

BILL NO. 12 OF 2012

**THE DELHI TAX ON LUXURIES (AMENDMENT) BILL, 2012**

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BILL

further to amend Delhi Tax on Luxuries Act, 1996

Be it enacted by the Legislative Assembly of National Capital Territory of Delhi in the Sixty third Year of the Republic of India as follows:

**1. Short title, extent and commencement.** – (1) This Act may be called Delhi Tax on Luxuries (Amendment) Act, 2012.

(2) It extends to the whole of the National Capital Territory of Delhi.

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

**2. Amendment of section 2.** – In the Delhi Tax on Luxuries Act, 1996 (hereinafter referred to as the “principal Act”), in section 2, –

(i) after clause (a), the following clause shall be inserted, namely:-

*“(aa) “banquet hall” means any premises, garden or farm house, or any part thereof where accommodation or space is provided for marriage, reception or functions related therewith, seminar, convention, banquets, party, meeting, or exhibition-cum-sale and such*

*other hall as may be specified by the Commissioner, irrespective of the fact whether on regular or periodical or occasional basis;”;*

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

*“(b) “business” includes activity of providing any luxury and any other service in connection with, or incidental or ancillary thereto for monetary consideration;”;*

- (iii) for clause (e), the following clause shall be substituted, namely:-

*“(e) “concessional rate” in relation to a luxury provided in a hotel, means a rate lower than the normal rate fixed for such luxury by the proprietor or lower than that fixed by any Government, authority or under law for the time being in force;”;*

- (iv) after clause (e), the following clauses shall be inserted, namely:-

*“(ea) “customer” means an individual or group or company or corporate availing any luxury;*

*“(eb) “establishment” means a banquet hall or a gymnasium/health club or a hotel or a spa where luxury is provided to a customer by way of business;”;*

- (v) after clause (f), the following clause shall be inserted, namely:-

*“(fa) “gymnasium or health club” means a premises or hall or building or place equipped for gymnastics and other physical exercising equipment(s) for providing facilities and activities such as wellness, aerobics or body building or body sculpting etc;”;*

(vi) the clause (h) shall be omitted;

(vii) for clause (i), the following clause shall be substituted, namely:

*“(i) “luxury” means use of goods, services, property, facilities etc. for enjoyment or comfort or pleasure or consumption by any customer extraordinary to the necessity of life, that is to say:-*

*(i) accommodation or space provided in a banquet hall which includes air cooling, air conditioning, chairs, tables, linen, utensils and vessels, shamiyana, tent, pavilion, electricity, water, fuel, interior or exterior decoration, music, orchestra, live telecast and the like;*

*(ii) services provided in a gymnasium or health club, which includes services of trainer or personal trainer, steam, sauna and the like;*

*(iii) accommodation and other services provided in a hotel, the rate or charges for which, including the charges for air cooling, air conditioning, radio, music, extra beds, television and the like, is seven hundred fifty rupees per room per day or more, whether such charges are received collectively or separately per room per day;*

*(iv) facilities or services provided in a spa which includes beauty treatment, manicure, pedicure, facial, laser treatment, massage shower, hydrotherapy, steam bath, saunas or cuisine, medispa and the like;”;*

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

*“(la) “proprietor” means the owner of an establishment, jointly or severally, and includes partners, management, trust, company, firm or anybody who is for the time being in charge of the management of the establishment;”;*

(ix) for clause (m), the following clause shall be substituted, namely:-

*“(m) “receipt” means the amount of monetary consideration received or receivable by a proprietor or by his agent for any luxury provided in the establishment;”;*

(x) for clause (n), the following clause shall be substituted, namely:-

*“(n) “registered proprietor” means a proprietor registered under section 8 of this Act;”;*

(xi) after clause (o), the following clause shall be inserted, namely:-

*“(oa) “spa” means a building or part of building or space where facilities or services for beauty treatment or manicure or pedicure or facials or laser treatment or massage or shower or hydrotherapy or steam bath or saunas or cuisine or medspa or the like is provided;”;*

(xii) for clause (p), the following clause shall be substituted, namely:-

*“(p) “tax” means the tax levied or leviable on turnover of receipts of an establishment and payable under this Act including any penalty, interest, fine, composition money, sum forfeited or any other charge levied or leviable under this Act;”;*

(xiii) for clause (q), the following clause shall be substituted, namely:-

*“(q) “tariff” means the charges levied or leviable by a proprietor for providing any luxury;”;*

(xiv) for clause (r), the following clause shall be substituted, namely:-

nevertheless there shall be levied and collected the tax on such luxury, at the rate specified in sub-section (2), as if full charges for such luxury were paid to the proprietor.

(5) The tax shall not be levied and payable in respect of turnover of receipts for supply of food, drinks and goods such as cosmetics, medicines, nutritional supplements etc, on the sale of which the proprietor is liable to pay tax under the Delhi Value Added Tax Act, 2005.

(6) For the purposes of this Act, tax collected separately by the proprietor shall not be considered to be part of the receipt or the turnover of receipts of the proprietor.”

4. **Amendment of section 8.** – In the principal Act, in section 8, sub-section (1) shall be renumbered as sub-section (7), the following sub-section shall be inserted as sub-section (1), namely :-

“(1) Every proprietor whose turnover of receipts for providing any luxury and charges incidental thereto, calculated from the commencement of any year first exceeds, within such year the threshold value as specified below, against the respective luxury, shall, from the very next day, be required to get himself registered under this Act:

S.No.	Luxury	Threshold Value (in rupees)
1.	Banquet Hall facilities	five lac
2.	Gymnasium/ Health Club	five lac
3.	Hotel accommodation with tariff Rs.750/- per day per room or more	nil
4.	Spa	five lacs

Provided that a proprietor, who is engaged in business of providing any luxury, other than that of accommodation in a hotel having tariff of rupees one thousand or

*“(r) “turnover of receipts” means the aggregate of amount of valuable consideration received or receivable by a proprietor in respect of any luxury;”;*

3. **Amendment of section 3.** – In the principal Act, for section 3, the following shall be substituted, namely:

*“3. Incidence and levy of tax. -(1) Subject to other provisions of this Act, every proprietor, –*

- (a) registered under this Act; or*
- (b) required to be registered under this Act;*

*shall be liable to pay tax on his turnover of receipts calculated in accordance with this Act, at the time and in the manner provided in this Act.*

*(2) There shall be levied a tax on the turnover of the receipts of a proprietor at a rate not exceeding fifteen percent to be notified by the Government from time to time and different rates may be notified for different class of luxuries:*

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

*(3) In case, in addition to the charges for providing luxury, 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 turnover of receipts for the purpose of levy of tax under this Act.*

*(4) In case luxury provided in a hotel to any person (not being an employee of the proprietor) is not charged at all, or is charged at a concessional rate,*

*more per room per day, and whose turnover in the previous year or in the year of commencement of the Delhi Tax on Luxuries (Amendment) Act, 2012 before the date of commencement, exceeds the threshold values specified above shall be liable for registration from the date of commencement of the aforesaid Act.*

**5. Substitution of the word “hotel”.** – In the principal Act, for the words “hotel”, “a hotel” and “hotels” wherever they occur, except in section 2, section 3 and sub-section (1) of section 8, the words “establishment”, “an establishment” and “establishments” shall be substituted, respectively.

**6. Substitution of the word “hotelier”.** – In the principal Act, for the word “hotelier”, wherever it occurs, except in section 2, section 3 and sub-section (1) of section 8, the word “proprietor” shall be substituted.

Statement of Objects and Reasons

The proposed amendments are aimed at the following:-

- (i) Broad basing the tax structure by inclusion of new areas- It has been observed during the last few years that there are some luxuries like services and facilities provided in a banquet halls, gymnasiums/health clubs, spas, which should have been brought under the ambit of the Act keeping in view their very nature, as these services are availed by the affluent strata of the society. Moreover, the reduction in the rate of luxury tax from 12.5% to 10% w.e.f. 22.06.2009 and raising the threshold limit from Rs.500/- to Rs.1000/- w.e.f. 20.09.2010 for the purpose of levy of luxury tax has caused considerable reduction in collection of luxury tax which had an adverse impact on the rate of growth of luxury tax on annual basis. In order to augment the luxury tax base further, it is also felt that the rooms provided by way of accommodation, against a tariff of Rs.750/- per day or more but below Rs.1000/- per day in a hotel should also be brought under the luxury tax net.
- (ii) Greater revenue generation – The inclusion of new areas like banquet halls, gymnasiums/health clubs and spas as cited above which have never been tapped previously for realization of luxury tax are bound to provide fresh impetus to the overall growth of luxury tax, which would enable the Department to achieve the luxury tax target fixed by the Government on annual basis. The above said legislative amendments would be supplemented by way administrative reforms and focus on enforcement and vigilance.

The proposed amendments on the one hand will initiate a dynamic process of taxation which would be progressive and on the other hand will aim at generating additional resources for running the affairs of the STATE and for carrying out developmental activity. It is worth mentioning here that Excise, Entertainment Tax and Luxury Tax Departments is the third highest earner in terms of revenue and this position is required to be sustained by expansion of tax base. Proposed amendments are aimed at achieving the aforesaid objectives.



Sheila Dixit  
Minister of Finance

New Delhi

Dated 5.6.2012



**FINANACIAL MEMORANDUM**

For the implementation of the proposals contained in the Delhi Tax on Luxuries (Amendment) Bill, 2012, no additional financial assistance will be required from Central Government through substantive expenditure from the Consolidated Fund of the National Capital Territory of Delhi.

**MEMORANDUM FOR SUB-ORDINATE LEGISLATION:**

The present proposal of amendment in the Delhi Tax on Luxuries Act, 1996 does not envisage delegation of power for sub-ordinate legislation. However, for implementation, amendments of relevant provision of Delhi Tax on Luxuries Rules, 1996 would be required under existing delegation.