

The U.P. Advertisements Tax Act, 1981

UTTAR PRADESH

India

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Act 16 of 1981

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Statement or Objects and Reasons.- Under the various Uttar Pradesh Acts the local bodies are empowered to levy tax on advertisements other than the advertisements published in newspapers. But only a few local bodies have exercised this power. Therefore, with a view to bringing about uniformity in regard to imposition of tax on such advertisements and augmenting resources of the local bodies of the State, it is considered necessary to provide for levy of tax on advertisements exhibited in cinemas. It is also proposed to provide for transfer of the sum received on amount of such tax of local bodies, after deducting collection charges.[1st October, 1981]An Act to provide for the levy of tax on advertisements exhibited in cinemas and for matters connected therewithIt is hereby enacted in the Thirty second Year of the Republic of India as follows:Received the assent of the Government on October 1, 1981, published in U.P. Gazette (extra) dated 5th October, 1981.The Uttar Pradesh Advertisements Tax Bill, 1981 is accordingly introduced.

1. Short title and commencement.

(1)This Act may be called the Uttar Pradesh Advertisement Tax Act, 1981.(2)It shall come into force on such [date] [En forced on 1st March, 1983, Vide Notification No. XXX-E-B-6(8)/78, dated 13th Jan., 1983, published in U.P. Gazette, (Extra) dated 17th Jan., 1983] as the State Government may, by notification, appoint in this behalf and different dates may be so appointed for different provisions of this Act, or for different areas of the State.

2. Definitions.

- In this Act - .(a)"Advertisement" means the intimation or announcement of any goods property, entertainment, trade, business or profession by means of a slide or film;(b)"Cinema" means a place

licensed to exhibit films by means of a cinematograph under the provisions of the Uttar Pradesh Cinemas (Regulation) Act, 1955;(c)"Commissioner" means the Entertainment and Betting Tax Commissioner, Uttar Pradesh and includes the Additional Entertainment and Betting Tax Commissioner, the Joint Entertainment and Betting Tax Commissioner, the Deputy Entertainment and Betting Tax Commissioner and any other officer authorised by the State Government by notification to exercise all or any of his powers under this Act;(d)"Proprietor" in relation to a cinema includes(i)the licensee thereof, within the meaning of the U.P. Cinematograph Rules, 1951;(ii)any person responsible for or for the time being in charge of the management thereof;(iii)any person charged with the work of projecting any slide of film therein;(e)"tax" means advertisement tax and includes any penalty or other charge levied under this Act.

3. Levy of tax on advertisements.

(1)On all advertisements exhibited on the screen in cinema there shall be charged, levied and paid an advertisement tax at such rate as State Government may from time to time notify in this behalf:[Provided that a proprietor may, in lieu of the tax payable under this sub-section, pay a lump sum tax on such conditions, in such manner and at such rates, as the State Government may notify in this behalf and where a proprietor elects to pay such lump sum tax he shall not be required to keep accounts and furnish returns under section 5 for the period for which lump sum tax is paid, notwithstanding anything to the contrary contained in that section] [Instituted by U.P. Act 12 of 1989. Vide Section 15](2)The rate of tax referred to in sub-section (1) shall not exceed (a)in the case of an advertisement short, for every forty five metre or part thereof twenty five rupees per week or part thereof;(b)in the case of a trailer of film two rupees per day,(c)in the case of a slide fifty paise per slider per day,(d)in the case of any other advertisement fifty paise per advertisement per day.(3)Nothing in this Section shall preclude the State Government from notifying different rates of tax for different areas of the State or for different kinds of advertisements.(4)In computing the tax payable under this Section the tax liability shall, whenever necessary, be rounded off to the next higher multiple of five paise.Notification[Vide Notification No. XXX-EB-6(8)-78, Vitta (Manoranjan Kar) Anubhag, dated June 10, 1983, published in U.P. Gazette, (Extra), dated 13th June, 1983.]In exercise of the powers under Section 3 of the Uttar Pradesh Advertisements Tax Act 1981 (Act No. 16 of 1981) read with Section 21 of the Uttar Pradesh General Clauses Act, 1904 (Act No. 1 of 1904) and in supersession of Government Notification No. XXX-EB-6 (8) 78- Vitta (Manoranjan Kar) Anubhag, dated January 22, 1983 the Governor is pleased to notify that with effect from July 1, 1983 advertisement tax on all advertisements exhibited on the screen in a Cinema in Uttar Pradesh shall be charged, levied and paid at the rates specified in the Schedule given below:

Schedule

S. No.	Class of town	Rate of Advertisements Tax			
		Shorts	Slides	Trailer of film	Other Advertisements
1	2	3	4	5	6

1	First class town having populations over two lakhs	(1) Up to 38.48 meters Rs. 8 per short per week	45 paise per slide per day but not exceeding Rs. 12 per month.	Rs. 1 per trailer per day.	50 paise per advertisement per day.
		(2) Up to 38.48 meters Rs. 18 per short per week.			
2	Second class town with a municipality having populations not exceeding two lakhs.	Rs. 4 per sheet per week for every forty five meters or part thereof.	20 paise per slide per day but not exceeding Rs. 4 per month.	Rs. 1 per trailer per day.	50 paise per advertisement per day.
3	Any other place	-	5 paise per slide per day but not exceeding Rs. 1 per month.	Rs. 1 per trailer per day.	50 paise per advertisement per day.

Note. - The slides certified by the District Magistrate concerned to be of (sic) a purely informative and educative character including those relating to the maintenance, sanitation and hygiene of the cinema and trailers certified by the district Magistrate concerned to be of a forthcoming film to be exhibited in the same cinema shall be exempted from the payment of tax.

4. Liability to pay tax.

- The tax shall be charged from and paid by the proprietor in the manner prescribed but, subject to any contract to the contrary the amount paid or payable by the proprietor in respect of the tax shall be recoverable by him from any person on whose behalf the advertisement is exhibited: [Provided that in case of payment of lump sum tax by a proprietor, the amount recoverable under this Section by the proprietor from any person on whose behalf the advertisement is exhibited shall be equivalent to the amount of advertisement tax payable under Section 3, on such advertisement.] [Instituted by U.P. Act 12 of 1989, vide Section 16]

5. Duty to keep books of accounts etc..

- The proprietor shall keep such books of account and submit such returns at such intervals in respect of the exhibition of advertisements as may be prescribed.

6. Exemptions.

(1) No tax shall be payable in respect of - (a) any advertisement exhibited for or on behalf of any Government or local authority; (b) any slide relating to the exhibition of feature films in the cinema in which the slide is being exhibited. (2) Where the District Magistrate, or any other officer authorised by the State Government in this behalf is satisfied that any advertisement is exhibited for philanthropic, charitable or educational purposes without any profit, he may exempt such

advertisement from payment of tax.

7. Refund of tax.

- Where the Commissioner is satisfied that the proprietor has deposited tax in excess of the amount actually due, he shall grant a refund in respect of such amount or allow its adjustment against future payments of tax.

8. Best judgment assessment.

(1)Where the Commissioner is satisfied that the proprietor -(a)has fraudulently evaded or attempted to evade, in any form whatsoever, the payment of tax due under this Act; or .(b)has failed to prepare or to submit true and full returns within the time prescribed thereof;he shall after giving the proprietor a reasonable opportunity of being heard, assess to the best of his judgment the amount of tax due from the proprietor, and may also impose a penalty not exceeding five hundred rupees or double the amount of tax due, whichever is greater.(2)Any person aggrieved by an order under sub-section (1) may, within thirty days from the date of service of such order, prefer an appeal to the State Government in such manner as may be prescribed, and the order of the appellate authority on such appeal shall be final.

9. Inspections.

(1)The Commissioner or any other officer authorised by him in this behalf may, with such assistance as may be necessary enter, inspect and search any cinema or any place used or suspected to be used for keeping records connected therewith at any reasonable time with a view to securing compliance of the provisions of this Act, and may take in his possession or require the production of such records relating to the exhibition of advertisements, as he considers necessary.(2)The powers of entry search and inspection under sub-section (1) may also be exercised by the District Magistrate or an officer authorised by him, within the District to which he is for the time being posted.(3)The proprietor shall give every reasonable assistance to the inspecting officer specified in sub-section (1) or sub-section (2).(4)Every inspecting officer specified in sub-section (1) or sub-section (2) shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

10. Penalties.

(1)Any person who fails to pay, or evades the payment of any tax due under this Act shall on conviction, be liable to a fine not exceeding one thousand rupees.(2)Any person who prevents the entry of or otherwise obstructs, any inspecting officer in the discharge of his duties under this Act or the rules made thereunder shall on conviction, be punishable with a fine not exceeding one thousand rupees.(3)Any person who contravenes any other provisions of this Act or the rules made thereunder, or fails to comply with any order or direction issued under this Act or the rules made thereunder shall, on conviction, be punishable with a fine not exceeding five hundred rupees.

11. Offences by Companies.

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence 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 if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1) where any offence under this Section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or that the commission of the offence is attributable to any neglect, in the part of any managing agent, secretary, treasurer, director, manager or other officer of the company, such managing agent, secretary, treasurer, director manager 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 any body corporate and includes a firm or other association of individuals; and (b) 'director' in relation to a firm means partner in the firm.

12. Sanction of prosecution.

- No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the District Magistrate. '

13. Compounding of offence.

(1) Any offence punishable under this Act may subject to any general or special order of the State Government in this behalf be compounded either- before or after the institution of the prosecution, by the Commission on realisation of such amount of composition fee as he thinks fit not exceeding the maximum amount or fine fixed for the offence. (2) Where the offence is so compounded -(a) before the institution of the prosecution the offender shall not be liable to prosecution for such offence and shall if, in custody, be set at liberty. (b) after the institution of the prosecution the composition shall amount to acquittal of the offender.

14. Recovery of tax.

- Any sum due on account tax shall without prejudice to any other model of recovery available to the State Government under any other law for the time being in force be recoverable as arrears of land revenue.

15. Bar of certain proceedings.

- No action shall lie against the State Government or any of its officers or servants for any act done or purporting to be done in good faith under this Act the rules made thereunder.

16. Delegation.

(1)The State Government may, by notification, delegate all or any of its powers under this Act, except the powers referred to in clause (c) of Section 2, Section 3 and Section 20, to any person or authority subordinate to it and may in the like manner withdraw any power so delegated.(2)The exercise of any powers delegated under sub-section (1) shall be subject to such restrictions, limitations or conditions as may be laid down by the State Government from time to time.

17. Power of Commissioner to issue directions.

- The Commissioner shall have the power to issue direction from time to time not inconsistent with the provisions of this Act or the rules made thereunder to the proprietors of cinemas for carrying out the purposes of this Act.

18. Payments of the amount of tax to local bodies.

- At the beginning of each financial year, after due appropriation has been made by law, the State Government shall withdraw from and but of the Consolidated Fund of the State an amount equivalent to the sum received by it on account of the tax in the preceding financial year after deduction charges, and transfer it to the local bodies in such manner and in such proportion as may be prescribed.

19. Exemption from tax under enactments.

- No tax, cess, duty or other levy on advertisements exhibited on screen inside a cinema under any other Uttar Pradesh Act shall be payable where a tax is payable under this Act.

20. Power to make rules.

- The State Government may, by notification, make rules for carrying out the purposes of this Act.