

## **Uttar Pradesh Entertainments And Betting Tax (Amendment) Act, 2009**

**25 of 2009**

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## **Uttar Pradesh Entertainments And Betting Tax (Amendment) Act, 2009**

**25 of 2009**

An Act further to amend the Uttar Pradesh Entertainments and Betting Tax Act, 1979 It is hereby enacted in the Sixtieth Year of the Republic of India as follows:-- 1. Received the assent of the Governor on August 26, 2009 and published in the U.P. Gazette, Extra., Part 1, Section (Ka), dated 27th August, 2009, pp. 9-16

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

- (1) This Act may be called the Uttar Pradesh Entertainments and Betting Tax (Amendment) Act, 2009.
- (2) It shall be deemed to have come into force on June 16, 2009.

### **2. Amendment Of Section 2 Of U.P. Act No. 28 Of 1979 :-**

In Section 2 of the Uttar Pradesh Entertainments and Betting Tax Act, 1979, hereinafter referred to as the principal Act --

- (a) in clause (a) for the words "the entertainment is held" the

words "the entertainment is held or any place wherefrom entertainment is provided by means of the cable television network or Direct to Home service or any other emerging transmission by whatever name called" shall be substituted.

(b) after clause (a) the following clause shall be inserted, namely:--  
"(a-1) amusement park mean a place wherein various type of amusements, which includes games or rides or water sports, water park, splash pool etc. but does not include exhibition by means of cinematograph and video, are provided on payment of admission."

(c) after clause (f) the following clause shall be inserted, namely:--  
"(f-1) Direct-to-Home service means a system of distribution of multichannel television programmes in Ku band by using a satellite system, by providing television signals direct to the subscribers premises without passing through an intermediary such as cable operator."

(d) in clause (g) the following words shall be inserted at the end, namely:--

"It also includes any activity notified as entertainment by the State Government from time to time."

(e) after clause (i) the following clause shall be inserted, namely:--  
"(i-1) Ku Band ordinarily means the 11.7 to 12.7 Gigahertz frequency band which splits into two segments namely Fix Satellite Service having the frequency of the 11.7 to 12.2 Gigahertz and Broadcasting Satellite service having the frequency of 12.2 to 12.7 Gigahertz, or any other band of width as may be approved by the Government of India from time to time."

(f) in clause (l) after sub-clause (v), the following sub-clauses shall be inserted, namely:--

"(vi) Any payment made by a person by way of contribution or subscription or installation and connection charges or any other charges collected in any manner whatsoever, by whatever name called, for television exhibition through cable television network or any other such network by whatever name called, attached to television set or any other device at a residential or nonresidential place of a connection holder; or

(vii) Any payment made by person to the proprietor of a Direct-to-Home service or any other service by whatever name called, by way of contribution or subscription or installation and connection charges or any charges collected in any manner by whatever name called either directly or through any agency established for the purpose for Direct-to-Home service with the aid of set top box or

any other device of like nature which connects television set or any other device at a residential or non-residential place of a connection holder directly to the satellite without passing through an intermediary such as cable operator:

Explanation--For the purposes of sub-clauses (vi) and (vii) any expenditure incurred by any co-operative society including a co-operative housing society or by the management of any factory, hotel, lodge, bar, permit room, pub or by a person or group of persons for the purchase of any type of antenna or any other apparatus for securing transmission through cable television network, Direct-to-Home service or any other service by whatever name called, for its member or for workers or customers or for himself or themselves, as the case may be shall be deemed to be the payment made under the sub-clause;

(viii) Where in any entertainment admission has been allowed on a gross payment, such gross payment shall be deemed to be aggregate payment."

(g) after clause (k) the following clause shall be inserted:--

(k-1) "Multi System Operator" means a cable operator who receives a programming service from a broadcaster or his authorized agencies and retransmits the same or transmits his own programming service for simultaneous reception either by multiple subscribers directly or through one or more local cable operators, and includes his authorized distribution agencies by whatever name called..

(h) after clause (l) the following clause shall be inserted, namely:--

"(l-1) Place of entertainment includes--

(i) a house, building, tent, site to be used for purpose of cinema building or other structure and description of transport whatsoever;

(ii) any addition to the place of entertainment;

(iii) a house building, tent or any other place where the books of account, ticket books or any other relevant records pertaining to the entertainment or pertaining to the management of providing cable service or Direct-to-Home service or Broadband service or any emerging transmission services, by whatever name called, are kept or purported to have been kept;"

(i) in clause (m) for sub-clause (iii) the following sub-clauses shall be substituted, namely:--

"(iii) responsible for, or for the time being in-charge of the management thereof; or

(iv) any cable operator registered under Section 4 of the Cable Television Network (Regulation) Act, 1995 (Act No. 7 of 1995) or

any person responsible for or for time being in charge of management of providing cable connection through cable television network or any other emerging technology; or

(v) any company registered under the Company Act, 1956 having license to provide Direct-to-Home service or any other emerging transmission services by whatever name called by the Government of India under Section 4 of the Telegraph Act, 1985 and the Indian Wireless Telegraph Act, 1933 or any agent thereof appointed for the purpose of sale, letting on rent or distribution of equipment related thereto;"

(j) after clause (p) the following clauses shall be inserted, namely:-

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"(p-1) television signal receiver means any device, by whatever name called, used to receive and/or decode the transmission programme of particular channel and without which no person is able to see a particular channel programme."

(p-2) television signal receiver agency means a place of entertainment by whatever name called, where business of selling or letting on hire or distribution or exchange or putting into circulation in any manner whatsoever of television signal receiver."

(k) after clause (t) the following clause shall be inserted, namely:--

"(u) Words and expression used in this Act not defined, shall have the same meaning as respectively assigned to them in the Uttar Pradesh Cinema (Regulation) Act, 1955 or the rules made thereunder and the Cable Television Network (Regulation) Act, 1995 and the rules made thereunder."

### **3. Amendment Of Section 3 :-**

In Section 3 of the principal Act,--

(a) in the marginal heading for the words "tax on the payment for admission to entertainment" the words "tax on entertainment" shall be substituted.

(b) in sub-section (1),--

(i) for the words "all payments for admission" the words "all aggregate payments required for admission to any entertainment" shall be substituted.

(ii) after the proviso to sub-section (1), the following provisos shall be inserted, namely:--

"Provided further that in the case of cable service, the proprietor of the cable service control room/multi system operator shall be liable to pay the tax, irrespective of the fact whether he collect it directly

from the person making the payment for admission or indirectly through an associate or franchise cable operator or an agent, who in turn collects it from the person making the payment:

Provided also that a proprietor of a cinema, in lieu of payment under this sub-section, shall make a lump sum payment to the State Government on such conditions and restrictions and in such manner as may be prescribed and at such rate as the State Government may from time to time notify, and different rates of lump sum payments may be notified for different categories of local areas or cinemas or for different payment for admission."

(c) in sub-section (2) for the words "payment for admission" the words "aggregate payment required for admission" shall be substituted.

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

"(2-a) It shall be lawful for the State Government to notify lump sum rate of entertainment tax for any entertainment or class of entertainments or for different payment for admission to entertainment or for different area;"

(e) for sub-section (3) the following sub-section shall be substituted, namely:--

"(3) Where the aggregate payment required for admission to an entertainment together with any other charge leviable under this Act, is not a multiple of one rupee then notwithstanding anything to the contrary contained in sub-section (1) or sub-section (2) or any notification issued thereunder, the tax shall be increase to such extent and be so computed that the aggregate of such aggregate payment and other charges is rounded off to the next higher multiply of one rupee and such increased tax shall also be collected by the proprietor and paid to the State Government in such manner as may be prescribed."

(f) in sub-section (5) for the words "payment for admission" wherever occurring the words "aggregate payment required for admission" shall be substituted.

(g) in sub-section (6),--

(i) for the words "payment for admission" wherever occurring the words "aggregate payment required for admission" shall be substituted;

(ii) for the words "twenty per cent" the words "thirty per cent" shall be substituted.

(h) in sub-section (7) the existing explanation shall be renumbered as "Explanation (1)" and after Explanation (1) as so renumbered,

the following explanation shall be inserted, namely:--

"Explanation (2)--For the purposes of this Act, the expression aggregate payment shall mean a sum paid by a person for admission to the entertainment which shall include entertainment tax and any other amount required to be paid under this Act but does not include any fee or other charges which is not a part of entertainment tax under this Act."

#### **4. Amendment Of Section 3-A :-**

For Section 3-A of the principal Act the following section shall be substituted, namely:--

"3-A. Extra charge for maintenance of cinemas and for air cooled and air conditioned facility.--

Notwithstanding anything to the contrary contained in any other provision of this Act, the proprietor of a cinema shall utilize such amount of ticket value excluding entertainment tax and in such manner as may be notified by the State Government from time to time for maintenance of the cinema premises and for air cooling or air conditioning facilities."

#### **5. Amendment Of Section 3-B :-**

For Section 3-B of the principal Act the following section shall be substituted, namely:--

"3-B. Extra charge for Film development.--

Notwithstanding anything to the contrary contained in any other provision of this Act, the proprietor of a cinema shall deposit such amount as may be notified by the State Government from time to time, from the amount of tax realised under sub-section (1) of Section 3, Section 4 and Section 4-A for Film Development in such manner as may be prescribed."

#### **6. Amendment Of Section 3-C :-**

In Section 3-C of the principal Act in sub-section (2) after clause (g) the following clause shall be inserted, namely:--

"(gg) to finance cinema for their re-construction, renovation or up-gradation to increase facilities for cinema goers."

#### **7. Amendment Of Sections 4, 4-A, 4-B And 5 :-**

For Sections 4, 4-A, 4-B and 5 of the principal Act, the following sections shall be substituted, namely:--

#### "4. Tax on interior cinema.--

( 1 ) The proprietor of an interior cinema who provides cinematograph exhibition, shall be liable to pay entertainment tax, at such rates, as the State Government may from time to time, notify and different rates may be notified for different categories of interior cinema or for different areas or for different ticket rates declared by the proprietor of such a cinema.

(2) Where the licence of an interior cinema is extended or renewed or new licence is granted in place of a licence or otherwise after the expiry of a period of one year from the date of start of the interior cinema in a local area under the Uttar Pradesh Cinematograph Rules, 1951, there shall be levied and paid on "aggregate of payment required for admission" to such interior cinema, an entertainment tax in accordance with the provisions of Section 3.

(3) The tax payable under this section shall be paid, collected and realised in such manner as may be prescribed.

#### 4-A. Tax on Video cinema.--

(1) The proprietor of a video cinema shall be liable to pay entertainment tax at such rate as the State Government may, from time to time, notify in this behalf and different rates may be notified for different categories of video cinema or for different areas or for different ticket rates.

( 2 ) The State Government may by notification, classify video cinemas for the purposes of this Act with regard to the population of the local areas where they situate and the number of permanent cinemas existing therein and may notify different rates of entertainment tax for different classes of video cinemas.

(3) Where the licence of a travelling video cinema in a local area is extended or renewed or new licence is granted after the expiry of a period of one year from the date of start of the travelling video cinema under the Uttar Pradesh Cinema (Regulation of Exhibition by means of Video) Rules, 1988, there shall be levied and paid an entertainment tax due for corresponding class of video cinema in permanent building.

(4) The tax payable under this section shall be paid, collected and realised in such manner as may be prescribed.

#### 4-B. Tax on Video show in public service vehicles or hotels.--

(1) The proprietor of a public service vehicle who provides exhibition by means of video in such vehicle shall be liable to pay entertainment tax at such rate as the State Government may, from time to time, notify in this behalf and different rates may be notified for different categories of such vehicles or for different

areas or for different ticket rates.

(2) Where exhibition by means of video is given in rooms let out to lodgers in an hotel, the proprietor of such hotel shall be liable to pay entertainment tax at such rate as the State Government may, from time to time, notify in this behalf and different rates may be notified for different categories of hotels or for different areas or for different ticket rates.

(3) The tax payable under this section shall be paid, collected and realised in such manner as may be prescribed.

5. Permission for holding entertainment.--

(1) No entertainment on which tax is leviable, whether exempted from the liability to pay tax or not, shall be held without obtaining prior permission of the District Magistrate in such form and in such manner as may be prescribed.

(2) The District Magistrate may permit any such entertainment (i) after satisfying himself that proper precaution has been taken for electrical and fire safety, law and order, public order and safety, and extra safety measure has been taken for any arrangement of air cooling or air conditioning facility and any other electrical installations at the place where the entertainment is proposed to be held.

(3) Notwithstanding anything contained in this Act or any other law for the time being in force, the District Magistrate or any other officer authorised by the State Government in this behalf, may prohibit the holding of such entertainment, if he is satisfied that--

(a) the proprietor has given any false information which (sic is) likely to result in the evasion of tax;

(b) the proprietor has committed or likely to commit a breach of any of the provisions of the Act or the rules made thereunder; or

(c) the holding of the entertainment is prejudicial to public safety, decency or morality:

Provided that nothing in this section shall apply to cinematograph exhibition licensed under the provisions of the Uttar Pradesh Cinema (Regulation) Act, 1955."

## **8. Amendment Of Section 8 :-**

In Section 8, in clause (b) for the words "payment for admission" the words "aggregate payment required for admission" shall be substituted.

## **9. Amendment Of Section 12 :-**



In Section 12 of the principal Act,--

(a) in sub-section (1), in clause (b) for the words "prescribed forms" the words "prescribed forms or does not furnish return in respect of any entertainment within the stipulated time" shall be substituted.

(b) after sub-section (1) the following sub-section shall be inserted, namely:--

"(1-o) any assessment made under this section shall be without prejudice to any prosecution for an offence under this Act."

(c) after sub-section (2) the following sub-section shall be inserted, namely:

"(3) No appeal shall be entertained by the State Government unless the proprietor has paid the undisputed amount of the tax and at least one-third of the disputed amount, assessed under this Act."

#### **10. Amendment Of Section 15 :-**

In Section 15 of the principal Act, in sub-section (4) for the words "such entertainment" the words "such entertainment and also to seize any apparatus, cable wire and other materials as he may deem necessary to prevent such entertainment" shall be substituted.

#### **11. Amendment Of Section 24 :-**

For the Section 24 of the principal Act, the following section shall be substituted, namely:--

"24. Penalty for holding entertainment without permission.--

Any person holding an entertainment in contravention of Section 5 shall be liable to be punished with fine which may extend to ten thousand rupees or with imprisonment which may extend to three months or with both."

#### **12. Amendment Of Section 32 :-**

In Section 32 of the principal Act for the words "punishable under" the words "punishable under Section 24 or" shall be substituted.

#### **13. Repeal And Saving :-**

(1) The Uttar Pradesh Entertainments and Betting Tax (Amendment) Ordinance, 2009 \*(U.P. Ordinance No. 4 of 2009) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the principal Act as amended by the Ordinance referred to in sub-section (1) shall be deemed to have been done or taken under the co-responding provisions of the principal Act as amended by this Act as if the provisions of this Act were in force at all material times.

Corrected by Notification No. 1344/79-Vi-1-09-1(Ka)14-2009, dated 13-10-2009.