobacco product] 3[or in respect of any scheduled commodity].

(2) Any exemption from tax, or reduction in the rate of tax, notified under sub-

section (1), --

(a) may extend to the whole State or to any specified area or areas therein ;

(b) may be subject to such restrictions and conditions, as may be specified, in the notification.

(3) The Government may, in such circumstances, and subject to such conditions as may be prescribed, by notification, remit the whole or any part of 4[the tax on penalty or interest] or fee payable in respect of any period by any person or class of persons or institutions or organisations 5[or by any proprietor in respect of any tobacco product 6[or in respect of any scheduled commodity]].

(4) The Government may, by notification, cancel or vary any notification issued under sub-section (1) or sub-section (3)].

1 Inserted by Section 6 of the Tamil Nadu Act No. 37 of 1992, dated 16th June, 1992.

2 Substituted for the expressions "on the charges for accommodation for residence by any person or class of persons or institutions or organisations" by the Tamil Nadu Act No. 13 of 1999 w.e.f. 10th June, 1999.

3 Substituted for the expressions "any tobacco product" by the Tamil Nadu Act No. 24 of 2002 w.e.f. 1st July, 2002.

4 Substituted for the expression "tax or penalty" by the Tamil Nadu Act No. 13 of 1999 w.e.f. 10th June 1999.

5 Added by ibid.

6 Added by the Tamil Nadu Act No. 24 of 2002 w.e.f. 1st July 2002.

24. Repeal And Saving :-

(1) The Tamil Nadu Tax on Luxuries in Hotels and Lodging Houses Ordinance, 1980 (Tamil Nadu Ordinance 7 of 1980), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any penalty imposed) under the said Ordinance, shall be deemed to have been done or taken under this Act.

SCHEDULE 1

THE SCHEDULE

(See Section 2(hha) and Section 4BB)

Name of the Commodity Rate of tax Point of levy

1. Gold, Silver, Platinum Jewellery and precious stones 1 per cent Every point of purchase

1. Schedule added by the Tamil Nadu Act No. 24 of 2002, with effect from 1st July, 2002.