



The Himachal Pradesh Tax on Luxuries (In Hotel and Lodging House) Act, 1979

Act 15 of 1979

Keyword(s):

Concessional Rate, Hotel, Luxury Provided in Hotel, Proprietor

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**THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS
AND LODGING HOUSES) ACT, 1979**

ARRANGEMENT OF SECTIONS

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**THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND
LODGING HOUSES) ACT, 1979**

(Act No. 15 OF 1979)¹

(Received the assent of the Governor, H.P. on the 16th June, 1979 and was published in R.H.P Extra., dated the 19th June, 1979 at Pages 1939—1945)

An Act to provide for the levy and collection of tax on luxury provided in hotels and lodging houses.

Whereas it is expedient to provide for the levy and collection of a tax on luxuries provided in hotels and lodging houses and for matters connected with the purpose aforesaid; it is hereby enacted by the Legislative Assembly of Himachal Pradesh in the Thirtieth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force from the date the Act is notified in the Official Gazette.

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

(a) "assessing authority" means the Excise and Taxation Officer or the Assistant Excise and Taxation Officer, appointed under

¹: For Statement of Objects and Reasons, see R. H. P. Extra., dt. 21-4-1979, p. 1532.

sub-section (1) of section 3 of this Act and conferred the powers under sub-section (2) of section 3 for carrying the purposes of this Act ;

- (b) "commissioner" means the Excise and Taxation Commissioner appointed under sub-section (1) of section 3;
- (c) "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 than that fixed by any Government authority, or under any law for the time being in force ;
- (d) "hotel" means a building or a part of a building where residential accommodation is by way of business provided for a monetary consideration and it includes a lodging house ;
- (e) "luxury provided in hotel" means accommodation for residence provided in a hotel, rate of charges for which (including air-conditioning, telephone, television, radio, music or extra beds and the like, but excluding charges for food, drink and for other amenities) is twenty five rupees per person per day or more;
- (f) "proprietor" in relation to a hotel includes the person who for the time being is in-charge of the management of the hotel; and
- (g) "prescribed" means by the rules made under this Act.

3. Taxing authorities.—(1) For carrying out the purposes of this Act, the State Government may appoint a person to be the Excise and Taxation Commissioner and such other persons to assist him as it thinks fit.

(2) Persons appointed under sub-section (1) shall exercise such powers as may be conferred and perform such duties as may be required, by or under this Act.

(3) All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. (45 of 1860).

4. Levy and collection of tax.—(1) Subject to the provisions of this Act, there shall be levied and collected a tax in respect of any luxury provided in a hotel (hereinafter called the "luxury tax").

(2) The luxury tax shall be payable by the persons residing at a hotel at the following rates, namely:—

- (a) where the charges for residence is twenty-five rupees or more but does not exceed fifty rupees per day per person ; 3 per centum of such charges.
- (b) where the charges for residence exceeds fifty rupees but does not exceed seventy-five rupees per day per person ; 5 per centum of such charges.
- (c) where the charges for residence exceeds seventy-five rupees per day per person. 8 per centum of such charges.

Provided that, where any such charges are paid by any person other than the citizen of India, in any foreign exchange, than such person or where such charges are paid by any person or class of persons as the State Government may, by order, direct, such as foreigners staying as guests in India of any Government, or of any corporation or company owned or controlled by the Government, or such other person as in the opinion of the State Government, it is expedient in the public interest to exempt, then such person or persons shall be exempt from the payment of luxury tax :

Provided further that, where the charges are levied otherwise than on daily basis or per person, then, charges for determining the tax liability under this section, shall be computed as for a day and per person based on the period of occupation of the residence for which the charges are made and the number of persons actually occupying or permitted to occupy according to the rules or custom of the hotel.

(3) Where luxury is provided in a hotel to the representatives or employees of any company and charges for such luxury are to be borne by the company, then there shall be levied and collected the luxury tax from such company.

Explanation.—In this sub-section "company" means any body corporate, and includes a firm or other association of individuals.

(4) The luxury tax under the foregoing sub-sections shall be collected by the proprietor and paid within such period into a Government treasury or the State Bank of India and in such manner as may be prescribed.

(5) In computing the luxury tax under this section, a fraction of a rupee which is not a multiple of five paise, shall be rounded off to the next higher multiple of five paise.

5. Mode of collection of tax, etc.—(1) Where the rate of charges for luxury provided in a hotel is inclusive of the charges for food or drink, or other amenities, if any, being amenities referred to in clause (e) of section 2, then the Commissioner or any other officer, not below the rank of the Deputy Excise and Taxation Commissioner, authorised in writing 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 other amenities, if any, being amenities referred to in clause (e) of section 2, for the purpose of calculating the luxury tax under this Act.

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

(4) Where luxury provided in a hotel for a specified number of persons is shared by more than the number specified, then in addition to the luxury tax paid for luxury provided to the specified number of persons, there shall be

levied and recovered separately the luxury tax in respect of the charge made for the extra persons accommodated.

(5) Where any proprietor fails or neglects to collect the luxury tax payable under this Act, the luxury tax shall be calculated and paid as if the tax was recovered from the person liable to pay the same.

6. Returns.—(1) Every proprietor liable to pay luxury tax under this Act shall submit a return in the prescribed form to the assessing authority of the district concerned within eight days after the end of the month to which the return relates.

(2) Every such return 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 day of arrival and departure, the amount of charges recovered from them, together with such other information as may be prescribed.

(3) Every such return shall be accompanied by a receipt for payment on Government account into a Government treasury or the State Bank of India of the full amount of luxury tax for the period to which the return relates.

(4) Every return shall be verified in the prescribed manner.

7. Assessment and collection of tax.—(1) On receipt of a return under section 6, the assessing authority of the district concerned shall assess the luxury tax payable in respect of the period to which the return relates and if the amount has not already been paid as aforesaid, he shall cause notice to be served upon the proprietor concerned requiring him to pay the amount assessed within ten days of the service of the notice.

(2) If the proprietor fails to submit in due time the return referred to in section 6, the assessing authority shall, after giving him a reasonable opportunity of being heard, assess to the best of his judgement, the amount of luxury tax payable and the provisions of sub-section (1) in respect of notice shall apply as if such assessment has been made on the basis of a return furnished by such proprietor.

(3) If the luxury tax is not paid within the prescribed period the assessing authority may, after giving an opportunity of being heard, levy a penalty equal to a sum not exceeding one and a half times of the amount of the luxury tax payable under this Act.

8. Appeal.—Any person aggrieved by any order passed by the assessing authority under this Act may, in the prescribed manner, appeal to the Deputy Excise and Taxation Commissioner within 90 days from the date of receipt of such order :

Provided that no appeal shall be entertained by the Deputy Excise and Taxation Commissioner, unless he is satisfied that the amount of tax assessed and the penalty, if any, imposed on the proprietor has been paid :

Provided further that if the Deputy Excise and Taxation Commissioner is satisfied that the proprietor is unable to pay the tax assessed or the penalty,

if any, imposed or both, he may for reasons to be recorded in writing, entertain the appeal without the tax or penalty or both having been paid.

(2) Subject to the rules of procedure as may be made in this behalf by the State Government the Deputy Excise and Taxation Commissioner, may pass such orders in relation thereto as he may think fit.

9. Revision.—(1) The Commissioner may, *suo-motu* or on application, call for and examine the record and proceedings which are pending before, or have been disposed of by any assessing authority or the appellate authority under section 8 for the purpose of satisfying himself as to the legality or propriety of such proceedings or of any order made therein and may pass such orders in relation thereto as he may think fit :

Provided that no application under this section shall be entertained if it is not made within the period of 120 days from the date of order :

Provided further that, before rejecting any application for revision of any such order, the Commissioner shall record reasons for such rejection.

(2) No order shall be passed under this section which is likely to affect any person adversely, unless such person has been given a reasonable opportunity of being heard by the Commissioner.

(3) Where a person could have appealed under section 8 and no appeal has been filed by him, no proceedings under this section shall be entertained upon the application of such person.

10. Court fees.—Notwithstanding anything contained in the Himachal Pradesh Court Fees Act, 1968 (8 of 1968) an appeal preferred under section 8 or an application for revision made under section 9 shall bear court fee stamp of such value as may be prescribed.

11. Recovery as arrears of land revenue.—Any luxury tax or penalty recoverable under this Act and remaining unpaid shall be recoverable as an arrear of land revenue.

12. Service of notice.—A notice under the provisions of this Act may be served by post or by delivering or tendering it to the person to whom it is addressed or to his agent or in such manner as may be prescribed.

13. Power to inspect accounts and documents etc. and search of premises.—

(1) The assessing authority may, subject to such conditions as may be prescribed, require any proprietor to produce before him the working records of accounts, registers or documents or to furnish any information relating to the business of the hotel as may be necessary for the purpose of this Act.

(2) All working records of accounts, registers or documents relating to the business of any hotel shall, at all reasonable time, be open to inspection by the assessing authority, and the assessing authority may, take or cause to be taken such copies of or extracts from any of the said records or accounts as may be necessary for the purpose of testing accuracy of any return or charges of such luxury or for informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder as would appear to him necessary.

(3) If the assessing authority has reasons to believe that any proprietor has evaded or is attempting to evade the payment of luxury tax due from him, he may, for reasons to be recorded in writing, seize such records of accounts, registers or documents of the proprietor as may be necessary and shall grant a receipt for the same and shall retain the same so long as may be necessary in connection with any proceedings under this Act or for a prosecution.

(4) For the purposes of this Act, the assessing authority may enter and search any hotel or any place of business of the proprietor or any other place where the assessing authority has reason to believe that the proprietor keeps or is for the time being keeping, any records of accounts, registers or documents of his business in relation to the hotel.

14. Penalty.—(1) Any person who being a proprietor liable to pay the luxury tax under this Act,—

- (a) submits or allows or causes to be submitted an incorrect or incomplete return or fails to submit the return as required by or under the provisions of this Act; or
- (b) fraudulently evades or allows to be evaded the payment of any luxury 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 submitted or any accounts or register; or
- (d) contravenes, or fails to comply with, any of the provisions of this Act or the rules made thereunder or any order or direction made or given thereunder, shall, if no other penalty is provided under this Act for such contravention or failure, be liable to the imposition of penalty not exceeding double of the amount of tax involved.

(2) The officer of the rank of the Excise and Taxation Officer/the Assistant Excise and Taxation Officer, appointed under sub-section (2) of section 3, may, after affording to the person concerned reasonable opportunity of being heard, impose penalty specified under sub-section (1).

15. Offences by companies.—(1) Where an offence under this Act has been committed by the company, every person who at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as 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 committed was without his knowledge or that he exercised due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and 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 or secretary or any officer of the company, such director, manager, secretary or

other officer shall also be deemed to be guilty of that offence and 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 ;
- (b) "director" in relation to a firm means a partner in the firm.

16. *Indemnity.*—No suit, prosecution or other legal action shall lie against the Government or any officer of the Government for anything which is in good faith done or intended to be done by or under this Act or the rules made thereunder.

17. *Power to make rules.*—(1) The State Government may make rules for securing payment of the luxury tax on hotels, and generally for carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the form in which the return shall be submitted under section 6, further information to be furnished with the returns and the manner in which returns shall be verified ;
- (b) the form of notice to be served under section 7 and the procedure to be followed for assessment and collection of the assessed dues ;
- (c) the procedure for, and other matters incidental to, the disposal of appeals under section 8 ;
- (d) fixation of the value of court fee stamp to be affixed on an appeal or application for revision under section 10 ;
- (e) the other manner in which a notice may be served under section 12 ;
- (f) the procedure for inspection and taking copies of records and accounts under section 13 ;
- (g) the fees to be paid for any of the matters provided in this Act; and
- (h) any other matter which is required to be or may be prescribed.

(3) All rules made under this section shall be subject to the condition of previous publication .

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule 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.

establishment of check posts/erection of barriers at the following places with immediate effect:—

Sl. No. 1	Name of place where the sales tax check post/barrier is established 2	Name of the District in which falls 3
1.	Kheri (on Kala-Amb Sketi Khajurna road)	Sirmaur district.
2.	Una (near Deputy Commissioner's Office, Una)	Una district.
3.	Saloh	Una district.
4.	Dehra (on Dehra Bridge)	Kangra district.
5.	Rajban (near Rajban Cement Factory)	Bilaspur district.
6.	Gaggal (near Barnana Cement Factory)	Bilaspur district.
7.	Pandoh	Mandi district.
8.	Nadaun	Hamirpur district.
9.	Motor Barrier, Shimla (near Police check post)	Shimla district.

(R.H.P. Extra., dated 28-9-1991, P. 2154)

AUTHORITATIVE ENGLISH TEXT OF

THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND LODGING HOUSES) (AMENDMENT) ACT, 1991

(Act No. 9 of 1991)*

ARRANGEMENT OF SECTIONS

Sections:

1. Short title.
2. Amendment of section 2.
3. Amendment of section 4.
4. Insertion of section 5-A.
5. Substitution of section 6.
6. Substitution of section 7.
7. Insertion of sections 7-A and 7-B.
8. Substitution of section 9.
9. Insertion of sections 13-A and 13-B.
10. Amendment of section 14.
11. Amendment of section 17.

(Received the assent of the Governor, Himachal Pradesh, on 18th April 1991 and was published in Hindi in R.H.P. Extra, dated, 20-4-1991 P. 817 823 and in English in R.H.P. Extra., dated 20-4-1991, p. (824-830).

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra, dated 21-3-1991 at pages 864 and 874.

An Act further to amend the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (Act No. 15 of 1979).

Enacted by the Legislative Assembly of Himachal Pradesh in the Forty-second Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) (Amendment) Act, 1991.

2. **Amendment of section 2.**—In section 2 of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (15 of 1979) (hereinafter called the principal Act),—

- (i) for clause (a), the following shall be substituted, namely:—
 - (a) “assessing authority” means the Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer, appointed under sub-section (1) of section 3 of this Act and conferred the powers under sub-section (2) of section 3 thereof for carrying out the purposes of this Act;”
- (ii) after clause (c) the following clause (cc) shall be inserted, namely:—
 - (cc) “Deputy Excise and Taxation Commissioner” means the Deputy Excise and Taxation Commissioner, appointed under sub-section (1) of section 3 of this Act, to assist the Commissioner and shall also include the Joint Excise and Taxation Commissioner;”
- (iii) in clause (e), for the word “twenty-five”, the word “fifty” shall be substituted;
- (iv) in clause (f), the word “and” occurring at the end shall be deleted; and
- (v) in clause (g), for the sign“.”, the sign and word “; and” shall be substituted and thereafter the following clause (h) shall be added, namely:—

“(h) “registered” means registered under this Act.”.

3. **Amendment of section 4.**—For sub-section (2) of section 4 of the principal Act, the following shall be substituted, namely:—

“(2) The luxury tax shall be payable by the persons residing at a hotel at the following rates, namely:—

- (a) where the charges for residence are fifty rupees but do not exceed one hundred and fifty rupees per day per person; 8 per centum of such charges; and
- (b) where the charges for residence exceed one hundred and fifty rupees per day per person; 10 per centum of such charges :

Provided that, where any such charges are paid by any person other than the citizen of India, in any foreign exchange, then such person or where such charges are paid by any person or class of persons as the State Government may by order direct, such as

foreigners staying as guests in India of any Government, or of any corporation or company owned or controlled by the Government, or such other person as in the opinion of the State Government, if it is expedient in the public interest to exempt, then such person or persons shall be exempt from the payment of the luxury tax:

Provided further that, where charges are levied otherwise than on daily basis or per person, then, charges for determining the tax liability under this section, shall be computed as for a day and per person based on the period of occupation of the residence for which the charges are made and the number of persons actually occupying or permitted to occupy according to the rules or custom of the hotel."

4. **Insertion of section 5-A.**—After section 5 of the principal Act, the following section 5-A shall be inserted, namely :—

- "5-A. *Registration of proprietor.*—(1) No proprietor shall, while being liable to pay tax under this Act, carry on business as a proprietor unless he has been registered and possesses a registration certificate.
- (2) Every proprietor required by sub-section (1) to be registered shall make an application in this behalf in the prescribed manner to the assessing authority of the district concerned.
- (3) If the assessing authority is satisfied that an application for registration is in order, he shall, in accordance with such rules and on payment of such fee, as may be prescribed, register the applicant and grant him certificate of registration in the prescribed form.
- (4) The assessing authority may, from time to time, by order, amend or cancel any certificate of registration on any sufficient cause including the cessation of liability to pay luxury tax under this Act:

Provided that no order affecting any person adversely shall be made under this sub-section without affording him reasonable opportunity of being heard.

- (5) When any proprietor has paid the amount of penalty imposed under section 14 in respect of any contravention of sub-section (1) of this section, the assessing authority shall register such proprietor and grant him a certificate of registration and such registration shall take effect as if it had been made under sub-section (3) of this section on the proprietor's application.
- (6) When any business in respect of which a certificate of registration has been granted under this section has been discontinued or transferred in the name of other proprietor or person, the assessing authority shall cancel the registration and the cancellation shall come into force after such discontinuance or transfer."

5. **Substitution of section 6.**—For section 6 of the principal Act, the following shall be substituted, namely :—

- "6. *Payment of tax and submission of returns.*—(1) Every proprietor, liable to pay luxury tax under this Act shall deposit the full amount of luxury tax due and payable by him, in respect of each

month within eight days after the close of the month to which the luxury tax relates into a Government treasury or the State Bank of India, and shall furnish to the assessing authority of the district concerned a proof of having paid the tax due in the prescribed manner.

- (2) Every proprietor shall furnish a return in the prescribed form to the assessing authority of the district concerned quarterly within 15 days after the close of each quarter along with the receipts of payment of luxury tax for each month of the quarter to which the return relates.
- (3) Every such return 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 amount of charges recovered from them, together with such other information as may be prescribed.
- (4) Every return shall be verified in the prescribed manner.
- (5) If a proprietor fails without sufficient cause to comply with the requirements of provisions of sub-sections (1), (2) and (3) the assessing authority of the district concerned may, after giving such proprietor a reasonable opportunity of being heard, direct him to pay, by way of penalty, a sum not exceeding one and a half times of the amount of luxury tax due and payable by him under this Act.
- (6) If a proprietor has maintained false or incorrect accounts with a view to suppressing any transaction pertaining to his business or has concealed any particulars of his business or has furnished to, or produced before, any assessing authority under this Act or the rules made thereunder any account, return or information which is false or incorrect in any material particular, the Commissioner or any other person appointed to assist him under sub-section (1) of section 3 of this Act may, after affording such proprietor a reasonable opportunity of being heard, direct him to pay by way of penalty in addition to the luxury tax to which he is assessed or is liable to be assessed, an amount which shall not be less than twenty-five per centum but which shall not exceed one and a half times of the amount of luxury tax to which he is assessed or is liable to be assessed."

6. Substitution of section 7.—For section 7 of the principal Act, the following shall be substituted, namely:—

- "7. *Assessment of luxury tax.*—(1) The amount of luxury tax due from a proprietor shall be assessed separately for every half financial year or part thereof.
- (2) If the assessing authority is satisfied without requiring the presence of proprietor or the production by him of any evidence that the returns furnished in respect of any period are correct and complete, he shall assess the amount of luxury tax due from the proprietor on the basis of such returns.
 - (3) If the assessing authority is not satisfied without requiring the presence of proprietor who furnished the returns or production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such proprietor a notice

in the prescribed manner requiring him, on a date and at a place specified therein, either to attend in person or to produce or to cause to be produced any evidence on which such proprietor may rely in support of such returns.

- (4) On the day specified in the notice or as soon afterwards as may be, the assessing authority shall, after hearing the proprietor and considering such evidence as the proprietor may produce, and such other evidence as the assessing authority may require on specified points, assess the amount of luxury tax due from the proprietor.
- (5) If a proprietor, having furnished returns in respect of a period, fails to comply with the terms of a notice issued under sub-section (3), the assessing authority shall, within five years after the expiry of such period, proceed to assess to the best of his judgement the amount of the luxury tax due from the proprietor.
- (6) If a proprietor does not furnish returns in respect of any period by the specified date, the assessing authority shall within five years after the expiry of such period, after giving the proprietor a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, the amount of luxury tax, if any, due from the proprietor.
- (7) If upon information which has come into his possession, the assessing authority is satisfied that any proprietor has been liable to pay luxury tax under this Act in respect of any period but has failed to apply for registration, the assessing authority shall, within five years after the expiry of such period after giving the proprietor a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, the amount of tax, if any, due from the proprietor in respect of such period and all subsequent periods and in cases where such proprietor has wilfully failed to apply for registration, the assessing authority may direct that the proprietor shall pay by way of penalty, in addition to the amount of luxury tax so assessed, an amount which shall not be less than ten per centum, but which shall not exceed one and a half times of the amount of luxury tax to which he is assessed.
- (8) The amount of any luxury tax, penalty or interest payable under this Act shall be paid by the proprietor in the manner prescribed by such date as may be specified in the notice issued by the assessing authority for the purpose and the date so specified shall not be less than fifteen days and not more than thirty days from the date of service of such notice.
- (9) If the luxury tax assessed under this Act is not paid by any proprietor within the time specified therefor in the notice of assessment, the assessing authority of the district concerned may, after giving such proprietor an opportunity of being heard, impose on him a penalty not exceeding an amount the sum due from him.
- (10) Any assessment made under this section shall be without prejudice to any penalty imposed under this Act."

7. Insertion of sections 7-A and 7-B.—After section 7 of the principal Act, the following sections 7-A and 7-B shall be inserted, namely :—

"7-A. *Re-assessment of luxury tax.*—(1) If in consequence of any information which has come into his possession, the assessing

authority discovers that the luxury tax payable by a proprietor has been under-assessed or has escaped assessment in any financial year or half financial year, as the case may be, the assessing authority may, at any time within five years following the close of such year for which luxury tax is proposed to be re-assessed and after giving the proprietor a reasonable opportunity in the prescribed manner of being heard, proceed to re-assess the luxury tax payable, which has been under-assessed or has escaped assessment.

- (2) The assessing authority or any such authority as may be appointed by the Government, may, at any time, within one year from the date of any order passed by him and subject to such conditions as may be prescribed, rectify any clerical or arithmetical mistake apparent from the record.

7-B Payment of interest.—(1) If any proprietor fails to pay the amount of luxury tax due from him under this Act, except to the extent mentioned in sub-section (2), he shall, in addition to the amount of luxury tax, be liable to pay simple interest on the amount of luxury tax due and payable by him, at the rate of one per centum per month from the date immediately following the last date on which the proprietor should have filed the return and paid the luxury tax under the Act for a period of one month, and thereafter at the rate of one and a half per centum per month till the default continues.

- (2) If the amount of luxury tax or penalty due from a proprietor is not paid by him within the period specified in the notice issued under sub-section (8) of section 7 or, if no period is specified within thirty days from the service of such notice, the proprietor shall, in addition to the amount of luxury tax or penalty, be liable to pay simple interest on such amount, at the rate of one per centum per month from the date immediately following the date on which the period specified in the notice or the period of thirty days, as the case may be, expires, for a period of one month, and thereafter at the rate of one and a half per centum per month till the default continues:

Provided that where the recovery of any luxury tax or penalty is stayed by an order of any court, the amount of luxury tax or penalty shall, after the order of stay is vacated, be recoverable along with interest at the aforesaid rate on the amount ultimately found to be due and such interest shall be payable from the date the luxury tax or penalty first became due.

- (3) The amount of interest payable under this section shall—

- (i) be calculated by considering if part of a month is more than fifteen days as one month and any amount if more than fifty rupees but less than one hundred rupees as one hundred rupees;
- (ii) for the purposes of collection and recovery, be deemed to be luxury tax under this Act; and
- (iii) be in addition to the penalty, if any, imposed under this Act.”

8. Substitution of section 9.—For section 9 of the principal Act, the following shall be substituted, namely:—

- “9. *Revision.*—(1) The Commissioner may, of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by, any authority subordinate to him, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.
- (2) The State Government may by notification confer on any officer powers of the Commissioner under sub-section (1) to be exercised subject to such conditions and in respect of such areas as may be specified in the notification.
- (3) No order shall be passed under this section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.”

9. Insertion of sections 13-A and 13-B.—After section 13 of the principal Act, the following sections 13-A and 13-B shall be inserted, namely:—

- “13-A. *Proprietor to maintain accounts.*—(1) Every registered proprietor and other proprietor who may be required so to do, by the Commissioner or any person appointed to assist him under sub-section (1) of section 3, by notice served on him, shall keep a true account of the luxury provided by him in his hotel, and if the Commissioner or such other person considers that such accounts are not sufficiently clear or intelligible to enable him to make a proper check of the returns or the statement furnished, he may require such proprietor by notice in writing to keep such accounts including such records of luxury provided in his hotel, as he may consider necessary.
- (2) Every registered proprietor shall, issue to the customer or customers a bill or a cash memorandum serially numbered bearing the name and address of the proprietor, the date of issue and the signature of such proprietor or his servant, manager or agent and showing therein such other particulars of charges for the luxury provided in the hotel, and preserve a carbon copy of such bill or cash memorandum for a period of not less than five years from the date of issue thereof.
- (3) Where any proprietor contravenes the provisions of sub-section (1) or sub-section (2), the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may, after affording such proprietor a reasonable opportunity of being heard, impose upon him a penalty which may extend to five hundred rupees.
- 13-B. *Power to transfer proceedings.*—The Commissioner may, after giving the parties a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, by order in writing transfer any proceedings under any provisions of this Act, from any officer to any other officer subordinate to him:

Provided that nothing in this section shall be deemed to require any such opportunity to be given where the offices of both the aforesaid officers are situated in the same city, locality or place.

Explanation.— In this section, the word “proceedings” in relation to any proprietor whose name is specified in any order issued thereunder, means all or any proceedings under this Act in respect of any period which may be pending on the date of such order or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order, in respect of any period in relation to such proprietor.”.

10. Amendment of section 14.—For sub-section (2) of section 14 of the principal Act, the following shall be substituted, namely :—

“(2) The Officer not below the rank of the Excise and Taxation Officer, appointed under sub-section (2) of section 3, may, after affording to the person concerned a reasonable opportunity of being heard, impose penalty specified under sub-section (1).”

11. Amendment of section 17.—In section 17 of the principal Act, in sub-section (2),—

(a) the existing clause (a) shall be re-numbered as clause (aa) and before clause (aa) so re-numbered, the following clause (a) shall be inserted, namely :—

- “(a) to prescribe the form, fee and the manner in which the registration certificate is to be issued under section 5-A;” and
 (b) after clause (b), the following new clauses (bb) and (bbb) shall be inserted, namely :—
 “(bb) the manner of payment of luxury tax, penalty or interest under sub-section (8) of section 7;
 (bbb) the manner in which the opportunity to be given to the proprietor under sub-section (1) and the conditions as may be prescribed under sub-section (2) of section 7-A;”.

NOTIFICATION

UNDER

THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND LODGING HOUSES) ACT, 1979

APPOINTMENTS AND DELEGATIONS

[Authoritative English text of notification No. EXN-F (21)4/87, dated 6-2-1991, issued in Hindi and published in R.H.P. Extra., dated 19-3-91, p. 401]

EXCISE AND TAXATION DEPARTMENT

NOTIFICATION

Shimla-2, the 6th February, 1991

No. EXN-F(21)4/87.—In continuation of this Department notification No. EXN-F (10)-5/79-II, dated the 27th June, 1980 and in exercise of the powers conferred by sub-sections (1) and (2) of section 3 of the Himachal

vide this department Notification of even number dated the 21st October, 1992 in pursuance of the provisions of sub-section (1) of section 15 of the aforesaid Act for inviting objections and suggestions from the person(s) likely to be affected thereby;

And whereas no objections and suggestions have been received within the stipulated period in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 15 of the Himachal Pradesh Taxation (on Certain Goods Carried by Road) Act, 1991 (Act No. 10 of 1991), the Governor, Himachal Pradesh, is pleased to amend the existing rate of tax, specified in column (3) of Schedule-I of the said Act, in respect of goods specified in column (2) of Sl. 15 (b) from "Rs. 500/- per quintal" to "Rs. 250/- per quintal" with immediate effect.

(R.H. P. Extra., dated 19-12-1992 P, 3626)

AUTHORITATIVE ENGLISH TEXT

THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND LODGING HOUSES) (AMENDMENT) ACT, 1992

(Act No. 8 of 1992)

ARRANGEMENT OF SECTIONS

Sections:

1. Short title and commencement
2. Amendment of section 2
3. Amendment of section 4
4. Omission of section 5.
5. Amendment of section 17.

(Received the assent of the Governor, Himachal Pradesh, on the 25th April, 1992 and published in Hindi and English in R.H.P. Extra., dated 27-4-1992, at pages 1890 to 1892 and 1893 to 1895).

An Act further to amend the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (Act No. 15 of 1979).

Enacted by the Legislative Assembly of Himachal Pradesh in the Forty-third Year of Republic of India as follows :—

1. Short title and commencement.—(1) This Act may be called the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) (Amendment) Act, 1992.

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R. H. P. Extra., dated 28-3-1992, p. 1627 and 1632.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2.*—In section 2 of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (15 of 1979) (hereinafter called the principal Act),—

(a) in clause (c), for the words “any Government”, the words “the prescribed” shall be substituted;

(b) for clauses (d) and (e), the following clauses shall be substituted, namely :—

“(d) “hotel” means a building or a part of the building where residential accommodation by way of business is provided for a monetary consideration and includes a lodging house but shall exclude a dharamshala or any other similar establishment run by a Public Charitable Trust which provides accommodation with or without meals and the net income from which is utilised exclusively for charitable purposes;

(e) “luxury provided in a hotel” means accommodation for residence provided in a hotel including charges for air-conditioning, telephone, television, radio, music, sports, extra beds and other amenities, provided in a hotel;” and

(c) after clause (e) the following clause (ee) shall be inserted, namely:—

“(ee) “prescribed authority” means the authority, notified by the Government under clause (n) of section 3 of the Himachal Pradesh Registration of Tourist Trade Act, 1988 (9 of 1988), for the purpose of fixation of maximum rates and service charges for board and lodge which may be charged under the Act *ibid*, by the proprietor from the persons staying in the hotel or from other customers;”.

3. *Amendment of section 4.*—For section 4 of the principal Act, the following shall be substituted, namely :—

“4. *Levy and collection of tax.*—(1) Subject to the provisions of this Act, there shall be levied and paid a tax in respect of any luxury provided in a hotel (hereinafter called the “luxury tax”) on the amount of charges payable for the luxury.

(2) The luxury tax under sub-section (1) shall be payable by the proprietor at the rates not exceeding ten paise in a rupee as the Government may, by notification, direct.

(3) Where luxury is provided in a hotel and no charges for such luxury are made or charges are made at a concessional rate, the luxury tax shall be levied and paid as if the luxury was provided at the maximum rates and charges fixed by the prescribed authority under the Himachal Pradesh Registration of Tourist Trade Act, 1988 (9 of 1988) :

1. Act came into force w. e. f. 1st day of July 1992, vide Not. No. EXN-F(21)1/92, dated 23rd June, 1992 published in R.H.P. Extra., dated 26-6-1992, p. 2228).

Provided that where such rates have not been fixed by the prescribed authority or where the prescribed authority is not empowered to fix such rates, the luxury tax shall be levied at the maximum rates as may be determined by the Assessing Authority after having due regard to the maximum rates and charges at which the luxury has been provided in such a hotel at any time during the preceding six months:

Provided further that these provisions shall not apply to residential accommodation provided to his employees by the proprietor of the hotel.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), the luxury tax may be assessed and recovered from the proprietor, at lump sum, in the manner prescribed, after taking into consideration, the capacity of a hotel, the rates and the charges fixed for such luxury by the prescribed authority under the Himchal Pradesh Registration of Tourist Trade Act, 1988 (9 of 1988), the entire period of a financial year and the rate of luxury tax as may be notified by the Government under sub-section (5).

(5) The Government may, for the purposes of sub-section (4), notify a rate of luxury tax different from the rate notified under sub-section (2) and assess and recover the luxury tax on the entire luxury available in a hotel, subject to the condition that the rate shall not exceed the ceiling of ten paise in a rupee specified in sub-section (2).

(6) The luxury tax under the foregoing sub-sections may be collected by the proprietor from the persons to whom the luxury is provided in a hotel:

Provided that the liability to pay tax shall not be affected where a proprietor does not collect the luxury tax payable by him.

(7) In computing luxury tax under this section, a fraction of a rupee which is less than fifty paise shall be ignored and a fraction which is more than fifty paise shall be rounded off to the next higher rupee."

4. *Omission of section 5.*—Section 5 of the principal Act shall be omitted.

5. *Amendment of section 17.*—For sub-section (3) of section 17 of the principal Act, the following shall be substituted, namely:—

"(3) All rules made under this section shall be subject to the condition of previous publication :

Provided that the State Government may, for the purposes of sub-section (4) of section 4 of this Act make rules without previous publication."

**THE HIMACHAL PRADESH TAX ON LUXURIES (IN
HOTELS AND LODGING HOUSES)
AMENDMENT ACT, 1993**

President's Act No. 7 of 1993

(3rd April, 1993)

Enacted by the President in the Forty-fourth year of the Republic of India.

AN ACT further to amend the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979.

In exercise of the powers conferred by section 3 of the Himachal Pradesh State Legislative (Delegation of Powers) Act, 1993, (5 of 1993) President is pleased to enact as follows:-

1. Short Title and Commencement :-(1) This Act may be called the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Act, 1993.

(2) It shall be deemed to have come into force on the 1st day of July, 1992.

2. Amendment of section 2.-In the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (H.P. Act No. 15 of 1979) (hereinafter referred to as the principal Act), in section 2, for clauses (d) and (e), the following clauses shall be substituted, namely :-

'(d) "hotel" means any premises or part of premises including a house-boat, restaurant, bar or a tent where lodging with or without board or any kind of eatables or beverages or other services are by way of business provided for a monetary consideration, and includes such premises as are given on rent during any period of a financial year;

(e) "luxury provided in a hotel" means accommodation for residence provided in a hotel, rate of charges for which (including charges for air-conditioning, telephone, television, radio, music, sports, extra beds and other amenities provided in a hotel) is twenty-five rupees per person per day or more.'

3. Amendment of section 4.-In section 4 of the principal Act,--(i) in sub-section (4),-

(a) for the words "the entire period of a financial year", the words "such period of financial year as may be specified by notification issued under this sub-section" shall be substituted;

(b) the following proviso shall be inserted at the end, namely:-

"Provided that the period of a financial year to be notified under this sub-section shall not be less than fifty per cent of the number of days in that financial year.";

(ii) after sub-section (5), the following sub-section shall be inserted, namely:-

"(5A) During the period commencing from the 1st day of July, 1992 and ending on the day the notification revising the rate of luxury tax under sub-section (5) is published in the Official Gazette issued after the promulgation of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Ordinance, 1992 H.P. Ordinance 7 of 1992) the luxury tax for the purposes of sub-section (4) shall be and shall always be deemed to have been levied at the rate of ten paise in a rupee."; and

(iii) in sub-section (6), for the words "the foregoing sub-sections" the words, brackets and figure "sub-section (2)" shall be substituted.

4. Amendment of section 17.-In section 17 of the principal Act, in sub-section (3), after the proviso, the following proviso shall be inserted, namely :-

"Provided further that the State Government may, for the purposes of sub-section (4) of section 4 make rules with retrospective effect, but not earlier than the 1st day of July, 1992."

5. Repeal and savings.-(1) The Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Ordinance, 1993 ordinance 16 of 1993 is hereby repealed.

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

Reasons for the Enactment

Under the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979, the system of levy of luxury-tax was modified with effect from the 1st July, 1992 so as to empower the Government to assess and recover the luxury-tax on lump-sum basis after taking into consideration, among other factors, the entire period of a financial year but after reducing the rate of luxury-tax from ten per cent to five per cent for this purpose. In addition to this, the definition of luxury provided in a hotel was also modified and the requirements of the minimum charges for levy of luxury-tax was also abolished. These provisions were challenged by some hoteliers by means of Civil Writ Petitions in the High Court of Himachal Pradesh on the grounds that they have been made liable to pay luxury-tax for the entire financial year despite the fact that the actual occupancy was far less and that it was also not reasonable to tax the payments for luxury below rupees twenty-five per persons per day. The new system of lump-sum luxury-tax had the effect of taxing fifty per cent of the luxury available in a hotel because for the purpose of assessment against the luxury-tax recovered at the rate of ten per cent from the customers, the hotelier was actually liable to pay the same at the rate of five per cent. Yet in order to impart greater clarity to tax provisions, it became essential to suitably amend the aforesaid Act to meet the plea of the Civil Writ Petitioners. Thus, instead of the entire period of a financial year, the assessment and recovery of luxury-tax shall be made after taking into account fifty per cent of the number of days in a financial year and the rate of luxury tax as ten paise in a rupee instead of five paise in a rupee. Besides this, the luxury-tax shall be levied only when the charges for luxury are rupees twenty-five or more per persons per day. It was also essential to amend the aforesaid Act retrospectively, so as to make it applicable with effect from the 1st day of July, 1992 and to validate such action.

2. Since the Legislative Assembly was not in session and the amendment in the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 for the aforesaid purpose had to be made urgently, the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) (Amendment) Ordinance, 1992 (H.P. Ord. 7 of 1992) was promulgated under clause (1) of article 213 of the Constitution of India by the Governor of Himachal Pradesh on the 21st October, 1992.

Before the said Ordinance could be replaced by a regular enactment the powers of the Legislature of the State of Himāchal Pradesh to make laws has been declared by the Proclamation issued by the President on the 15th December, 1992 under article 356 of the Constitution, to be exercisable by or under the authority of Parliament. As the Parliament was not in session, the life of the H.P. Ordinance 7 of 1992 was extended by the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Ordinance, 1993 (Ord. 16 of 1993) promulgated by the President on the 25th January, 1993. The said power has now been conferred by Parliament on the President under article 357(1)(a) of the Constitution by enacting the Himachal Pradesh State Legislature (Delegation of Powers) Act, 1993.

3. Under the proviso to sub-section (2) of section 3 of the Himachal Pradesh State Legislature (Delegation of Powers) Act, 1993, the President shall, before enacting any President's Act, consult a Committee constituted for the purpose consisting of members of both the Houses of Parliament. The provisions of the aforesaid Ordinance will be expiring by the 4th April, 1993 and it is necessary to replace that Ordinance by the President's Act before that date. As the said Committee has not so far been constituted and the matter is very urgent in nature, and the time left is very short, it is propose to enact the measure without reference to the Committee.

K. VENKATESAN
Secy. to the Govt. of India.
Ministry of Finance
(Department of Expenditure)

**THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND
LODGING HOUSES) AMENDMENT ACT, 1994**

(ACT No. 15 OF 1994)¹

ARRANGEMENT OF SECTIONS

Sections :

1. Short title and commencement.
2. Amendment of section 2.
3. Insertion of sections 6-A and 6-B.
4. Amendment of section 8.
5. Amendment of section 10.
6. Substitution of section 11.

(Received the assent of the Governor, Himachal Pradesh on the 18th October, 1994 and was published in Hindi and English in R. H. P. Extra., dated 21st October, 1994 at pages 3867-3869 and 3870-3872)

An Act further to amend the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (Act No. 15 of 1979).

Enacted by the Legislative Assembly of Himachal Pradesh in the Forty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Act, 1994.

2. Sections 4, 5 and 6 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of August, 1993.

2. *Amendment of section 2.*—In section 2 of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (hereinafter referred to as the principal Act), after clause (e), the following clause (ee) shall be added, namely:—

(ee) "new hotel" means a hotel, located within the State of Himachal Pradesh, which commences operation on or after 1st day of August, 1993, and shall also include an existing hotel, the proprietor of which after the 1st day of August, 1993—

(i) expands, along with facilities and services already being provided therein, its existing accommodation by at least twenty five per cent with an additional capital investment of not less than twenty five per cent of the existing capital investment but without any change in the nature of the facilities and services, or

¹ Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For statement of Objects and Reasons see R. H. P. Extra., dated 12-9-94, p. 2362 and 2367.

- (ii) diversifies it by providing new facilities and services with an additional capital investment of not less than twenty-five per cent of the existing capital investment.

but does not include any hotel which is formed as a result of re-establishment, mere change of ownership, change in the constitution, reconstruction or revival of an existing hotel.

Explanation.—For the purposes of this clause “capital investment” means investment made on land, building, machinery and plant by the proprietor of the hotel.”

3. *Insertion of sections 6-A and 6-B.*—After section 6 of the principal Act, the following sections 6-A and 6-B shall be inserted, namely:—

“6-A. *Special provisions relating to deferred payment of luxury tax by proprietors of new hotels.*—(1) Notwithstanding anything contained in any other provision of this Act, if the Government is of the opinion that with a view to provide incentives to the proprietors setting up new hotels in the State, it is necessary or expedient in the public interest so to do, it may, under a scheme notified in this behalf under this Act, and subject to such restrictions and conditions as may be specified in such scheme, provide for deferred payment of luxury tax payable under section 4 by such proprietor who is registered under this Act:

Provided that the State Government may, for the purposes of this sub-section, make a scheme retrospectively with effect from the 1st day of August, 1993.

(2) Subject to the provisions of sub-section (1), the proprietor referred to therein, if eligible for grant of facility of making deferred payment of luxury tax under the scheme notified under sub-section (1), may make deferred payment of luxury tax payable by him.

“6-B. *Power to exempt the proprietors of new hotels from payment of luxury tax.*—(1) Notwithstanding anything contained in any other provision of this Act, if the Government is of the opinion that with a view to provide incentives to the proprietors setting up new hotels in the State, for providing luxury therein, it is necessary or expedient in the public interest so to do, it may, by notification, exempt the proprietor of a new hotel from the payment of luxury tax, for such period, not exceeding five years, as may be specified in the said notification, subject to the condition that—

- (i) such new hotel comes into operation between the period commencing from the 1st day of August, 1993 and ending on the 31st day of July, 1998, and
- (ii) the rates of charges for the luxury provided in such new hotel do not exceed one hundred rupees per person per day.

(2) The Government may, for the purposes of sub-section (1), issue notification retrospectively with effect from the 1st day of August, 1993 in respect of the new hotels coming into operation between the 1st day of August, 1993 and the commencement of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Act, 1994.

(3) Notwithstanding anything contained in sub-section (6) of section 4, no proprietor of a new hotel, in respect of which a notification under sub-section (1) has been issued, shall, during the period when such exemption remains in force, collect any sum by way of luxury tax to the extent of exemption provided in the notification.

(4) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before the State Legislature."

4. *Amendment of section 8.*—In section 8 of the principal Act,—

(i) after the figure and sign "8", and before the word "Any", the brackets and figure "(1)", shall be inserted;

(ii) in sub-section (1)—

(a) in the first proviso after the words "tax assessed" but before the words "and the penalty", the brackets and words "(including interest payable)", shall be inserted; and

(b) in the second proviso, after the words "without the tax" but before the words "or penalty", the brackets and words "(including interest payable)" shall be inserted.

5. *Amendment of section 10.*—In section 10 of the principal Act, the words and figure "or an application for revision made under section 9" shall be omitted.

6. *Substitution of section 11.*—For section 11 of the principal Act, alongwith its heading, the following shall be substituted, namely:—

"11. *Tax, penalty and interest recoverable as arrears of land revenue.*—
The amount of luxury tax and penalty imposed or interest payable under this Act, which remains unpaid after the due date shall be recoverable as arrears of land revenue."

THE HIMACHAL PRADESH TOWN AND COUNTRY PLANNING (AMENDMENT) ACT, 1994

(ACT NO. 16 OF 1994)

ARRANGEMENT OF SECTIONS

Sections :

1. Short title.
2. Amendment of section 15-A.
3. Amendment of section 34.
4. Amendment of section 35.
5. Addition of sections 39-A and 39-B.

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra, dated 21-9-1994, p. 3114 and 3118).

**THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND
LODGING HOUSES) AMENDMENT ACT, 1999**

(Act No. 10 of 1999)¹

(Received the assent of the Governor on 3rd May, 1999 and was published in Hindi and English in R.H.P. Extra, dated 4.5.99 p. 1579-1580).

**An Act further to amend the Himachal Pradesh Tax on Luxuries (in
Hotels and Lodging Houses) Act, 1979 (Act No. 15 of 1979).^{*}**

BE it enacted by the Legislative Assembly of Himachal Pradesh in the
Fiftieth Year of the Republic of India as follows:-

1. Short title.- This Act may be called the Himachal Pradesh Tax on
Luxuries (in Hotels and Lodging Houses) Amendment Act, 1999.

2. Amendment of section 2.- In section 2 of the Himachal Pradesh Tax on
Luxuries (in Hotels and Lodging Houses) Act, 1979 (15 of 1979), in clause (e),
for the word "twenty-five", the word "fifty" shall be substituted.

RULES

Under

**THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND
LODGING HOUSES) ACT, 1979**

**THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND
LODGING HOUSES) RULES, 1979**

AMENDMENT OF RULES

(Issued and published in Hindi in R.H.P. Extra, dated 20.9.99, p. 3647-3648).

EXCISE AND TAXATION DEPARTMENT

NOTIFICATION

Shimla-171002, the 18th September, 1999

No. EXN-F(23)1/99.- In exercise of the powers conferred under section 17
of the Himachal Pradesh Tax on Luxuries (In Hotels and Lodging Houses) Act,
1979 (Act No. 15 of 1979), the Governor, Himachal Pradesh is pleased to make
the following rules to amend the Himachal Pradesh Tax on Luxuries (in Hotels
and Lodging Houses) Rules, 1979, the same having been published in Rajpatra
(Extra Ordinary) dated 10th August, 1999 vide this Department's notification of
even number dated 5th August, 1999, namely:-

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects
and Reasons see R.H.P. Extra., dated 5.4.1999, p. 1146 & 1148.

1. Short title and Commencement.- (i) These rules may be called the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) 1st Amendment Rules, 1999.

(ii) These shall come into force with immediate effect.

2. Amendment of rule 6.- In rule 6 of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Rules, 1979, in sub-rule (1), the sign and Roman figure, "III," appearing after Roman figure "II", shall be deleted.

(R.H.P. Extra, dated 20.9.1999, p. 3648).

RULES

Under

**THE HIMACHAL PRADESH TENANCY AND LAND REFORMS
ACT, 1972**

**THE HIMACHAL PRADESH TENANCY AND LAND REFORMS
RULES, 1975**

AMENDMENT OF RULES

(Issued and published in Hindi in R.H.P. Extra, dated 1.6.99, p. 1849-1850).

REVENUE DEPARTMENT

NOTIFICATION

Shimla-2, the 20th May, 1999

No.B.A. (3)-6/96.- Whereas the draft amendment rules entitled as the Himachal Pradesh Tenancy and Land Reforms (Amendment) Rules, 1998, further to amend the Himachal Pradesh Tenancy and Land Reforms Rules, 1975, were published, as required under section 123 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972, in Himachal Pradesh Rajpatra (Extra-ordinary), vide notification of even number dated the 23rd October, 1998 for inviting objections and suggestions from the persons likely to be affected thereby within a period of 30 days from the date of their publication;

And after giving due consideration to the objections/ suggestions so received, the Governor of Himachal Pradesh, in exercise of the powers conferred by section 122 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974), is now pleased to make the following rules, namely :-

1. Short title.- These rules may be called the Himachal Pradesh Tenancy and Land Reforms (Amendment) Rules, 1998.

NOTIFICATIONS

Under

**THE HIMACHAL PRADESH TAXATION (ON CERTAIN GOODS
CARRIED BY ROAD) ACT, 1999****RATE OF TAX****EXCISE AND TAXATION DEPARTMENT****NOTIFICATION**

Shimla-2, the 6th May, 2000.

No. EXN.-F(1)-1/94.- In the Authoritative English text of this Department Notification No. EXN.-F(1)-1/94, dated 9th December, 1999 published in Rajpatra (Extra-ordinary) on 15th December, 1999 issued under section 15 of the Himachal Pradesh Taxation (on Certain Goods Carried by Road) Act, 1999 (Act No. 16 of 1999) against column No. 3 of item No. 20, please read "Rs. 5.00 per 10 Kg. or part thereof" in place of "Rs. 5.00 per Kg. or part thereof".

(R.H.P.Extra, dated 11.5.2000, p. 1205-1206).

**THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND
LODGING HOUSES) AMENDMENT ACT, 2000****ARRANGEMENT OF SECTIONS**

Sections:

1. Short title.
 2. Amendment of section 2.
 3. Amendment of section 4.
 4. Amendment of section 6.
 5. Insertion of section 16-A.
-

**THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND
LODGING HOUSES) AMENDMENT ACT, 2000**

(Act No. 14 of 2000)¹

(Received the assent of the Governor on 22nd May, 2000 and was published in Hindi and English in R.H.P. Extra, dated 25.5.2000, p. 1377-1380).

An Act further to amend the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (Act No. 15 of 1979).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Fifty-first Year of the Republic of India, as follows:-

1. Short title.- This Act may be called the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Amendment Act, 2000.

2. Amendment of section 2.- In section 2 of the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979, (hereinafter referred to as the 'principal Act'),-

(i) clause (c) shall be omitted;

(ii) after clause (g), the following shall be inserted, namely:-

"(gg) "receipt" means the amount of monetary consideration received or receivable by a proprietor for any luxury provided in a hotel";
and

(iii) after clause (h), the following shall be added, namely:-

"(i) "turnover of receipts" means aggregate of the amounts of receipt during any period of a financial year."

3. Amendment of section 4.- In section 4 of the principal Act,-

(i) in sub-section (1), for the words "amount of charges payable for", the words "turnover of receipts of" shall be substituted; and

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

"(3) Notwithstanding anything contained in sub-sections (1) and (2), no tax shall be levied, charged and paid in respect of residential accommodation provided to his employees by the proprietor of the hotel."

4. Amendment of section 6.- In section 6 of the principal Act, in sub-section (1), for the word "eight", the word "thirty" shall be substituted.

5. Insertion of section 16-A.- After section 16 of the principal Act, the following section 16-A shall be inserted, namely:-

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see 18.4.1.2000, P. 975 & 978.

Act No. 3 of 2015

2014 का विधेयक संख्यांक 8

हिमाचल प्रदेश (होटल और आवास गृह) विलास-वस्तुएं कर द्वितीय संशोधन
विधेयक, 2014

(विधान सभा द्वारा यथापारित)

हिमाचल प्रदेश (होटल और आवास गृह) विलास-वस्तुएं कर द्वितीय संशोधन
विधेयक, 2014

खण्डों का क्रम

खण्ड:

1. संक्षिप्त नाम ।
2. धारा 6-ड का संशोधन ।

हिमाचल प्रदेश (होटल और आवास गृह) विलास-वस्तुएं कर द्वितीय संशोधन
विधेयक, 2014

(विधान सभा द्वारा यथापारित)

हिमाचल प्रदेश (होटल और आवास गृह) विलास-वस्तुएं कर अधिनियम, 1979 (1979 का अधिनियम संख्यांक 15) का और संशोधन करने के लिए विधेयक।

भारत गणराज्य के पैसठवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित हो:-

1. इस अधिनियम का संक्षिप्त नाम हिमाचल प्रदेश (होटल और आवास संक्षिप्त नाम। गृह) विलास-वस्तुएं कर द्वितीय संशोधन अधिनियम, 2014 है।

2. हिमाचल प्रदेश (होटल और आवास गृह) विलास-वस्तुएं कर अधिनियम, धारा 6-ड का संशोधन।
1979 का 15 1979 की धारा 6-ड में,-

(क) शीर्षक "जनजातीय और दुर्गम क्षेत्रों या पिछड़ी पंचायतों में नए होटलों के स्वत्वधारियों द्वारा विलास-वस्तु कर का संदाय करने से छूट की बाबत विशेष उपबन्ध" के स्थान पर "कतिपय मामलों में विलास-वस्तु कर के संदाय से छूट" शीर्षक रखा जाएगा;

(ख) उपधारा (1) के स्थान पर निम्नलिखित उपधारा रखी जाएगी,
अर्थात्:-

"(1) इस अधिनियम में किसी बात के होते हुए भी, यदि सरकार की यह राय है कि राज्य में जनजातीय, दुर्गम या ग्रामीण क्षेत्रों या पिछड़ी पंचायतों में पर्यटन को बढ़ावा देने के आशय से लोकहित में ऐसा करना आवश्यक या समीचीन

है, तो वह एक स्कीम अधिसूचित कर सकेगी और नए होटलों के रजिस्ट्रीकृत स्वत्वधारियों को, जो ऐसे जनजातीय या दुर्गम क्षेत्रों में प्रथम अप्रैल, 2012 के पश्चात्, पिछड़ी पंचायतों में प्रथम अप्रैल, 2013 के पश्चात् और ग्रामीण क्षेत्र में प्रथम अप्रैल, 2014 के पश्चात् प्रचालन में आए हैं, ऐसे होटलों के प्रचालन में आने की तारीख से दस वर्ष की अवधि के लिए, विलास-वस्तु कर के संदाय से, ऐसे निर्बन्धनों और शर्तों के अध्यक्षीन, जैसी उक्त स्कीम में विनिर्दिष्ट की जाएं, छूट दे सकेगी।" ; और

(ग) उपधारा (2) में स्पष्टीकरण I और II के स्थान पर निम्नलिखित स्पष्टीकरण रखा जाएगा, अर्थात्:—

“स्पष्टीकरण.— इस धारा के प्रयोजन के लिए,—

(I) “जनजातीय और दुर्गम क्षेत्र” से,

- (i) जिला लाहौल एवं स्पिति,
- (ii) चम्बा जिला का पांगी और भरमौर उप-मण्डल,
- (iii) रोहडू उप-मण्डल का डोडरा क्वार क्षेत्र,
- (iv) जिला शिमला की रामपुर तहसील का पन्द्रह बीस परगना, मुनिश, दरकाली और ग्राम पंचायत काशापाट,
- (v) कुल्लू जिला का पन्द्रह बीस परगना,
- (vi) कांगड़ा जिला के बैजनाथ उप-मण्डल के बड़ा भंगाल क्षेत्र,
- (vii) जिला किन्नौर,
- (viii) सिरमौर जिला में उप तहसील कमरु के काठवाड़ और कोरगा पटवार वृत्त, रेणुकाजी तहसील के भलाड़-भलौना और सांगना पटवार वृत्त और शिलाई तहसील का कोटा पाब पटवार वृत्त, और

(ix) मण्डी जिला में करसोग तहसील का खन्योल-बगड़ा पटवार वृत्त, बाली चौकी उप-तहसील के गाडा गुसैर्णी, मठयानी, घनयाड़, थाची, बागी, सोमगाड़ और खोलानाल, पद्धर तहसील के झारवाड़, कुटगढ़, ग्रामन, देवगढ़, ट्रैला, रोपा, कथोग, सिल्ह-हढ़वानी, हस्तपुर, ग्रामचार और भटेनहर पटवार वृत्त, थुनाग तहसील के चियूणी, कालीपार, मानगढ़, थाच-बगड़ा, उत्तरी मगरू और दक्षिणी मगरू पटवार वृत्त और सुन्दरनगर तहसील का बटवाड़ा पटवार वृत्त,

अभिप्रेत है;

- (II) "पिछड़ी पंचायतों" से ऐसी पंचायतें अभिप्रेत हैं, जो सरकार द्वारा पिछड़ी पंचायतें अधिसूचित की जाएं; और
- (III) "ग्रामीण क्षेत्र" से ऐसे स्थापित पर्यटन क्षेत्र, जो सरकार द्वारा अधिसूचित किया जाए, के सिवाय किसी नगरपालिका की ठीक बाहरी सीमाओं से तीन किलोमीटर से बाहर का क्षेत्र अभिप्रेत है।"।

यह विधेयक विधान सभा द्वारा पारित किया गया है।

मैं, एतद्वारा प्रमाणित करता हूँ कि यह विधेयक भारत के संविधान के अनुच्छेद 199 के अर्थ के अन्तर्गत एक धन विधेयक है।

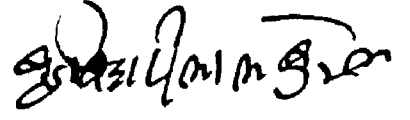
शिमला-171004

दिनांक : 30-12-2014

मैं इस विधेयक पर अनुमति देती हूँ

शिमला-171002

दिनांक : 18-01-2015
12-2014



अध्यक्ष
अध्यक्ष

हिमाचल प्रदेश
विधान सभा, शिमला



राज्यपाल
राज्यपाल

हिमाचल प्रदेश

AUTHORITATIVE ENGLISH TEXT

BILL NO. 8 OF 2014.

**THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND
LODGING HOUSES) SECOND AMENDMENT BILL, 2014**

(AS PASSED BY THE LEGISLATIVE ASSEMBLY)

**THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND
LODGING HOUSES) SECOND AMENDMENT BILL, 2014**

ARRANGEMENT OF CLAUSES

Clauses:

1. Short title.
2. Amendment of section 6-E.

**THE HIMACHAL PRADESH TAX ON LUXURIES (IN HOTELS AND
LODGING HOUSES) SECOND AMENDMENT BILL, 2014**

(AS PASSED BY THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979 (Act No.15 of 1979).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Sixty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Himachal Pradesh Tax on Luxuries Short title.
(in Hotels and Lodging Houses) Second Amendment Act, 2014.

2. In section 6-E of the Himachal Pradesh Tax on Luxuries (in Hotels Amendment
and Lodging Houses) Act, 1979,— of section 6-E.

(a) for the heading “Special provisions relating to exemption from payment of luxury tax by proprietors of new hotels in tribal and hard areas or in backward Panchayats”, the heading “Exemption from payment of luxury tax in certain cases” shall be substituted;

(b) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Notwithstanding anything contained in this Act, if the Government is of the opinion that in order to promote tourism in the tribal, hard or rural areas or in backward

Panchayats in the State, it is necessary and expedient in public interest so to do, it may notify a scheme and exempt the registered proprietor of new hotels in such tribal or hard areas which came in to operation after 1st April, 2012, in backward Panchayats which came into operation after 1st April, 2013 and in rural area which came into operation after 1st April, 2014, from the payment of luxury tax for a period of ten years from the date the hotels commences operation, subject to such restrictions and conditions as may be specified in the said scheme.”; and


- (c) in sub-section (2), for explanations I and II, the following Explanation shall be substituted, namely:—

“Explanation.- For the purpose of this section,—

- (I) “tribal and hard areas” means,—
- (i) District Lahaul Spiti,
 - (ii) Pangi and Bharmour Sub-division of Chamba District,
 - (iii) Dodra Kwar Areas of Rohru Sub-division,
 - (iv) Pandrah Bis Pargana, Munish Darkali and Kashapat Gram Panchayat of Rampur Tehsil of District Shimla,
 - (v) Pandrah Bis Pargana of Kullu District,
 - (vi) Bara Bangal Areas of Baijnath Sub-division of Kangra District,
 - (vii) District Kinnaur,
 - (viii) Kathwar and Korga Patwar Circles of Kamrau Sub-Tehsil, Bhaladh Bhalona and Sangna Patwar Circles of Renukaji Tehsil and Kota Pab Patwar Circle of Shillai Tehsil, in Sirmour District, and

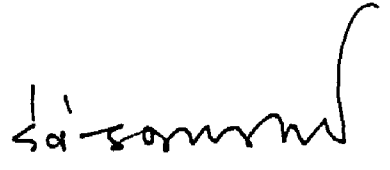
- (ix) Khanyol-Bagra Patwar Circle of Karsog Tehsil, Gada-Gussaini, Mathyani, Ghanyar, Thachi, Baggi, Somgad and Kholanal of Bali-Chowki Sub-Tehsil, Jharwar, Kutgarh, Graman, Devgarh, Trailla, Ropa, Kathog, Silh-Hadhwani, Hatpur, Ghamrchar and Bhatenhar Patwar Circle of Padhar Tehsil, Chiuni, Kalipar, Mangarh, Thach-Bagra, North Magru and South Magru Patwar Circles of Thunag Tehsil and Batwara Patwar Circle of Sunder Nagar Tehsil in Mandi District ;
- (II) “backward Panchayats” means such Panchayats as may be notified backward Panchayats by the Government ;
and
- (III) “rural areas” means area falling beyond three kilometres from the immediate outer limits of a municipality, except such established tourist area as may be notified by the Government.”.

मैं, "हिमाचल प्रदेश (होटल और आवास गृह) विलास-वस्तुएं कर द्वितीय संशोधन विधेयक, 2014 (2014 का विधेयक संख्यांक 8)" के उपर्युक्त अनुवाद को भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अधीन राजपत्र, हिमाचल प्रदेश में प्रकाशित किए जाने के लिए प्राधिकृत करती हूं।


राज्यपाल,

हिमाचल प्रदेश।
हिमाचल प्रदेश

राज्यपाल ने "हिमाचल प्रदेश (होटल और आवास गृह) विलास-वस्तुएं कर द्वितीय संशोधन विधेयक, 2014 (2014 का विधेयक संख्यांक 8)" के उपर्युक्त अनुवाद को भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अधीन राजपत्र, हिमाचल प्रदेश में प्रकाशित किए जाने के लिए प्राधिकृत कर दिया है।


प्रधान सचिव (विधि),
हिमाचल प्रदेश सरकार।