

# Gujarat Sales Tax (Second Amendment) Act, 1976

GUJARAT

India

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### Act 10 of 1976

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Enacted by the President in the Twenty-seventh Year of the Republic of IndiaAN ACT further to amend the Gujarat Sales Tax Act, 1969.In exercise of the powers conferred by section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1976, (44 of 1976) the President is pleased to enact as follows:-\* Received the Assent by the President on the 31st March, 1976, is published for general information.

### **1. Short title and commencement.- (1) This Act may be called the Gujarat Sales Tax (Second Amendment) Act, 1976.**

(2)Save as otherwise provided in this Act, it shall come into force on the 1st day of April, 1976.

### **2. Amendment of section 2.- In section 2 of the Gujarat Sales Tax Act, 1969 (Gujarat Act 1 of 1970) (hereinafter referred to as "the principal Act"),-**

(a)in clause (10), after "Exception II", the following Exception shall be inserted, namely:-"Exception III.-An individual who sells exclusively any fish or any seafood caught by him personally or by any member of his family on account of or on behalf of such individual, shall not be deemed to be a dealer within the meaning of this clause;"(b)for clause (25), the following clause shall be substituted, namely:-"(25) "Registered dealer" means a dealer registered under section 29 or 30 and includes a dealer,-(i)who holds a certificate of registration deemed to have been granted under this Act; and(ii)to whom a fresh certificate of registration has been granted under section 30A;"

### **3. Amendment of section 4A.- In section 4A of the principal Act, in sub-section (1), for the words "three paise in the rupee", the words "six paise in the rupee" shall be substituted.**

#### **4. Amendment of section 11.- In section 11 of the principal Act,-**

(a)in clause (1), after sub-clause (a), the following sub-clause shall be inserted and shall be deemed always to have been inserted, namely:-"(aa) a purchase of goods in respect of which no tax is payable under the proviso to sub-section (1) of section 4;";(b)in sub-clause (a) of clause 2, for the word "sub-section", the word "clause" shall be substituted.

#### **5. Amendment of section 30.- In section 30 of the principal Act,-**

(a)for sub-section (2), the following sub-section shall be substituted, namely:-"(2) The provisions of sub-section (4) and clause (a) of sub-section (7) of section 29 shall apply in respect of the amendment or cancellation of the certificate of registration granted under this section.";(b)to sub-section (4), the following proviso shall be added, namely:-"Provided that nothing in this sub-section shall be deemed to prevent the cancellation of any registration before the completion of one complete year in a case where any business in respect of which a certificate of registration has been issued under this section, has been discontinued or transferred before such completion.".

#### **6. Insertion of new section 30A.- After section 30 of the principal Act, the following section shall be inserted, namely;-**

"30A. Fresh registration of dealer.- (1) Every registered dealer who holds, on the date of commencement of the Gujarat Sales Tax (Second Amendment) Act, 1976 (hereinafter referred to as "the specified date"), a valid certificate of registration issued or deemed to have been issued (hereinafter referred to as "the existing certificate of registration") shall obtain a fresh certificate of registration as provided in this section, in lieu of the existing certificate of registration.(2)Every dealer required by sub-section (1) to obtain a fresh certificate of registration shall apply in the prescribed manner and within such period from the specified date as may be prescribed to the authority prescribed for the purpose of section 29 and such application shall be accompanied by the existing certificate of registration together with all additional copies thereof, if any, issued to him.(3)On receipt of such application, the prescribed authority shall, subject to the provisions of this Act, issue to the applicant a fresh certificate of registration in the prescribed form and thereupon all the provisions of this Act in respect of a certificate of registration shall, so far as may be, apply to such fresh certificate of registration, and references to a certificate of registration in any licence, recognition, permit or other document granted to the applicant shall be construed as references to the fresh certificate of registration issued to him.(4)Where any dealer fails to make an application required to be made by him under sub-section (2), the Commissioner may impose upon such dealer by way of penalty, a sum not exceeding five hundred rupees for every day after the expiry of the period prescribed under sub-section (2) for making such application during which such default continues.(5)A dealer who has presented his existing certificate of registration to the prescribed authority under sub-section (2) shall not be deemed to have ceased to be in possession of the existing certificate of registration until a fresh certificate of registration is issued to him under sub-section (3).".

**7. Amendment of section 45.- In section 45 of the principal Act, for sub-sections (5) and (6), the following sub-sections shall be substituted, namely:-**

"(5) Where in the case of a dealer the amount of tax-(a)assessed for any period under section 19, 41 or 50; or(b)reassessed for any period under section 44,exceeds the amount of lax already paid under sub-section (1), (2) or (3) of section 47 by the dealer in respect of such period by more than twenty per cent, of the amount of tax so paid, the dealer shall be deemed to have failed to pay the tax to the extent of the difference between the amount so assessed or reassessed as aforesaid and the amount paid.(6)Where under sub-section (5), a dealer is deemed to have failed to pay the tax to the extent mentioned in the said sub-section, there shall be levied on such dealer, a penalty of such amount as is equivalent to the amount of simple interest for the period commencing on the date of expiry of the time prescribed for payment of tax under sub-section (1), (2) or (3) of section 47 and ending on the date of assessment or, as the case may be, reassessment, at the rate of twenty-four per cent, per annum on the amount of tax equivalent to such difference or any less amount remaining unpaid during such period:Provided that where in assessing the amount of tax from any dealer under section 19, 41 or 50 in respect of any period, the time taken for making an order of assessment exceeds eighteen months from the date of expiry of the time prescribed for the payment of tax under sub-section (1), (2) or (3) of section 47, the Commissioner shall estimate the amount of penalty payable by the dealer for the period between the date of expiry of the said period of eighteen months and the date of payment of tax specified in the notice under sub-section (4) of section 47 in respect of the amount of tax falling under sub-clause (ii) of clause (a) of the said sub-section;Provided further that where the Commissioner is satisfied that the difference between the amount payable as assessed or reassessed and the amount paid has taken place on account of some reasonable cause, he may remit the whole or part of the penalty, payable in respect of any period by any dealer.

**8. Amendment of section 47.- In section 47 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:-**

"(4-A) If a dealer does not pay any amount of lax within the time presented for its payment under sub-section (1), (2) or (3) on or before the date specified in a notice issued under sub-section (4) in respect of the amount of tax falling under sub-clause (ii) of clause (a) thereof, there shall be paid by such dealer for the period commencing on the date of expiry of the aforesaid prescribed time or the specified date and ending on the date of payment of the amount of tax, simple interest at the rate of twenty-four percent, per annum on the amount of tax not so paid or on any less amount thereof remaining unpaid during such period:Provided that where a penally is levied under sub-section (6) of section 45 in respect of the difference and the period referred to in that sub-section, no interest shall be payable under this sub-section on such difference for such period."

**9. Insertion of new sections 59A and 59B.- After section 59 of the principal Act, the following sections shall be inserted, namely:-**

"59A. Inspection of goods in transit, etc. (1) If the State Government considers that with a view to preventing evasion of tax in any place or places in the State, it is necessary so to do, it may, by notification in the Official Gazette, direct that such number of checkpoints shall be set up or such number of barriers shall be ??? at such places as may be specified in the notification. (2) At every check-post or barrier set up or erected under sub-section (1), the driver or any other person in charge of any vehicle, boat or animal shall stop the same, and keep it stationary so long as may reasonably be necessary, and allow the officer-in-charge of the check-post or barrier to ??? consents in the vehicle or boat or on the animal and inspect all ??? to the goods carried in the vehicle or boat or on the animal which are in the possession of such driver or other person in charge who shall, if so required, give his name and address and the names and ??? of the ??? of the vehicle, boat or animal as well as of the ??? and consignee if such goods; and where any of the consignors or consignees is a dealer ??? under this Act or the Central Sales Tax Act, 1956, the ??? or any other person in charge of the vehicle, boat or animal shall also give ??? and place of issue of the certificate of registration, if any, of such dealer. (3) The driver or other person in charge of a vehicle, boat or animal carrying goods shall-(a) carry with him a log book, a bill of sale or delivery note and such other ??? to the goods carried in the vehicle or boat or on the animal and containing such particulars as may be prescribed and the ??? in charge of a transport vehicle shall, in addition, carry a goods vehicle record and a trip sheet; (b) produce the same when requested to do so by the officer-in-charge of the check-post or barrier; (c) give to the officer-in-charge of the check-post or barrier a declaration relating to particulars of the goods carried in the vehicle or boat or on the animal in such form as may be prescribed. (4) Where an officer-in-charge of a check-post or a barrier has reason to believe that the driver or other person in charge of a vehicle, boat or animal has not given true or correct information in any respect or that any of the particulars contained in any of the aforesaid documents is not true or correct he may ask the driver or other person in charge of such vehicle, boat or animal such questions as he thinks necessary to obtain true and correct information as far as possible in these respects and record the substance of his enquiries in such manner as he thinks fit. (5) All the documents received from the driver or other person in charge of the vehicle, boat or animal under sub-section (3) and the record of the substance of enquiries prepared under sub-section (4) shall be forwarded by the officer-in-charge of the check-post or barrier to the Sales Tax Officer concerned, and thereupon such Sales Tax Officer shall, if he has reason to believe that such evasion has taken place, take such action as he considers necessary to prevent the evasion of tax. (6) The aforesaid provisions of this section shall apply in respect of such animals, the sales or purchases of which are liable to tax and which are led by a person as if reference in the aforesaid provisions to a driver or person in charge of a vehicle, boat or animal carrying goods is a reference to the person leading the animal. Explanation:-In this section-(a) "goods vehicle record" means the documents required to be carried by the driver of a transport vehicle under the Motor Vehicles Act, 1939 (4 of 1939) or the rules made thereunder; (b) "log book" means a register, statement or other record containing particulars of the goods under transport; (c) "trip sheet" means a sheet or other document containing particulars relating to the trip wise use of a transport vehicle, required to be carried by the driver under the Act referred to in clause (a).

**59B. Special powers for reconstitution of records in certain circumstance.-**

**(1) If the Commissioner is satisfied that any records pertaining to a dealer have been destroyed as a result of fire, flood, or earthquake or otherwise as a result of any natural or other calamity or event, he may, by notice in writing, require the dealer to attend before him on a date and at a place specified in the notice, or to produce ??? him any accounts or registers or documents or copies thereof or to furnish fresh returns or declarations under this Act or any earlier law for such period, by such dates and to such authority as may be specified in the notice (being returns for a period for which the dealer has not yet been assessed), or to furnish true copies of or extracts from any documents already submitted to the Commissioner, on or before the date specified in the notice, or to furnish any other information relating to the business of the dealer as "may be" specified 'in the' notice, being information which the Commissioner considers necessary for facilitating the work of assessment (including-reassessment) or the collection of the tax from such dealer under this Act or under any earlier law.**

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the Commissioner may require the dealer to produce for inspection or furnish copies of, or extracts from, all or any of the following, namely;-(a) application for the issue of a certificate of registration, licence, recognition or permit made under sections 29, 30, 30A, 31, 32 or 33 as the case may be;(b) certificate of registration, licence, recognition or permit granted to the dealer;(c) returns or declaration furnished by the dealer;(d) proof of payment of tax and penalty by the dealer;(e) a certified copy of the assessment order given to the dealer;(f) any notice of demand served on the dealer;(g) any declaration made under section 60;(h) specimen signatures furnished under rule 16 of the Gujarat Sales Tax Rules, 1970;(i) any nomination made under rule 17 of the said rules.(3) For securing compliance with any notice given under this section, the Commissioner shall have all the powers mentioned in sub-sections (2), (3), (4) and (5) of section 59.(4) Where any person is prosecuted for failure to comply with any requirement made of him under this section, the burden of proving that he had reasonable excuse for such failure shall be on him."

**10. Amendment of section 75.- In sub-section (1) of section 75 of the principal Act,-**

(a) in clause (h), for the words and figures "section 59, or", the words, figures and letters "section 59, 59A or 59B, or" shall be substituted;(b) in clause (j), for the words and figures "section 59, or", the words, figures and letter "section 59 or section 59B, or" shall be substituted.

**11. Amendment of Schedule I.- In Schedule I appended to the principal Act,-**

(1)entry 7 shall be omitted;(2)in entry 21 for the words "cotton seeds and oil cakes", the words "cotton seeds, oil cakes and de-oiled cakes" shall be substituted;(3)in entry 24, for the words "chemical fertilisers and oil cakes" the words "chemical fertilizers, oil cakes and de-oiled cakes" shall be substituted.

**12. Amendment of Schedule II-Part A.- In Schedule II-Part A appended to the principal Act,-**

(1)after entry 26, the following entry shall be inserted, namely:-

1	2	3	4
	"26A. Fish and all sea food.	Four paise in the rupee	Four paise in the rupee."
(2)in entry 38, in columns 3 and 4, for the words "Seven paise in the rupee", the words "Nine paise in the rupee" shall be substituted;(3)in entry 39, in columns 3 and 4, for the expression "Do", the words "Seven paise in the rupee" shall be substituted;(4)in entry 41, in columns 3 and 4, for the expression "Do", the words "Ten paise in the rupee" shall be substituted;(5)for entry 42, the following entry shall be substituted, namely:-			
1	2	3	4
"42	Glassware, chinaware or articles made of porcelain and glazed earthenware-		
	(1) When sold at a price not exceeding two rupees per piece.	Seven paise in the rupee.	Seven paise in the rupee.
	(2) in any other case.	Ten paise in the rupee	Ten paise in the rupee.

*Explanation.*-(i) one cup and one saucer, or(ii) any vessel and its lid,

sold together shall be deemed to be one piece whereas a set of cups and saucers, plates or dishes and other articles sold as such shall not be deemed to be one piece.";(6)in entry 43, in columns 3 and 4, for the expression "Do", the words "Seven paise in the rupee" shall be substituted;(7)in entry 44, in columns 3 and 4, for the words "Seven paise in the rupee" the words "Ten paise in the rupee" shall be substituted;(8)in entry 45, in columns 3 and 4, for the expression "Do", the words "Seven paise in the rupee" shall be substituted;(9)in entry 56, in columns 3 and 4, for the words "Nine paise in the rupee", the words "Eleven paise in the rupee" shall be substituted;(10)in entry 58,-(i)in column 2, after the word "matches", the brackets and words "(known as baporias)", shall be inserted;(ii)in columns 3 and 4, For the expression "Do", the words "Twenty paise in the rupee" shall be substituted;(11)in entry 59, in columns 3 and 4, for the expression "Do", the words "Twelve paise in the rupee" shall be substituted;(12)in entry 60, iii columns 3 and 4, for the expression "Do", the words "Ten paise in the rupee" shall be substituted;(13)for entry 61, the following entries shall be

substituted, namely:-

1	2	3	4
"61.	Paints and varnishes in any form, whether ready for use or not (other than those specified in entry 61A of this, Schedule).	Twelve paise in the rupee.	Twelve paise in the rupee.
61-A.	(a) Acrylic and plastic emulsion paint.	Fifteen paise in the rupee.	Fifteen paise in the rupee."

(b) All types of lacquers.

(14)in entry 62, in columns 3 and 4, for the expression "Do", the words "Ten paise in the rupee" shall be substituted;(15)in entry 63, in columns 3 and 4, for the expression "Do", the words "Eleven paise in the rupee" shall be substituted;(16)in entry 64, in columns 3 and 4, for the expression "Do", the words "Ten paise in the rupee" shall be substituted;(17)in entry 65,-(i)in column 2, after the words "Aerated waters and all non-alcoholic beverages" the words "other than soda" water," shall be inserted;(ii)in columns 3 and 4, for the word "Do", the words "Twelve paise in the rupee" shall be substituted;(18)for entry 66, the following entry shall be substituted, namely:-

1	2	3	4
"66.	Soda water when sold, in sealed on capsuled or corked bottles or jars.	Ten paise in the rupee.	Ten paise in the rupee".

1	2	3	4
"69(a)	Air conditioning plant with a capacity of not more than 1.5 tonnes and spare pans and accessories thereof.	Fifteen paise in the rupee.	Fifteen paise in the rupee.
(b)	Air conditioning plant with a capacity of more than 1.5 tonnes and spare parts and accessories thereof.	Twelve paise in the rupee.	Twelve paise in the rupee.'

(21)in entry 70, in columns 3 and 4 the expression "Do", shall be construed as reference to "Twelve paise in the "rupee";(22)in entry 71, in columns 3 and 4, for the expression "Do", the words "Fifteen paise in the rupee" shall be substituted;(23)in entry 72, in columns 3 and 4, for the expression "Do", the words "Twelve paise in the rupee" shall be substituted;(24)in entry 73, in columns 3 and 4, for the expression "Do", the words "Fifteen paise in the rupee" shall be substituted;(25)in entry 74,-(i)against sub-entry 1, in columns 3 and 4, for the expression "Do", the words "Twelve paise in the rupee" shall be substituted;(ii)in sub-entry 2,-(a)in column 2, the brackets, words and figures "(other than the component parts of motor lorries as specified in entry 66 of this Schedule)" shall be omitted;(b)in columns 3 and 4, the expression "Do" shall be construed as a reference to Twelve paise in the rupee;(26)in entry 78, in columns 3 and 4, for the expression "Do", the words "Fifteen paise in the rupee" shall be substituted;(27)in entry 79,-(i)in column 2, for the words "Typewriting and duplicating", the words ??? shall be substituted;(ii)in columns 3 and 4, for the expression "Do", the words "Fifteen paise in the rupee" shall be substituted;(28)after entry 79, the following entry shall be inserted, namely:-

1	2	3	4
"79-A.	Typewriting machines and spare parts and accessories thereof.	Twelve paise in the rupee.	Twelve paise in the rupee.";

(29)in entry 80, in columns 3 and 4, the expression "Do" shall be construed as reference to Twelve paise in the rupee;(30)after entry 80, the following entry shall be inserted, namely:-

1	2	3	4
"80-A.	Television set and spare parts and accessories thereof.	Fifteen paise in the rupee.	Fifteen paise in the rupee.";
1	2	3	4
"4A.	All kinds of stoves and spare parts and accessories thereof.	Five paise in the rupee.	Three paise in the rupee";