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**THE ASSAM TAX ON LUXURIES
(HOTELS AND LODGING HOUSES AND HOSPITALS) ACT, 1989
(Assam Act V of 1989)**

[Received the [Received the assent of the Governor on 12th April, 1989]

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***An Act to provide for the imposition of a tax on luxuries in hotels and
lodging houses and hospitals***

Preamble

WHEREAS it is necessary to make an addition to the revenues of Assam and, for that purpose, it is expedient to impose a tax on the luxuries in hotels and lodging houses and to provide for matters connected with;

It is hereby enacted in the Fortieth Year of the Republic of India as follows:-

Short title, extent and commencement :- (1) This Act may be called the Assam Tax On Luxuries (Hotels and Lodging Houses and Hospitals) Act, 1989.

(2) It extends to the whole of the State of Assam.

(3) It shall be deemed to have come into force with effect from the first day of April, 1989.

Amendment: *In the principal Act, in the title, long title, preamble and short title for the words "hotels and lodging houses", wherever they occur, the words and punctuation marks "hotels, lodging houses and hospitals" has been substituted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

2. Definitions :- In this Act, unless the context otherwise requires,-

(1) "Assessing Officer" in relation to any hotelier means the authority competent to assess the hotelier in accordance with section 5 of this Act;

(2) "business" includes the activities of providing accommodation or space for residence, marriage, reception, banquet, ceremonies, events, functions, seminars, conventions, meetings or exhibition-cum-sale and for medical treatment and any other service in connection with or ancillary to such activities of providing accommodation or space, for monetary consideration, whether or not such activities of providing accommodation or space is carried on with motive to make gain or profit and whether or not any gain or profit accrues from such activities;

Amendment: *In the principal Act, in section 2 for clause (2) has been substituted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

[Prior to this the clause (2) read as follows:

- (2) *"business" includes the activity of providing residential accommodation and any other service in connection with, or incidental or ancillary to, such activity of providing residential accommodation, by a hotelier for monetary consideration;]*
- (3) "Commissioner" means the Commissioner of Taxes, Assam;
- (4) "concessional rate" in relation to a luxury provided in a hotel, means a rate lower than the normal rate fixed by any Government, authority, or under any law for the time being in force;
- (5) "hotel" means a building or part of building along with the lawns thereof, where accommodation or space with or without board is provided by way of business for a monetary considerations and includes a lodging house, a luxury boat, a heritage home, an inn, and a public house but it does not include students' hostel and residential house let out on monthly rents;

Explanation. I- A club and a holiday resort for which charges are collected for providing accommodation whether or not in the course of business shall be deemed to be a hotel for the purpose of this Act.

Explanation. II- Any premises or part of premises, a marriage hall or a community hall or any other place where accommodation or space is provided, by way of business for a monetary consideration, whether business activities are conducted in such place regularly or not, shall also be deemed to be a hotel for the purpose of this Act.

Amendment: In the principal Act, in section 2 for clause (5) has been substituted *vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

[Prior to this clause (5) read as follows:

- (5) *"hotel" includes a residential accommodation, a lodging house, an inn, a public house or a building or part of a building, where residential accommodation is provided by way of business;]*
- (5A) "hospital" includes a nursing home, therapy centre or any other treatment centre, by whatever name called, where residential accommodation with or without board is provided by way of business for a monetary consideration to any person or his attendant, for the treatment of such person, but does not include a hospital under control of the Central Government or the State Government;

Amendment: In the principal Act, in section 2 a new clause (5A) has been inserted *vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

- (6) "hotelier" means, in relation to a hotel, the person who owns the hotel and includes a person who for the time being is in charge of the management of the hotel;
- (7) "luxury provided in a hotel" means accommodation and other services provided in a hotel, the rate of charges for which including the charges for air-conditioning, telephone, television, radio, music, entertainment, extra beds and the like, is one hundred rupees per room per day or more; but does not include the supply of food and drinks where such supply is separately charged for;

Explanation.- Where accommodation or space is provided for the marriage, reception, banquet, ceremonies, events, functions, seminars, conventions, meetings or exhibition-cum-sale, luxury provided in a hotel shall mean the accommodation or space and other service provided for charges including air conditioning, chairs, tables, utensils and vessels, shamiana, tent, electricity, water, fuel, interior or exterior decoration, music systems, orchestra, live telecast, and the like;

Amendments : In clause (7) of section 2 the word "room" has been substituted in place of word "person" w.e.f. 30-7-1992 by Assam Act No. XII of 1992 published on 30-7-92. (Notification No. LGL. 29/91 : dated 30-7-1992).

Amendment: In the principal Act, in section 2 in clause (7) after the existing provision the Explanation has been inserted *vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

(7A) "luxury provide in a hospital" means the accommodation provided in a hospital to any person or his attendant for charges including the charges for air conditioning, television or radio, or any other service provided thereto in connection with the residence but does not include any charges for food, medicines, professional medical services and any medical test;

Amendment: In the principal Act, in section 2, after clause (7) a new clause (7A) has been inserted *vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

- (8) "person" includes any company or association or body of individuals whether incorporated or not, and also a Hindu divided family, a firm, a local authority, a State Government and the Central Government;
- (9) "place of business" includes an office, or any other place which a hotelier *or a proprietor* uses for the purpose of his business where he keeps his books of accounts;

Amendment: In clause (9) after the words "a hotelier", the words "or a proprietor" has been inserted *vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

- (10) "prescribed" means prescribed by rules made under Act;

(10A) “proprietor” in relation to a hospital means the person who owns the hospital and includes the person who for the time being in charge of the management of such hospital;

Amendment: *The new clause (10A) has been inserted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

(11) "receipt" means the amount of monetary consideration received or receivable by a
(a) hotelier or by his agent in respect of the luxury provided in a hotel;
(b) a proprietor or by his agent in respect of the luxuries provided in a hospital;

Amendment: *Clause (11) has been substituted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

(12) "registered hotelier" means a hotelier registered under section 6 of this Act;

(13) "rules" means rules made under this Act;

(14) "State" means the State of Assam;

(15) "tax" means the tax levied on luxuries provided in a hotel or in a hospital payable under this Act;

Amendment: *In clause (15) the words “or in a hospital” has been inserted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

(16) "turnover of receipts" means the aggregate of the amount of monetary consideration received or receivable during a given period by

(a) a hotelier or by his agent in respect of the luxuries provided in a hotel;

(b) a proprietor or by his agent in respect of the luxuries provided in a hospital;

Amendment: *Clause (16) has been substituted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

(17) Omitted.

Amendment: *Clause (17) has been omitted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

[Prior to this clause (17) read as follows:

(17) "marginal hotelier" means, a hotelier who owns the hotel having not more than ten rooms and the charge for luxury provided in such room is less than two hundred rupees per day per room]

3. Liability to tax: - (1) Subject to the provisions of this Act and the rules made thereunder there shall be levied a tax on the turnover of receipts of a hotelier.

2) There shall be levied a tax on the turnover of receipts at the following rates, namely:-

- | | |
|---|--|
| (a) Where the charge for luxury provided in a hotel is less than three hundred rupees per day per room - | <i>nil;</i> |
| (b) Where the charge for luxury provided in a hotel is three hundred rupees or more but does not exceeds one thousand rupees per day per room - | Five percentum of such turnover of receipts; |
| (c) Where the charge for luxury provided in a hotel exceeds one thousand rupees but does not exceed two thousand rupees per day per room - | Eight percentum of such turnover of receipts; |
| (d) Where the charge for luxury provided in a hotel exceeds two thousand rupees per day per room- | twelve percentum of such turnover of receipts; |

Provided that, where the charges are levied otherwise than on daily basis or per room, then, the charges, for determining the liability to tax under this section, shall be computed proportionately as for a day and per room, based on the total period of occupation of the accommodation for which the charges are made according to the rules or practice of the hotel.

Amendments : In clauses (a), (b), (c) and (d) of sub-section (2) of section 3, the word "room" has been substituted for the word "person" w.e.f. 30-7-1992 by Assam Act No. XII of 1992.

By the same amendment Act the proviso has also been substituted. Prior to its substitution, the proviso originally read as under:

"Provided that where the charges are levied otherwise than on a basis or per person, then the charges for determining the tax liability under this section shall be computed proportionately for a day and per person based on the total period of occupation of the accommodation for which the charges are made and the number of persons actually occupying

or permitted to occupy according to the rules or practice of the hotel.”.

Amendment: *In the principal Act, in section 3, sub-section (2) has been substituted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

(2A) Notwithstanding anything contained in sub-section (2), there shall be levied a tax on the turnover of receipts,-

- (i) in respect of a luxury boat and heritage home, at the rate of five per centum if the charges for luxury provided exceeds two hundred rupees per day per room;
- (ii) in respect of any place where accommodation or space is provided for marriage, reception ceremonies, events, functions, seminar, convention, banquet, meeting or exhibition-cum-sale, at the rate of eight per centum if the charges for luxury provided exceeds five thousand rupees per day;

Amendment: *sub-section (2A) has been substituted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

- (3) Where, in addition to the charges for luxury provided in hotel, **service charges** are levied and appropriated by hotelier and not paid to the staff then such charges for luxury deemed to be part of the charges for luxury provided in the hotel.
- (4) Where luxury provided in a hotel to any person (not being employee of the hotel) is not charged at all, or is charged a concessional rate, nevertheless there shall be levied collected the tax on such luxury at the rates specified in sub- section (2), as if full charges for such luxury were paid to hotelier.
- (5) Where luxury provided in a hotel for a specified number of persons is shared by more than the number specified, then unless the additional person is a child occupying the room along with his parent or guardian and no separate charge recovered for the child, in addition to the tax levied for luxury provided to the specified number of persons, the shall be levied and recovered separately the tax in respect the charges made for the extra persons accommodated.

Explanation.- For the purpose of this sub-section, "child" means a person who has not completed twelve years of age.

- 6) The tax shall not be levied and payable in respect of the turnover of receipts for supply of food and drinks, on the sale of which the hotelier is liable to pay sales tax under the Assam Value Added Tax Act, 2003.

Amendment: *In sub-section (6), for the words and figures and brackets “the Assam*

General Sales Tax Act, 1993 (Assam Act XII of 1993)”, the words and figures and comma “the Assam Value Added Tax Act, 2003” has been substituted vide notification no. LGL.72/2004/38 Dated 17th August, 2006 published in the Assam Gazette Extraordinary No. 189 Dated 21st August, 2006.

- (7) For the purposes of this Act, tax collected separately by the hotelier shall not be considered to be part of the receipt or the turnover of receipt of the hotelier.
- (8) The State Government may, by notification in the Official Gazette, vary the rates of tax under this Act and on such notification being issued, the rate of tax shall be deemed to have been amended accordingly;

Provided that the rate of tax to be varied by the State Government in respect of any class of luxury shall not exceed twenty percentum.

Amendment: *After sub-section (7), anew subsection (8) has been inserted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

3A. Liability of proprietor of a hospital to pay tax:- (1) Subject to the provisions of the Act, there shall be levied and collected a tax on the turnover of receipts in respect of luxuries provided in a hospital.

(2) The tax in sub-section (1) shall be levied at the following rates namely:-

- | | |
|---|--|
| (a) where the charge for luxury provided in a hospital is less than one thousand rupees per day per room. | Nil |
| (b) where the charge for luxury provided in a hospital is rupees one thousand or more but does not exceeds two thousand five hundred rupees per day per room. | Five percentum of turnover of receipts. |
| (c) where the charge for luxury provided in a hospital exceeds two thousand five hundred rupees per day per room. | Eight percentum of turnover of receipts. |

(3) The tax levied under sub-section (1) shall be paid by the proprietor.

(4) The provisions of this Act and the rules made thereunder, in so far as they apply to the hotelier with regards to registration, accounts, return, payment of tax, assessment, appeal, revision, reference, refunds, payment of interest, offence and penalties, prosecution, compounding of offences and other procedural matters, shall apply mutatis mutandis to the proprietor of a hospital.

Amendment: *Section 3A has been substituted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

3B. Composition of tax liability:- Notwithstanding anything contained in this Act, the State Government may, by notification published in the Official Gazette and subject to such conditions and restrictions as it may specify therein, permit any hotelier or a proprietor to pay at his option in lieu of amount of tax payable under the provisions of the Act by such hotelier or a proprietor, an amount by way of composition as may be fixed by the State Government in such notification.

Amendment: In the principal Act, after section 3A, a new section 3B has been inserted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.

4. Liability of hotelier to pay tax :- (1) Subject to the provisions of this Act and the rules made there under, there shall be paid by every hotelier who is liable to pay tax under this Act, the tax or taxes leviable in accordance with the provisions of this Act.

(2) If a person other than the owner (including part-owner) is for the time being in charge of the hotel, then such person and the owner (including part-owner) shall jointly and severally be liable to pay the tax.

5. Taxing authorities and exercise of powers:- (1) Subject to the provisions of the Act and the rules made thereunder, the authorities competent to register, receive returns, assess or re-assess, recover and enforce payment of tax and imposed penalty under the Assam Value Added Tax Act, 2003(Assam Act VIII of 2003), hereinafter referred to as VAT law, shall, within their local jurisdiction under the VAT law, be competent to register, receive returns, assess, re-assess, recover and enforce payment of tax including imposition of penalty due from any hotelier or proprietor whose place of business is located within such jurisdiction as if the tax were a tax under the VAT law and the hotelier or the proprietor was a dealer, within the meaning of the VAT law carrying on business within such jurisdiction and for this purpose they may exercise all or any of the powers conferred upon them by or under that Act.

(2) Subject to the provisions of this Act and rules made thereunder, the provisions relating to security, interest, assessments and re-assessments, recover of tax, interest, penalty or any other sum including special mode of recovery, first charge, period of limitation, refund, retention of accounts, requirement to provide information, transfer of liability of any firm or Hindu undivided family to pay tax in the event of dissolution of such firm or partition of such family, inspection, search and seizure, appeals, revisions, reverences, refunds, compounding of offences and treatment of documents furnished by dealer as confidential, of the Assam Value Added Tax Ac, 2003 (Assam Act VIII of 2003) and the rules made therunder, orders, notifications issued thereunder shall mutatis mutandis apply to a hotelier or a proprietor in respect of tax levied and payable under this Act, as if those provisions were mutatis mutandis incorporated in this Act and the rules framed and orders and notification issued under those provisions were mutatis mutandis issued under the relevant provisions so incorporated under

this Act.

Amendment: Section 5 has been substituted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.

[Prior to this section 5 read as follows:

5. Exercise of powers and authorities :- The authorities competent to assess, recover and enforce payment of tax under the Assam General Sales Tax Act, 1993, hereinafter referred to as the sales tax law, shall, within their local jurisdiction under the sales tax law, be competent to assess, recover and enforce payment of tax due from any hotelier whose place of business is located within such jurisdiction as if the tax were a tax under the sales tax law and the hotelier a dealer, within the meaning of the sales tax law, carrying on business within such jurisdiction and, subject to the provisions of this Act and the rules, notifications and orders made thereunder, the said authorities, for this purpose, may exercise all or any of the powers they have under the sales tax law, and the provisions of the sales tax law, including provisions relating to inspections, assessment, registration of the transferee of a business, imposition of tax liability of a person carrying on business on the transferee of, or successor to, such business, transfer of liability of any firm or Hindu undivided family to pay tax in the event of dissolution of such firm or partition of such family, appeals, revisions, references, refunds, rebates, payment of interest compounding of offences and treatment of documents furnished by dealer as confidential, shall mutatis mutandis apply accordingly.]

Amendments : The words, figure and coma "the Assam Sales Tax Act, 1947" appearing in section 5 have been substituted by "The Assam General Sales Tax Act, 1993" w.e.f. from 31-5-1994 by Assam Ordinance No. VIII of 1994 published in the Assam Gazette of 31st May of 1994.

The Ordinance was subsequently replaced by Assam Act No. XXXI of 19S published in the Assam Gazette of 26th September, 1994.

6. Registration: - (1) No hotelier liable to pay the tax under sect 3 shall provide accommodation by way business, unless possesses a valid certificate of registration as provided by Act:

Provided that, it shall be lawful for the hotelier to provide continue to provide accommodation by way of business if hotelier has applied for registration within the prescribed time.

(2) Every hotelier required to possess a certificate of registration shall apply in the prescribed form to the assessing office within thirty days from the date on which the hotelier first becomes liable to pay the tax.

See: Rule 3(1), 8&15/Form 1

(3) If the assessing officer, after such enquiry as he deems fit is satisfied that an application for registration is in order shall register the applicant and issue to him a certificate_registration in the prescribed form.

See : Rule 3(3) / Form 2

(4) The assessing officer may, after considering any information furnished or otherwise called for or received under any Act, amend from time to time the certificate of

registration.

- (5) Where a registered hotelier discontinues, transfers or otherwise disposes of the activity of providing accommodation by way of business or where he ceases to be liable to pay the tax and he applies in the prescribed form to the assessing officer, the latter shall, after such inquiry as may be necessary, cancel the certificate of registration with effect from such date as he may fix in accordance with the rules.

See: Rule 3(4) & 3(5) / Form 3

- (6) Where the assessing officer is satisfied that any registered hotelier has discontinued, transferred or otherwise disposed of the activity of providing accommodation by way of business and has failed to apply under sub-section (5) for cancellation of certificate of registration, the assessing officer may, after giving the hotelier a reasonable opportunity of being heard, cancel the certificate of registration with effect from such date as he may fix to be the date from which the said activity has been discontinued, transferred or otherwise disposed of:

Provided that the cancellation of certificate of registration on an application of the hotelier or otherwise shall not affect the liability of the hotelier to pay the tax (including any penalty or interest) due for any period upto the date of cancellation whether such tax (including any penalty or interest) is assessed before or after the date of cancellation.

7. **Non-transferability of registration certificate:** - Save as otherwise provided in section 9, certificate of registration shall be personal to the hotelier to whom it is granted and shall not be transferable.

8. **Information to be furnished regarding changes in business, etc.:-** (1) If a hotelier liable to pay tax under this Act -

- (a) sells or otherwise disposes of his business or any thereof, or effects or makes any other change to his knowledge in the ownership of the business, or
- (b) discontinues his business, or changes the place thereof or opens a new place of business, or
- (c) changes the name or nature of his business, or
- (d) enters into a partnership or other association, in regard to his business, he shall, within the prescribed time, inform the prescribed authority accordingly.

See:Rule 4

- (2) Where any such hotelier dies, his executor, administrator or other legal representative or where any such hotelier is a firm and there is a change in the constitution of the firm or the firm is dissolved every person who was a partner thereof, shall in like manner,

inform the said authority of such death change in the constitution or as the case may be, dissolution.

9. Certificate of registration to continue in certain circumstances :-

Where a registered hotelier -

- (a) effects changes in the name of his business, or
- (b) is a firm, and there is a change in the constitution of the firm without dissolution thereof, or
- (c) is a trustee of a trust, and there is change in the trustees thereof, or
- (d) is a guardian of a ward, and there is a change in the guardian, then merely hotelier, or the firm with the changed constitution, then merely by reason of any of the circumstances aforesaid, it shall not be necessary for the by reason of any of the circumstances aforesaid, it shall not be necessary or the new trustees or new guardian, to apply for a fresh certificate of registration and on information being furnished in the manner required by section 8, the certificate of registration shall be amended.

10. Returns :- (1) Every registered hotelier shall furnish returns for such period, by such dates, and to such authority, as may be prescribed.

See : Rule 5 & 15/ Form 4

- (2) If any hotelier, having furnished return under sub-section (1), discovers any omission or incorrect statement therein, he may furnish a revised return before the expiry of three months next following the last date prescribed for furnishing the original return.

11. Prohibition against collection of tax in certain cases :- (1) No

person shall collect any sum by way of tax in respect of his business to the extent that he is not liable to pay it under the Act.

- (2) No person who is not a registered hotelier and liable to pay tax in respect of luxury provided in any hotel, shall collect any sum by way of tax from any other person and no registered hotelier shall collect any amount by way of tax in excess of the amount of tax payable by him under the provisions of this Act :

Provided that, this sub-section shall not apply where a person is required to collect such amount of the tax separately in order to comply with the conditions and restrictions imposed on him under the provisions of any law for the time being in force. .

12. Bill or cash memorandum to be issued to customer: - A registered hotelier shall issue to the customer or customers a bill or cash memorandum serially numbered, signed and dated by him or his servant, manager or agent and showing therein such other particular as may be prescribed. He shall keep a counterfoil or duplicate of such bill or cash memorandum duly signed and dated and preserve it for a period of not less than eight years from the date of the transaction.

See: Rule 6

13. Accounts :- (1) Every hotelier liable to pay tax under this Act, and every hotelier who is required so to do by the assessing officer by notice served on him in the prescribed

See: Rule 7

manner shall keep a true account of the luxury provided by him in the hotel.

- (2) If the assessing officer considers that the accounts kept are not sufficiently clear or intelligible to enable him to determine whether or not a hotelier is liable to tax during any period, or are so kept as not to enable a proper scrutiny of the returns or the statement furnished, the assessing officer may require such hotelier by notice in writing to keep such accounts in such form or manner as in his opinion is necessary for the purpose of proper assessment and as he may, subject to anything that may be prescribed in that behalf, in writing direct.
- (3) The Commissioner may, subject to such conditions or restriction as may be prescribed in this behalf, by notice in writing direct any hotelier, or by notification in the Official Gazette, direct any class of hoteliers to maintain accounts and records showing such particulars regarding their business in such form, and in such manner, as may be specified by him.
- 4) Every registered hotelier shall ordinarily keep all his accounts, registers and documents relating to his business at the place or places of business specified in his certificate of registration or, with the previous approval of the assessing officer, at such other place as may be approved by the assessing officer.

14. Hotelier to declare the name of owner of business:- Every hotelier, who is liable to pay tax, and who is a Hindu Undivided family, or an association or club or society or firm or company, or who carries on business as the guardian or trustee or otherwise on behalf of another person, shall within the period prescribed send to the authority prescribed, a declaration in the manner prescribed stating the name of the person or persons who is the owner or who are the owners of the hotel. Such declaration may be revised from time to time.

See: Rule 8

15. Imposition of penalty for contravening certain provisions:—

(1) If any person -

- (a) (i) not being a hotelier to pay tax under this Act, collects any sum by way of tax, or
- (ii) being a registered hotelier, collects any amount by way of tax in excess of the tax payable by him, or
- (iii) otherwise collects tax in contravention of the provisions of section 11, or
- (b) being a hotelier liable to pay tax under this Act, or being a hotelier who was required so to do by the assessing officer by a notice, served on him, fails in contravention of sub-section (1) of section 13, to keep a true account of his turnover of receipts or fails when directed so to do under that section to keep any accounts or record in accordance with the direction,

he shall be liable to pay, in addition to any tax for which he may be liable, a penalty of an amount as follows :—

- (A) where there has been contravention referred to in sub-clause (i) or (ii) of clause (a), a penalty of an amount not exceeding double the sum collected by way of tax, subject to a minimum of ten thousand rupees;
- (B) Where there has been a contravention referred to in sub-clause (ii) of clause (a) or in clause (b), penalty of an amount not exceeding fifty thousand rupees subject to minimum of ten thousand rupees in addition any sum collected by the person by way of tax in contravention of section 11, shall be forfeited to the State Government.

Amendment: *Clause (A) and Clause (B) has been substituted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

- (2) If the assessing officer, in the course of any proceeding under this Act or otherwise, has reason to believe that any person has become liable to a penalty or forfeiture or both penalty and forfeiture of any sum under sub-section (1), he shall serve on such person a notice in the prescribed manner requiring him on a date and at a place specified in the notice to attend and show cause why a penalty or forfeiture or both penalty and forfeiture of any sum as provided in sub-section (1) should not be imposed on him. See : Rule 9(1) / Form 5
- (3) The assessing officer shall thereupon hold an enquiry and shall make such order as he thinks fit.
- (4) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.
- (5) When any order of forfeiture is made, the assessing officer shall publish or cause to be published a notice thereof for the information of the persons concerned giving such details and in such manner as may be prescribed. See : Rule 9 (2)

16. Payment of tax :- (1) Tax shall be paid in the manner herein provided, and at such intervals as may be prescribed. See : Rule 5 & 10

- (2) A registered hotelier furnishing return as required by sub - section (1) of section 10, shall pay into Government account in such manner as may be prescribed, whole of the amount of tax due from him according to such return. See : Rule 5 (3)

Amendment: *In the principal Act, in section 16, in sub-section (2) for the words and punctuation mark commas “first pay into a Government treasury, in the prescribed manner” has been substituted by the words “pay into Government account in such manner as may be*

prescribed,” vide notification no.LGL.72/2004/78 Dated 8th April, 2008 published in the Assam Gazette Extraordinary No.110 Dated 8th April, 2008.

- (3) A registered hotelier furnishing a revised return in accordance with sub-section (2) of section 10, which revised return shows that a larger amount of tax than already paid is payable shall pay into Government account in such manner as may be prescribed extra amount of tax.

Amendment: *: In the principal Act, in section 16, in sub-section (3) for the words “first pay into a Government treasury” has been substituted by the words “pay into Government account in such manner as may be prescribed,” vide notification no.LGL.72/2004/78 Dated 8th April,2008 published in the Assam Gazette Extraordinary No.110 Dated 8th April, 2008.*

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

- (i) due when returns have been furnished without full payment thereof, or
- (b) the amount of penalty levied under section 15, or
- (c) the sum (if any) forfeited to the State Government under section 15,

shall be paid *into Government account in such manner as may be prescribed* by the hotelier or the person liable therefore by such date as may be specified in a notice issued by the assessing officer for this purpose, being a date not earlier than thirty days from the date of service of the notice :

Provided that, the assessing officer may, in respect of any particular hotelier or person, and for reasons to be recorded in writing allow him to pay the tax, interest or penalty (if any) or the sum forfeited, by installments.

Amendment: *: In the principal Act, in section 16, in sub-section (4) after clause (c) the words “into Government account in such manner as may be prescribed,” has been inserted and the words “into a Government treasury” has been omitted vide notification no.LGL.72/2004/78 Dated 8th April,2008 published in the Assam Gazette Extraordinary No.110 Dated 8th April, 2008.*

- (5) Any tax, penalty or interest or sum forfeited, which remains unpaid after the date specified in the notice for payment, and any installment not duly paid, shall be recoverable as an arrear of land revenue.
- (6) Notwithstanding anything contained in this Act or in any other law for the time being in force, where any sum collected by a person by way of tax in contravention of section 11, is forfeited to the State Government under section 15 and is recovered from him, such payment or recovery shall discharge him of the liability to refund the sum to the person from whom it was so collected.

A refund of such sum or any part thereof can be claimed from Government by the person from whom it was realised; by way of tax, provided that an application for such claim is made by him in writing in the prescribed form to the assessing officer, within one year from the date of the order of forfeiture. On receipt of any such application, the assessing officer shall hold such inquiry as he deems fit, and if he is satisfied that the claim is valid and admissible and that the amount so claimed as refund was actually paid in Government treasury or recovered, he shall refund the sum or any part thereof, which is found due to which person concerned.

See : Rule 9(3) / Foam

17. Rounding off the tax, etc.:- The amount of tax, penalty, interest, composition money, fine or any other sum payable under the provisions of this Act, shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a 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:

Provided that, nothing in this section shall apply for the purpose of collection by hotelier of any amount by way of tax under this Act.

18. Offences and penalties: - (1) Whoever, knowingly furnishes a false return shall, on conviction, be punished-

- (i) in case where the amount of tax, which could have been evaded if the false return had been accepted as true, exceeds Rs. 10,000 with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine;
 - (ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.
- (2) Whoever, knowingly keeps false account of the receipts in contravention of section 13, shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.
- (3) Whoever -
- (i) wilfully attempts, in any manner whatsoever, to evade any tax leviable under this Act, or
 - (ii) wilfully attempts, in any manner whatsoever, to evade any payment of any tax or penalty or interest under this Act, shall, on conviction, be punished -
 - (a) in case where the amount involved exceeds Rs. 50,000 during a period of half-year, with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine;
 - (b) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.

- (4) Whoever aids or abets any person in commission of any specified in sub-sections (1) to (3), shall, on conviction, punished with rigorous imprisonment which shall not be less than three months but which may extend to one year with fine.
- (5) Whoever -
- (a) carries on business without being registered in wilful contravention of section 6, or
 - (b) fails, without sufficient cause, to furnish any information required by section 8, or
 - (c) fails without sufficient cause, to furnish any return required by section 10, by the date and in the manner prescribed, or
 - (d) contravenes, without reasonable cause, any of the provisions of section 11, or
 - (e) fails, without sufficient cause, to issue a bill or cash memorandum as required under section 12, or
 - (f) fails, without sufficient cause, when directed under section 13, to keep any account or record, in accordance with such direction, or
 - (g) voluntarily obstructs any officer making inspection or search or seizure, shall, on conviction be punished with imprisonment for a term which may extend to one year and with fine.
- (6) Whoever commits any of the acts specified in sub-sections (1) to (5) and the offence is a continuing one under any of the provisions of these sub-sections, shall on conviction, be punished with a daily fine of not less than rupees one hundred during the period of the continuance of the offence, in addition to the punishment provided under this section.
- (7) Notwithstanding anything contained in sub-sections (1) to (6) no person shall be proceeded against under these subsections for the acts referred to therein, if the total amount of tax evaded or attempted to be evaded is less than rupees two hundred during the period of a half-year.
- (8) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed by the assessing officer under any provisions of this Act.

19. Power to make rules: - (1) The State Government may, subject to the condition of previous publication, by notification make rules for carrying out the purposes of this Act:

Provided that if the State Government is satisfied that circumstances exist which render it necessary for it to make immediate action, if any, it may make any rules without such previous publications:

Provided further that any rule under this Act may be made so as to have the retrospective effect.

- (2) In particular and without prejudice to the generality of the foregoing provision, the State Government may make rules for all or any of the following matters, namely :-
- (a) the manner expressly required or allowed by this Act to be prescribed;
 - (b) the manner of payment of tax;
 - (c) the form in which accounts and registers shall be maintained by a hotelier;
 - (d) any other matter which is required or allowed by this Act to be prescribed.
- (3) The State Government shall cause every rule made under this Act and every notification issued under this Act to be laid, as soon as may be, after it is published before 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 or more successive sessions in which it is so laid or the sessions immediately following, and if the State Legislature agrees in making any modification in the rule or notification or that the rule or notification should not be made, 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.

Amendment: *In the principal Act, section 19 has been substituted vide notification no.LGL.72/2004/87 Dated 29th August, 2009 published in the Assam Gazette Extraordinary No.262 Dated 29th August, 2009.*

20. Power to remove difficulties :- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order, do anything not inconsistent with such provision which appears to it to be necessary or expedient for the purpose of removing the difficulty.

ASSAM ACT NO. XXV OF 2004

(Received the assent of the Governor on 28th December, 2004)

THE ASSAM TAX ON LUXURIES (HOTELS AND LODGING HOUSES)
(AMENDMENT) ACT, 2004AN
ACTAmendment of
section 3.

further to amend the Assam Tax On Luxuries (Hotels and Lodging Houses) Act, 1989:

Preamble.

Whereas it is expedient further to amend the Assam Tax On Luxuries (Hotels and Lodging Houses) Act, 1989, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

Assam
Act V of
1989.

It is hereby enacted in the Fifty-fifth Year of the Republic of India as follows:-

Short title, extent
and commence-
ment.

1.(1) This Act may be called the Assam Tax On Luxuries (Hotels and Lodging Houses) (Amendment) Act, 2004.

(2) It shall have the like extent as the principal Act.

(3) It shall come into force at once.

Amendment of
section 2.

2. In the principal Act, in section 2,-

(i) in clause (5), for the existing provisions, the following shall be substituted, namely:-

“(5) “hotel” means a house which visitors or other person hire for lodging or for other purpose for a night or more and includes a lodging house, an inn, a public house or a building or part of a building where accommodation is provided by way of business, excluding students’ hostel and residential house, building or part of a building let out on monthly rents.”;

(ii) for clause (7), the following shall be substituted, namely:-

“(7) “luxury provided in a hotel” means accommodation and other services provided in a hotel for charges, including the charges for air conditioning, telephone, televisions, radio, music, entertainment, extra beds and the like but does not include the supply of food and drinks where such supply is separately charged for.”;

(iii) after clause (16), a new clause (17) shall be inserted, namely:-

Insertion of new
section 3A.“Liability of
marginal hotelier
to pay taxAmendment of
section 15.GUWAHATI- Printed
Assam, G

"(17) 'marginal hotelier' means, a hotelier who owns the hotel having not more than ten rooms and the charge for luxury provided in such room is less than two hundred rupees per day per room."

Amendment of section 3.

3.(i) In the principal Act, in section 3, in sub-section (2), for the existing clauses (a), (b) and (c), the following shall be substituted, namely:-

"(a) where the charge for luxury provided in a hotel is not more than two hundred rupees per day per room.	Five per centum of such turnover of receipts.
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(b) where the charge for luxury provided in a hotel is more than two hundred rupees but does not exceed five hundred rupees per day per room.	Ten per centum of such turnover of receipts.
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(c) where the charge for luxury provided in a hotel exceeds five hundred rupees per day per room.	Fifteen per centum of such turnover of receipts."
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(ii) in the principal Act, in section 3, in sub-section (2), clause (d), appearing before the existing proviso shall be omitted;

(iii) in the principal Act, in sub-section (6), for the words and figures and brackets "The Assam Sales Tax Act, 1947 (Assam Act XVII of 1947)", the words and figures and brackets "the Assam General Sales Tax Act, 1993 (Assam Act XII of 1993)" shall be substituted.

Insertion of new section 3A.

4. In the principal Act, after section 3, a new section 3A shall be inserted, namely:-

"Liability of marginal hotelier to pay tax

3A. Subject to the provisions of this Act and the rules made thereunder, the marginal hotelier may opt for lump-sum payment of tax in lieu of amount of tax payable on the turnover of receipts of such hotelier, not exceeding Rs.500/- per room per year, as the State Government may, by notification in the Official Gazette, fix in this behalf."

Amendment of section 15.

5. In the principal Act, in section 15, in sub-section (1), in clause (b), in sub-clause (B), for the words and figure and brackets "sub-clause (ii) of clause (a)", the following shall be substituted, namely:-

"sub-clause (iii) of clause (a)".

M. K. DEKA,
Commissioner & Secy. to the Govt. of Assam,
Legislative Department, Dispur.



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

নং 110 দিশপুৰ, মঙ্গলবাৰ, 8 এপ্ৰিল, 2008, 19 চ'ত, 1930 (শক)
No.110 Dispur, Tuesday, 8th April, 2008, 19th Chaitra, 1930 (S.E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LEGISLATIVE DEPARTMENT :: LEGISLATIVE BRANCH

NOTIFICATION

The 8th April, 2008

No. LGL.72/2004/78.-- The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XI OF 2008
(Received the assent of the Governor on 5th April, 2008)
**THE ASSAM TAX ON LUXURIES (HOTELS AND LODGING HOUSES)
(AMENDMENT) ACT, 2008**

AN

ACT

further to amend the Assam Tax On Luxuries (Hotels and Lodging Houses) Act, 1989.

Preamble.

Whereas it is expedient further to amend the Assam Tax On Luxuries (Hotels and Lodging Houses) Act, 1989, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

Assam
Act V of
1989.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

Short title, extent
and commence-
ment.

- 1.(1) This Act may be called the Assam Tax On Luxuries (Hotels and Lodging Houses) (Amendment) Act, 2008.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.

Amendment of
section 16.

2. In the principal Act, in section 16,—
- (i) in sub-section (2), for the words and punctuation mark commas “first pay into Government treasury, in the prescribed manner,” appearing between the words “shall” and “whole”, the words “pay into Government account in such manner as may be prescribed,” shall be substituted;
 - (ii) in sub-section (3), for the words “first pay into a Government treasury”, appearing between the word “shall” and “the extra amount”, the words “pay into Government account in such manner as may be prescribed” shall be substituted;
 - (iii) in sub-section (4), in the portion appearing after clause (c),—
 - (i) in between the words “paid” and “by the hotelier”, the words “into Government account in such manner as may be prescribed” shall be inserted;
 - (ii) the words “into a Government treasury” shall be omitted.

MOHD. A. HAQUE,
Secretary to the Government of Assam,
Legislative Department, Dispur.



THE ASSAM GAZETTE

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 - (ii) in sub-section (3), for the words “first pay into a Government treasury”, appearing between the word “shall” and “the extra amount”, the words “pay into Government account in such manner as may be prescribed” shall be substituted;
 - (iii) in sub-section (4), in the portion appearing after clause (c),—
 - (i) in between the words “paid” and “by the hotelier”, the words “into Government account in such manner as may be prescribed” shall be inserted;
 - (ii) the words “into a Government treasury” shall be omitted.

MOHD. A. HAQUE,
Secretary to the Government of Assam,
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