

Rajasthan Finance Act, 2005

RAJASTHAN

India

Rajasthan Finance Act, 2005

Act 15 of 2005

- Published on 1 January 2005
- Commenced on 1 January 2005
- [This is the version of this document from 1 January 2005.]
- [Note: The original publication document is not available and this content could not be verified.]

Rajasthan Finance Act, 2005(Act No. 15 of 2005)Last Updated 27th May, 2019[Received the assent of the Governor on 20.5.2005]An Act further to amend the Rajasthan Sales Tax Act, 1994, the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999, the Rajasthan Stamp Act, 1998, the Rajasthan Motor Vehicles Taxation Act, 1951 and the Rajasthan Excise Act, 1950 in order to give effect to the financial proposals of the State Government for the financial year 2005-06 and to make certain other changes.Be it enacted by the Rajasthan State Legislature in the Fifty-sixth Year of the Republic of India, as follows:-

Chapter I

PRELIMINARY

1. Short title.

- This Act may be called the Rajasthan Finance Act, 2005.

2. Declaration under Section 3, Rajasthan Act No. 23 of 1958.

- In pursuance of Section 3 of, the Rajasthan Provisional Collection of Taxes Act, 1958 (Act No. 23 of 1958) it is hereby declared that it is expedient in the public interest that this Act shall have immediate effect under the said Act.

Chapter II

Amendment in the Rajasthan Sales Tax Act, 1994

3. Amendment of Section 3, Rajasthan Act No. 22 of 1995.

- In sub-section (1) of Section 3 of the Rajasthan Sales Tax Act, 1994 (Act No. 22 of 1995), hereinafter in this Chapter referred to as the principal Act, the existing expression "or a manufacturer" shall be deleted.

4. Amendment of Section 7, Rajasthan Act No. 22 of 1995.

- The existing Section 7 of the principal Act shall be renumbered as sub-section (1) thereof and thereafter, the following new sub-section shall be added, namely:-"(2) Where no amount found payable in the assessment order passed under sub-section (1), a list of dealers so assessed may be published through electronic or print media and such publication shall be deemed to be due intimation to such dealers wherever required."

5. Amendment of Section 26, Rajasthan Act No. 22 of 1995.

- In sub-section (3) of Section 26 of the principal Act, after the existing expression "deposit of full amount of tax due on the basis of the return," the expression "However, in case the returns are filed electronically, in lieu of treasury receipts or receipts of the bank such details may be furnished as may be prescribed" shall be added.

6. Amendment of Section 42, Rajasthan Act No. 22 of 1995.

- In the existing proviso to sub-section (4) of Section 42 of the principal Act, after the existing expression "not exceeding three months" and before the punctuation mark the expression however, the Commissioner may for reasons to be recorded in writing may continue such stay for a further period not exceeding three months" shall be inserted.

7. Amendment of Section 72, Rajasthan Act No. 22 of 1995.

- For the existing sub-section (3) of Section 72 of the principal Act, the following shall be substituted, namely :-"(3) Notwithstanding anything contained in sub-sections (1) & (2), on an application by a person admitting the offence committed by him under sub-section (8) of Section 77 or sub-section (5), (8) or (10-A) of Section 78, the assessing authority, the officer authorized under sub-section (4) of Section 77; the officer empowered under sub-section (3) of Section 78 or incharge of a check-post, as the case may be, may accept composition money from such person in lieu of penalty or prosecution, which shall,-(i)in case of the offence committed under sub-section (8) of Section 77 or sub-section (5) of Section 78, be equal to the amount of four times of the tax leviable on the goods involved or twenty five percent of the value of such goods, whichever is less,(ii)in case of the offence committed under sub-section (8) of Section 78, be equal to fifteen percent of the value of such goods,(iii)in case of offence committed under sub-section (10-A) of Section 78, be equal to twenty five percent of the value of such goods."

8. Amendment of Section 85, Rajasthan Act No. 22 of 1995.

- In Section 85 of the principal Act,-(i)in sub-section (1)(a)in clause (bb), the word "and" occurring after the punctuation mark shall be deleted; and(b)after the existing clause (bb) and before clause (c), the following new clauses shall be inserted, namely:- C*(bbb) an order passed by the Commissioner under the Incentive Schemes or Exemption Schemes or Deferment Schemes notified under Section 15 or under sub-section (3) of Section 25; and";(ii)in sub-section (2), for the existing expression "in clauses (a), (b), (bb) and (c) of sub-section (1)"; the expression "in clauses (a), (b), (bb), (bbb) and (c) of sub-section (1)" shall be substituted.

Chapter III

Amendment in the Rajasthan tax on Entry of Goods into Local Areas Act, 1999

9. Amendment of Section 2, Rajasthan Act No. 13 of 1999.

- In sub-section (1) of Section 2 of the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999 (Act No. 13 of 1999), hereinafter in this Chapter referred to as the principal Act, in clause (e), for the existing expression "in' the course of business", the expression "in the course of business or otherwise" shall be substituted.

10. Amendment of Section 3, Rajasthan Act No. 13 of 1999.

- In sub-section (3) of Section 3 of the principal Act, after the existing expression "get himself registered under this Act" and before the expression "who brings or causes to be brought", the expression "or by a person or class of persons liable to pay tax under this Act" shall be inserted.

11. Amendment of Section 4, Rajasthan Act No. 13 of 1999.

- After the existing subSection (2) of Section 4 of the principal Act, the following sub-section shall be inserted, namely:-"(3) Notwithstanding anything contained in sub-section (1), a person or class of persons who imports goods, as may be notified by the State Government, shall be liable to pay tax on the taxable purchase value of such goods, however, entry tax under this sub-section shall not be levied on the entry of such goods, if it is proved to the satisfaction of the officer empowered under Section 31, that such goods have already been subjected to levy of entry tax or that the entry tax is liable to be paid by any other person or dealer under this Act."

12. Amendment of Section 17, Rajasthan Act No. 13 of 1999.

- (i) For the existing sub-section (2) of Section 17 of the principal Act, the following shall be substituted, namely:-"(2) If a default is made in making payment in accordance with sub-section (1), the whole of the amount outstanding on the date of default shall become immediately due and shall

be a charge on the property of the person or persons liable to pay tax under this Act.";(ii)The existing sub-section (3) shall be deleted.

13. Amendment of Section 31, Rajasthan Act No. 13 of 1999.

- For the existing Section 31 of the principal Act, the following shall be substituted, namely:-"31. Establishment of check-post and inspection of goods while in movement. - (1) The check-posts set up, and the incharge of check-posts as specified, under sub-section (1) of Section 78 of the Rajasthan Sales Tax Act, 1994 (Act No. 22 of 1995) shall, respectively, be the check-posts and incharge of check-posts for the purposes of this Act.(2)The driver or the person incharge of a vehicle or carrier or of goods in movement shall-(a)carry with him a goods vehicle record including "challans" and "bilties", bills of sale or dispatch memos and also prescribed declaration forms, if, any;(b)stop the vehicle or carrier at every check-post, and while entering and leaving the limits of the State, bring and stop the vehicle at the nearest check-post referred to in sub-section (1);(c)produce all the documents including prescribed declaration forms, if any, relating to the goods before the Incharge of the check-post;(d)give all the information in his possession relating to the goods; and(e)allow the inspection of the goods by the Incharge of the check-post or any other person authorised by such Incharge.Explanation. - For the purposes of this chapter-(i)"vehicle or carrier" shall include any means of transportation including an animal to carry goods from one point to another point;(ii)"goods" shall include animals also; and(iii)"goods in movement" shall mean,-(a)the goods which are in the possession or control of a transporting agency or person or other such bailee;(b)the goods which are being carried in a vehicle or carrier belonging to the owner of such goods; and(c)the goods which are being carried by a person.(3)The State Government may require by notification that the documents required to be furnished under sub-section (2), shall be furnished by means of such electronic devices, and be accompanied by such processing fee, as may be prescribed.(4)Where any goods are in movement within the territory of the State of Rajasthan, an officer empowered by the State Government in this behalf under the Rajasthan Sales Tax Act, 1994, may stop the vehicle or the carrier or the person carrying such goods, for inspection, at any place within his jurisdiction and the provisions of sub-section (2) shall mutatis mutandis apply.(5)Where any goods in movement are without documents, or are not supported by documents as referred to in sub-section (2), or documents produced appear false or forged, the Incharge of the check-post or the officer empowered under sub-section (4), may-(a)direct the driver or the person incharge of the vehicle or carrier or of the goods not to part with the goods in any manner including by retransporting or rebooking, till a verification is done or an enquiry is made, which shall not take more than seven days;(b)seize the goods for reasons to be recorded in writing and shall give a receipt of the goods to the person from whose possession or control they are seized;(c)release the goods seized in clause (b) to the owner of the goods or to anybody else duly authorised by such owner, during the course of the proceeding if adequate security of the amount equal to the estimated value of the goods is furnished.(6)The Incharge of the check-post or the officer empowered under sub-section (4), after having given the owner of the goods or a person authorized in writing by such owner or the person incharge of the goods, a reasonable opportunity of being heard and after having held such enquiry as he may deem fit, shall impose on him for possession or movement of goods, whether seized or not, in violation of the provisions of clause (a) of sub-section (2) or for submission of false or forged documents or declaration, a penalty equal to thirty percent of the value of such goods.(7)During the

pendency of the proceeding under sub-section (6), if anybody appears before the Incharge of the check-post or the officer empowered under sub-section (4) and prays for being impleaded as a party to the case on the ground of involvement of his interest therein, the said Incharge or the officer on being satisfied may permit him to be impleaded as a party to the case; and thereafter, all the provisions of this section shall mutatis mutandis apply to him.(8)The Incharge of the check-post or the officer empowered under sub-section (4) may release the goods to the owner of the goods or to anybody else duly authorised by such owner, if seized and not already released under clause (c) of sub-section (5), on payment of the penalty imposed under sub-section (6) or on furnishing such security for the payment thereof, as such Incharge or officer may consider necessary.(9)Where the driver or the person incharge of the vehicle or the carrier is found guilty for violation of the provisions of sub-section (2), subject to the provisions of sub-section (11), the Incharge of the check-post or the officer empowered under sub-section (4) may detain such vehicle or carrier and after affording an opportunity of being heard to such driver or person incharge of the vehicle or the carrier, may impose a penalty on him as provided in sub-section (6).(10)The Incharge of the check-post or the officer empowered under sub-section (4) may release the vehicle or the carrier on the payment of the amount of penalty imposed under sub-section (9) or on furnishing such security as may be directed by such Incharge or officer.(11)Where a transporter, while transporting goods, is found to be in collusion with a trader to avoid or evade tax, the Incharge of the check-post or the officer empowered under sub-section (4) shall detain the vehicle or carrier of such transporter and, after affording him an opportunity of being heard and with the prior approval in writing of the Deputy Commissioner (Administration) having jurisdiction, may confiscate such vehicle or carrier.(12)Notwithstanding anything contained in this section, where the driver or the person incharge of the vehicle or the carrier abstains from bringing or stopping the vehicle or carrier at the nearest check-post as provided under clause (b) of sub-section (2), the incharge of the check-post or the officer empowered under sub-section (4) may detain such vehicle or carrier and, after affording an opportunity of being heard to the owner or a person duly authorised by such owner or the driver or the person incharge of the vehicle or carrier, may impose a penalty equal to fifty percent of the value of such goods.(13)If a transporter fails to give information as required from him under clause (d) of sub-section (2) about the consignor, consignee or the goods within such time as may be specified or transports the goods with forged documents, besides imposing the penalty under sub-section (6), it shall be presumed that the goods so transported have been sold in the State of Rajasthan by him and he shall be deemed to be a dealer for those goods under this Act.(14)The provisions of this Act shall, for the purpose of levy, collection and assessment of tax, determination of interest, payment of recovery of tax and interest, appeal review or revision, apply to the transporter deemed to be a dealer under sub-section (13)."

14. Amendment of Section 37, Rajasthan Act No. 13 of 1999.

- The existing Section 37 of the principal Act shall be renumbered as sub-section (1) thereof, and thereafter, the following new sub-sections shall be added, namely:-(2) Notwithstanding anything contained in sub-section (1), on an application by a person admitting the offence committed by him under sub-sections (6), (9) & (12) of Section 31, the officer authorised under sub-section (4) of Section 31 or incharge of a check-post, as the case may be, may accept composition money from such person in lieu of penalty or prosecution, which shall, -(i) in case of offence committed by him

under sub-section (6) of Section 31, be equal to the amount of four times of the tax leviable on the goods, involved or twenty five percent of the value of such goods, whichever is less;(ii)in case of offence committed by him under sub-section (9) of Section 31, be equal to the amount of fifteen percent of the value of the goods;(iii)in case of offence committed under sub-section (12) of Section 31, be equal to the amount of twenty five percent of the value of the goods;(3)On the payment of the amount of composition determined under sub-section (1) or (2), no further proceeding under the provisions of this Act for imposition of penalty or launching of prosecution for the same offence shall be initiated.(4)Notwithstanding anything contained in this Act, no appeal shall lie or subsist against an order of composition made under this Act.(5)Notwithstanding anything contained in the Act, no amount of composition accepted and no amount of interest levied under this section, shall be waived or reduced."

Chapter IV

Amendment in the Rajasthan Stamp Act, 1998

15. Amendment of Section 2, of the Rajasthan Act No. 14 of 1999.

- In Section 2 of the Rajasthan Stamp Act, 1998 (Act No. 14 of 1999), hereinafter referred to as the principal Act,-(i)after the existing clause (viii) and before the existing clause (ix), the following shall be inserted, namely:-(viii-A) "Chief Controlling Revenue Authority" means Rajasthan Tax Board constituted under Section 90 of the Rajasthan Sales Tax Act, 1994 (Act No. 22 of 1995);";(ii)after the existing clause (xxxv), the following shall, be inserted, namely:-(xxxvi) "Stamp" means any mark, seal or endorsement by any agency or person duly authorized by the Inspector General of Stamps and includes an adhesive or impressed stamp, for the purposes of duty chargeable under this Act."

16. Amendment of Section 33, Rajasthan Act No. 14 of 1999.

- In Section 33 of the principal Act, for the expression "five hundred", wherever occurring, the words "five thousand" shall be substituted.

17. Amendment of the Schedule, Rajasthan Act No. 14 of 1999.

- In Art. 44 of the Schedule of the principal Act,-(i)the existing clause (cc) shall be deleted;(ii)for the existing clause (ee), the following shall be substituted, namely:-

(ee) when power of attorney is
given without consideration to
transfer orsell immovable
property to-

(i) the father, mother, Two thousand rupees.
sister,wife, husband, son,
daughter,grandson or grant

daughter of the executant.

(ii) any other person.

Two percent of the market value of the property, which is the subject matter of power of attorney: Provided that the stamp duty paid on such power of attorney shall at the time of execution of a conveyance in pursuance of such power of attorney subsequently be adjusted toward the total amount of duty chargeable on the conveyance if such conveyance is executed within three years from the date of power of attorney.

Chapter V

Amendment in the Rajasthan Motor Vehicles Taxation Act, 1951

18. Amendment of Section 4, Rajasthan Act No. 11 of 1951.

- In Section 4 of the Rajasthan Motor Vehicles Taxation Act, 1951 (Act No. 11 of 1951), hereinafter in this Chapter referred to as the principal Act, - (i) in sub-section (1), - (a) in proviso to clause (a), - A. after the existing expression "on quarterly" and before the existing expression "or monthly" the expression ", half yearly" shall be inserted, B. after the existing expression "paid quarterly" and before the expression "or monthly" the expression ", half yearly" shall be inserted, and C. after the expression "one fourth" and before the expression "or one twelfth" the expression "one half" shall be inserted; (b) in clause (b), for the existing expression "shall not exceed 10% of the cost of the vehicle:" the expression "shall not exceed 16% of the cost of the vehicle/chassis:" shall be substituted; (c) in first proviso to clause (b), for the existing expression "Chapter V of the Rajasthan Finance Act, 1997 (Act No. 9 of 1997)" the expression "Chapter V of the Rajasthan Finance Act, 2005 (Act No. 15 of 2005)" shall be substituted; (d) in clause (c), - A. the existing expression "under temporary permits", appearing after the existing expression "using road in Rajasthan" and before the existing expression "and in case of shall be deleted, and B. for the existing expression "shall not exceed Rs. 200/- per day per seat" the expression "shall not exceed Rs. 500/- per seat for 7 days or part thereof" shall be substituted; (e) for the existing clause (e), the following shall be substituted, namely: - "(e) a one time tax in respect of transport vehicles at such rates as may be notified by the State Government in the Official Gazette, which shall not exceed 50% of the cost of the vehicle/chassis: Provided that in addition to one time tax, there shall be paid by the owner or person having possession or control of transport vehicle on which one time tax is payable any tax or penalty as was payable under this Act for any period prior to the coming into force of the provisions of the Chapter V of the Rajasthan Finance Act, 2005 (Act No. 15 of 2005) at such rates as were applicable to such vehicles from time to time: Provided further that the owner or person having possession or control of transport vehicles shall have option either to pay tax levied under clause (a) or one time tax levied under clause (e)."

(ii) in sub-section (2), - (a) after the existing expression "A tax" and before the expression "shall be payable" the expression "on motor vehicles other than those covered by one time tax or lump sum tax" shall be inserted; (b) for the existing first proviso, the following shall be substituted, namely: - "Provided that the period of such surrender or non-use shall not be less than seven days for stage carriages and less than one month for other than stage carriages."; (c) in second proviso, after the existing expression "where a motor vehicle" and before the existing expression "is found plying" the expression ", other than those which has paid one time tax under clause (b) or

clause(e)of sub-section (1) of Section 4 or lump sum tax under Section 4-C," shall be inserted.

19. Amendment of Section 4-B, Rajasthan Act No. 11 of 1951.

- In existing Section 4-B of the principal Act,-(i)for the existing expression "three wheeled passenger vehicles with a seating capacity upto 4 excluding driver which have paid one time tax payable under clause (e) of sub-section (1) of Section 4", the expression "transport vehicles which have paid lump sum tax payable under Section 4-C" shall be substituted;(ii)in the proviso, after the existing expression "where a motor vehicle" and before the existing expression "is found plying", the expression "other than those which has paid one time tax under Section 4-C" shall be inserted.

20. Insertion of new Section 4-C, Rajasthan Act No. 11 of 1951.

- After the existing Section 4-B and before the existing Section 5 of the principal Act, the following new section shall be inserted, namely:-"4-C. Imposition of Lump sum tax. - Notwithstanding anything contained in Section 4 and Section 4-B and subject to the rules as may be made by the State Government there shall be levied and paid to the State Government a lump sum tax on all transport vehicles at the rates as may be specified by the notification in the Official Gazette by the State Government which shall not exceed 50% of the cost of vehicle/chassis:Provided that the owner or person having possession or control of transport vehicle shall have option either to pay tax levied under clause (a) or clause (e) of sub-section (1) of Section 4 and Section 4-B or lump sum tax under Section 4-C."

21. Amendment of Section 5, Rajasthan Act No. 11 of 1951.

- In Section 5 of the principal Act,-(i)in sub-section (1),-(a)for the expression "Section 4 and Section 4-B", the expression "Section 4, Section 4-B and Section 4-C" shall be substituted,(b)for the existing punctuation mark appearing at the end of existing proviso, the punctuation mark shall be substituted, and(c)after the existing proviso, so amended, the following new proviso shall be added, namely:-"Provided further that the lump sum tax payable under Section 4-C may be paid in full or in three equal instalments within a period of one year in such manner as may be prescribed by the State Government.";(ii)in sub-section (2), for the expression "payable by the non-transport vehicles or three wheeled passenger transport vehicles with seating capacity upto 4 excluding driver" the expression "or lump sum tax" shall be substituted;(iii)in sub-section (3),-(a)for the existing expression "clause (b) of sub-section (1) of Section 4" the expression "clause (b) or (e) of sub-section (1) of Section 4 or full tax or first instalment of tax under Section 4-C" shall be substituted;(b)in clause (a) for the existing expression "Chapter IX of the Rajasthan Finance Act, 1998 (Act No. 8 of 1998)", the expression "Chapter V of the Rajasthan Finance Act, 2005 (Act No. 15 of 2005)" shall be substituted;(c)in clause (b) for the existing expression "Chapter IX of the Rajasthan Finance Act, 1998 (Act No. 8 of 1998)", the expression "Chapter V of the Rajasthan Finance Act, 2005 (Act No. 15 of 2005)" shall be substituted.

22. Amendment of Section 7, Rajasthan Act No. 11 of 1951.

- For the existing Section 7 of the principal Act, the following shall be substituted, namely:-"7. Refund of tax. - (1) When any person who has paid the tax other than one-time tax under clause (b) or (e) of sub-section (1) of Section 4 or lump sum tax under Section 4-C or instalment of tax, proves to the satisfaction of the Taxation Officer that the motor vehicle in respect of which such tax or instalment has been paid, has not been used for a continuous period of not less than one month since the tax or instalment was last paid, he shall be entitled to the refund of an amount equal to 1/12th of the annual rate of the tax paid in respect of such vehicle for each complete month of the period for which such tax or instalment has been paid.(2)When any person who has paid one-time tax under clause (b) or clause (e) of sub-section (1) of Section 4 or lump sum tax under Section 4-C proves to the satisfaction of the Taxation Officer that the motor vehicle, in respect of which such tax has been paid, has been taken out of the State or has completely been destroyed or has been converted into a vehicle liable to pay less amount of tax shall be entitled to the refund of such tax on pro rata basis in the prescribed manner.(3)The Taxation Officer may refund or adjust in the prescribed manner any amount paid in excess of the tax due."

23. Amendment of Section 17, Rajasthan Act No. 11 of 1951.

- In existing Section 17 of the principal Act, -(i)both the existing provisos to sub-section (2) shall be deleted;(ii)for the existing sub-section (3), the following shall be substituted, namely:-(3) The motor vehicle seized under sub-section (2) shall not be released unless full tax due, penalty and interest and all other dues payable under this Act in respect of such a vehicle has been paid."

24. Insertion of new Section 21-A, Rajasthan Act No. 11 of 1951.

- After the existing Section 21 and before the existing Section 22 of the principal Act, the following new section shall be inserted, namely:-"21-A. Power to reduce or waive penalty and interest in certain cases. - (1) Notwithstanding anything contained in this Act, the State Government may by notification in the Official Gazette constitute a committee consisting of Transport Commissioner and such other members as may be specified in the notification, which may, on its own, or on an application made in this behalf by the owner of a motor vehicle and after being satisfied and after recording its reasons in writing for so doing reduce or waive, the amount of interest or penalty or both payable by such owner under this Act, if it is satisfied that the penalty, interest or both has accrued on account of-(a)the non availability of cost of the motor vehicle/non availability of similar type of motor vehicle in a financial year;(b)the wrong determination of similarity of the vehicle;(c)wrong determination of category of the vehicle.(2)Every order made under this section shall be final."

Chapter VI

Amendment in the Rajasthan Excise Act, 1950

25. Amendment of Section 54, Rajasthan Act No. 2 of 1950.

- In Section 54 of the Rajasthan Excise Act, 1950 (Act No. 2 of 1950), hereinafter in the chapter referred to as the principal Act,-(a)for the existing expression "two thousand rupees", appearing after the expression "extend to" and before the punctuation mark the expression "twenty thousand rupees" shall be substituted;(b)for the existing punctuation mark appearing at the end of the existing proviso, the punctuation mark shall be substituted; and(c)after the existing proviso, so amended, the following proviso shall be added, namely:-"Provided further that if the quantity of liquor found at the time or in the course of detection of the offence exceeds fifty bulk litres, the person guilty for such offence shall be punished with the minimum sentence of imprisonment for one year and fine of ten thousand rupees."

26. Amendment of Section 69, Rajasthan Act No. 2 of 1950.

- In Section 69 of the principal Act,-(i)sub-section (5) shall be deleted; and(ii)for the existing clause (b) of sub-section (8), the following shall be substituted, namely:-"(b) where an order passed in appeal so requires; or".