

The Uttarakhand D.T.H. Broadcasting Service (Exhibition) Rules, 2009

UTTAR PRADESH

India

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Rule

THE-UTTARAKHAND-D-T-H-BROADCASTING-SERVICE-EXHIBITION-F of 2009

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The Uttarakhand D.T.H. Broadcasting Service (Exhibition) Rules, 2009Published Vide Notification No. 01/59/2010/27(9)-Entertainment Tax/2008, dated 01.01.2010 published in the Uttarakhand Gazette, Extraordinary, dated 01.01.2010.In exercise of the powers conferred by sub-section (1) of Section 38 of the Uttarakhand (Uttar Pradesh Entertainment and Betting Tax Act, 1979) (U.P. Act No. 28 of 1979) (as applicable to the State of Uttarakhand), the Governor is pleased to make the following rules -

1. Short title and commencement.

(1)These rules may be called the Uttarakhand D.T.H. Broadcasting Service (Exhibition) Rules, 2009.(2)They shall come into force at once.

2. Definitions.

- In these rules -(a)"Act" means the Uttar Pradesh Entertainment and Betting Tax Act, 1979 (as applicable to the State of Uttarakhand).(b)"Financial year" means the period of twelve months commencing on the first day of April of a calender year;(c)"Form" means a Form appended to these rules;(d)"Direct to Home (D.T.H.) Broadcasting Service means a service for multi-channel distribution of programmes direct to subscriber's premises without passing through an intermediary such as cable operator by uplinking to a satellite system".(e)"D.T.H. (Direct to Home) broadcasting service subscriber" means the person(s) who avails D.T.H. (Direct to Home) broadcasting services.(f)"D.T.H. (Direct to Home) broadcasting service provider" means the seller

(dealer/agent/distributor), D.T.H. broadcasting service provider of the company himself who makes available the electronic device to the subscribers for broadcasting the signals received from the satellite and collect the monthly amount from the subscribers in terms of D.T.H. service.(g)"Receipt Book" means the receipt book as prescribed in Rule 7.(h)"Treasury" means a Government Treasury which also includes sub-Treasury.(i)Words and expressions used but not defined in these rules shall have the same meaning as assigned to them in the Act.

3. Permission for DTH Broadcasting Service.

(1)No person shall provide DTH Broadcasting Service without prior permission of the Entertainment Tax Commissioner/District Magistrate.(2)Where in the State a DTH Service provider proposes to provide DTH broadcasting services at more than one district and desires to deposit the entertainment tax of all districts at one place of business, in such case the DTH broadcasting service provided by declaring one of the districts as principal place of business in which he desires to deposit the entertainment tax, will submit an application in Form I to the District Magistrate of the principal place of business for obtaining permission of DTH broadcasting service. Thus the DTH broadcasting service provider will be responsible to deposit the entertainment tax of all districts to the office of District Magistrate of principal place of business.(3)In case the main office of the DTH broadcasting service provider is situated out of the Uttarakhand State and he desires to provide DTH broadcasting service in more than one district in Uttarakhand State, he shall have to declare one of the districts as principal district of his business and will deposit the entertainment tax in accordance with sub-rule (2).(4)If a DTH broadcasting service provider fails to submit application in terms of Rules 3(2) and 3(3), the permission of DTH broadcasting service will not be issued by the Entertainment Tax Commissioner or the District Magistrate authorized by him in this behalf and the Entertainment Tax Commissioner or the District Magistrate so authorized shall be the tax assessing authority in respect of such DTH broadcasting service provider and his decision shall be final.(5)If the DTH broadcasting service provider by any reason, desires to change the principal District of business, he shall submit an application to this effect to the Entertainment Tax Commissioner. After taking all aspects into consideration, the Entertainment Tax Commissioner at the end of financial year shall grant permission to change the Principal District of business for next financial year.(6)The DTH service provider shall furnish to the District Magistrate of the principal District as also to the District Magistrate of other districts, the details of the amount of fee being collected each month and entertainment tax due on DTH broadcasting service connections provided in other districts in addition to the declared Principal District declared for business. The District Magistrates of the said other districts or departmental officers shall also furnish the information to the District Magistrate of the principal District after verifying the connection provided in their districts by the said service provider each month and fee being collected and entertainment tax due.(7)Any person willing to provide DTH broadcasting service under this Act/Rules of DTH broadcasting service, may apply to the Entertainment Tax Commissioner/District Magistrate.(8)Application under sub-rule (7) shall be given in Form 1.(9)On receipt of the application, the Entertainment Tax Commissioner/ District Magistrate shall satisfy himself that the applicant has furnished all the requisite information and on being so satisfied, grant to the applicant such permission in Form 2 for a period of three financial years at a time; but the Entertainment Tax Commissioner/District Magistrate may refuse to give permission for reasons to be recorded in

writing and shall inform the applicant about the refusal of permission.(10)The Entertainment Tax Commissioner/District Magistrate shall, as far as possible, pass an order under sub-rule (9) within sixty days from the date of receipt of the application.

4. Renewal.

(1)On receipt of application, the Entertainment Tax Commissioner/District Magistrate may renew the permission granted under Rule 3 before the expiry of its period for a period of three Financial Years at a time. Such renewal shall be given in Form 2.(2)Under sub-section (1), the application for renewal, shall be given in Form 1 atleast 30 days before the expiry of the period of the permission.(3)The Entertainment Tax Commissioner/District Magistrate may, for reasons to be recorded in writing, refuse to renew the permission and shall inform the applicant about the refusal of permission.(4)The order under sub-rule (3) shall be passed before the expiry of the period of the permission.

5. Deemed renewal.

(1)Where the applicant has furnished application duly completed for renewal of permission granted under Rule 3 and the Entertainment Tax Commissioner/District Magistrate fails to pass any order under Rule 4 before the expiry of the period of permission, the renewal of such permission for a period of three Financial Years shall be deemed to have been granted to the applicant and the Entertainment Tax Commissioner/District Magistrate shall, in that event, issue such renewal in Form.(2)However renewal of permission to such applicants who are defaulter and an amount of entertainment tax is outstanding against them the permission shall not be treated to have been automatically granted.

6. Registration.

- The provider of DTH broadcasting service shall prepare Receipt Book in Form 3 in triplicate duly attested by the Assistant Entertainment Tax Commissioner/District Entertainment Tax Officer/In-charge District Entertainment Tax Inspector. The first copy thereof, shall be issued to the subscriber, the second copy shall be sent to Assistant Entertainment Tax Commissioner/District Entertainment Tax Officer/In-charge District Entertainment Tax Inspector concerned and the third copy shall be retained by the DTH broadcasting service provider for his record.

7. Counting of connection.

- The DTH broadcasting service provider shall issue a receipt from the receipt book as prescribed in Form 3 immediately after making available the DTH broadcasting service to the subscriber. The Entertainment Tax Commissioner/District Magistrate may issue directions for counting the number of DTH broadcasting service connections on the basis of the receipts of the DTH connections sold or any other basis, as he deems fit.

8. Restriction on sub-connections.

- No subscriber shall have the right to give sub-connection or to provide DTH broadcasting service to any person from his DTH broadcasting service connection.

9. Information of rates charged from the subscriber.

- The DTH broadcasting service provider shall inform every month in writing to the Entertainment Tax Commissioner/District Magistrate about the amount collected from the subscribers per month and the number of connections given to subscribers.

10. Maintenance of Register for recording the details.

(1)The DTH broadcasting service provider shall prepare and maintain a register in Form 4 in which all entries shall be made columnwise for each calender month separately.(2)The DTH broadcasting service provider shall submit a monthly statement in Form 5 within last three days of the month on the basis of entries made in the register referred to in sub-rule (1) to the Assistant Entertainment Tax Commissioner/District Entertainment Tax Officer/In-charge District Entertainment Tax Inspector and shall deposit the entertainment tax due in the Government Treasury on the basis of the statement submitted.

11. Payment of Entertainment Tax.

(1)The DTH broadcasting service provider shall deposit the amount of entertainment tax duly filled in Form 7, treasury format No. 43-A(1) into the Government Account in the State Bank of India running the Government business or other Nationalized Banks authorized for this purpose, or in the Treasury, as the case may be, within a week from the last day of every month, failing which simple interest at the rate of 2% per month shall become due and payable on the unpaid amount with effect from the date immediately following the last date prescribed till the date of payment of such amount:Provided that if, the payment is made through cheque, which shall always be drawn on a local Nationalized Bank or a scheduled Bank, the same shall be furnished to the Bank or Government Treasury within two days of the expiry of the period to which the payment is related.(2)DTH broadcasting service provider shall, immediately after the tax has been paid, intimate the Treasury Challan number and the date of deposit to the Assistant Entertainment Tax Commissioner/District Entertainment Tax Officer/In-charge District Entertainment Tax Inspector, as the case may be, and shall also keep the depositor's copy of the Treasury Challan in a file in chronological order and the same will be produced, on demand, before an inspecting officer.

12. Security.

(1)The Entertainment Tax Commissioner /District Magistrate, at his discretion, shall determine the amount of security to be deposited by the DTH broadcasting service provider, which shall not be less than Rupees Ten Thousand or three months average tax whichever is higher.(2)The DTH

broadcasting service provider required to deposit the security under sub-section (1) of Section 10 of the Act, shall deposit it to the satisfaction of the Entertainment Tax Commissioner/District Magistrate, in any Nationalized Bank in the manner as specified by the Entertainment Tax Commissioner/ District Magistrate and shall mortgage the pass book of deposited amount and the receipt of fixed deposit with Entertainment Tax Commissioner/District Magistrate. He will also execute a bond in Form 6. The Entertainment Tax Commissioner/District Magistrate will retain the said pass book and the receipt of fixed deposit under his safe custody till the security is released.(3)The Entertainment Tax Commissioner/District Magistrate may pass order for deduction of any arrears of tax from the security and a copy of such order shall be furnished to the owner. On receiving such order, he shall make good the amount of security before the tax for the next month falls due and if he fails to do so, the Entertainment Tax Commissioner/District Magistrate shall have the power to suspend the permission of DTH service.(4)Under the Act or these rules, where the owner of DTH broadcasting service no longer remains owner of the DTH broadcasting service, the Entertainment Tax Commissioner/District Magistrate, on application and satisfying himself that no tax is outstanding and that no case is pending for decision against the said owner under the Act or these rules, may order to release the security and to refund the balance amount of security deposit to the owner.

13. Recovery of Balance Entertainment Tax.

- Under these rules, if any sum due on account of tax has not been paid by the DTH broadcasting service provider, who is liable to make the payment within the specified period, the Entertainment Tax Commissioner/District Magistrate shall, before issuing an order for recovery under Section 34 of the Act as arrear of land revenue, issue a Notification of demand calling upon such person to make the payment within the specified time.

14. Right to exercise legal powers.

- In relation to whole of the state, powers under the Act or these rules shall be exercised by the Entertainment Tax Commissioner or any other officer to whom such powers have been delegated by the said Commissioner to this extent and in the prescribed manner as per the provisions under the Act or these rules.

15. Appeal.

(1)An appeal under sub-section (2) of Section 12 of the Act shall be submitted to the appellate authority along with a certified copy of the order against which the appeal is made stating clearly the ground or grounds of appeal. A copy of the Notification, if any received, and the reply to the Notification, if any given, shall also be submitted.(2)A copy of the appeal along with its enclosures shall in addition to the officer against whose order the appeal is preferred, also be referred to the Entertainment Tax Commissioner/District Magistrate concerned who shall furnish to the appellate authority his comments along with necessary records and such information as may be required.(3)Where, on perusal of the appeal, the appellate authority is satisfied it may grant a provisional stay and shall send a copy of its order to the Entertainment Tax Commissioner as well as

to the District Magistrate concerned and on receipt of such order no further action on the said matter shall be taken by any of the above officers.(4)A copy of the final order passed by the appellate authority on the appeal shall also be sent to the Entertainment Tax Commissioner and the District Magistrate concerned and,(i)if the appeal is finally allowed by the appellate authority and the provisional stay granted, if any, is confirmed, all further proceeding in the matter shall be dropped;(ii)if the appeal is allowed partially, the order under appeal shall stand amended in accordance with the orders issued by the appellate authority and action shall be taken as per amended order;(iii)if the appeal is rejected, the provisional stay granted, if any, shall stand vacated.

16. Method of service.

(1)The service of any Notification, summons or order under the Act or the rules may be affected by any of the following methods, namely :-(a)by giving or tendering a copy thereof to the DTH broadcasting service provider or person concerned or to his manager, munim, accountant or agent of any or his employees or any adult member of his family residing with him;(b)by registered post:Provided that if, upon an attempt having been made to serve any such Notification, summons or order by either of the abovementioned methods, the authority concerned has reasonable grounds to believe that addressee is evading service or that, for any other reason which in the opinion of such authority is sufficient, service cannot be affected by any of the aforesaid methods, the said authority shall, for the reasons to be recorded in writing, cause the Notification, summons or order to be served by affixing a copy thereof -(i)if the addressee is DTH broadcasting service provider, on some conspicuous place of the DTH broadcasting service provider's place of business or the building in which the DTH broadcasting service provider's place of business is located, or upon some conspicuous part of the place of the DTH broadcasting service provider's business last intimated to the said authority by the DTH broadcasting service provider or if the place where the DTH broadcasting provider is known to have last carried on business; or the place where the DTH broadcasting service provider resides; or(ii)if the addressee is not a DTH broadcasting service provider, on some conspicuous part of his residence or office or the building in which his office or residence is located; and such service shall be deemed to be as effected as if it had been made on the addressee personally.(2)When a process server, peon or any other employee of the Entertainment Tax Department delivers or tenders any Notification, summons or order to the DTH broadcasting service provider or addressee personally or to any of the persons referred to in clause (a) of sub-rule (1), he shall require the person to whom the Notification, summons or order is delivered or tendered to sign and acknowledge the service of the Notification, summons or order.(3)Where the person to whom the Notification, summons or order is tendered as aforesaid refuses to accept the same or refuses to sign the acknowledgement after its acceptance, the process server, peon or employee shall submit a report to the concerned authority stating facts about such refusal and the name and address of the person, if any, present at the time of such refusal. Such report shall be verified on oath by the process server, peon or employee. The concerned authority may, having regard to the facts and circumstances and after making such further enquiry in the matter, if any, as it thinks fit, consider such refusal to be proof of service.(4)When service is made by post, an acknowledgement purporting to have been signed by the addressee or his manager, munim, accountant or agent or employee or member of his family, or an endorsement by a postal employee that the addressee or his manager, munim, accountant or agent or employee of his family refused to take delivery may be

deemed by the concerned authority to be proof of service.(5)When the Notification, summons or order is served by affixing a copy thereof in accordance with the first proviso to sub-rule (1) the official serving it shall return the original to the authority concerned with a report endorsed thereon or annexed thereto, stating that he so affixed the copy, the circumstances under which he did so and the name and address of the person, if any, by whom the addressee's office or resident or the building in which his office or residence is located or his place of business was identified, and in whose presence the copy was affixed, the said official shall also obtain the signature or thumb impression of the person identifying the addressee's residence or office or building or place of business on his report.

17. Inspection Book.

- The DTH broadcasting service provider shall maintain an inspection book and produce the same immediately on demand for regarding remarks by various inspecting authorities. The inspection book shall contain hundred pages serially numbered and shall be used after duly authenticated by Assistant Entertainment Tax Commissioner/District Entertainment Tax Officer/In-Charge District Entertainment Tax Inspector. When an inspection book is completed a new inspection book shall be used after authenticating the same as aforesaid and the previous book shall be surrendered to the Entertainment Tax Commissioner/District Magistrate concerned for record and receipt of the same will be pasted on the first page of the new inspection book.

Form I[See Rule 3(2) and (3)]ToThe
Entertainment Tax Commissioner/District Magistrate,.....Sir,I,(Name) son of
Sri..... Resident of..... District..... declare, District..... as Principal District of business
for providing DTH broadcasting service. The details of Districts in which I propose to provide DTH
broadcasting service are as under :-(1).....(2).....(3).....(4).....(5).....(6).....(7).....
(8).....(9).....(10).....(11).....(12).....(13).....I will provide DTH broadcasting service in
above Districts in addition to the Principal District and the entertainment tax due of above districts
will be deposited in principal district.....only. Therefore, I submit application for providing DTH
broadcasting service in principal district...../ renewal of the permission granted. The details of
my/our DTH broadcasting service centre are as under :-

1. Full Address of the applicant:

Local.....Permanent.....

2. Full Address of DTH broadcasting service centre :

3. If the Head of DTH broadcasting service centre falls out of Uttarakhand State, full address thereof.....

4. Period for which permission is required :.....

5. Amount of monthly fees per subscriber :.....

6. Number of total connections/subscribers :.....

7. Other details :.....

Date of application :.....Signature of the applicant.....Form 2[See Rules 3(4), 4(1) and 5]Office of the Entertainment Tax Commissioner/District Magistrate.....No.....Date.....OrderThe applicant Sri/Smt./Km.....Son/Wife/Daughter of Sri/Smt..... R/o..... District.....has moved the application on..... for permission/renewal of the permission to provide DTH broadcasting service, through DTH broadcasting service centre at/in the Principal District. He/She is hereby granted permission/renewal of the permission to provide the said DTH broadcasting service through the DTH broadcasting service for the financial year.....on the following terms and conditions -(1)No DTH broadcasting service shall be provided to any subscriber without issuing Receipt from Receipt book, prescribed in Rule 7 of Uttarakhand DTH Broadcasting Service (Exhibition) Rules, 2009.(2)After issuing Report to every subscriber, information regarding its number and date shall be sent within three days to the Assistant Entertainment Tax Commissioner/District Entertainment Tax Officer/In-charge District Entertainment Tax Inspector.(3)The DTH broadcasting service provider should strictly comply all relevant provisions of the above rules.(4)No obscene/unauthorized film will be telecast through DTH broadcasting service.(5)The DTH broadcasting service provider should comply all orders and directions of the Government/Entertainment Tax Commissioner/District Magistrate issued from time to time.(6)The DTH broadcasting service provider should deposit within a week, the sum of Rs.....as security in a manner provided in Rule 12 above.(7)This permission may be cancelled at any time without prior Notification on the ground of violation of all or any of the conditions mentioned above or in public interest.Entertainment Tax Commissioner/ District MagistrateR.B.S.I. No.....Form 3(See Rule 6)Receipt Book

1. Name of DTH broadcasting service centre.....

2. Name and full address of DTH broadcasting service provider -

.....

3. Receipt Serial No.....

4. Date of issue.....

5. Name of Subscriber.....

6. Full address of subscriber.....House No.....

P .O.Mohalla.....District.....

7. Amount of monthly service fee.....

8. Signature of subscriber.....

9. Signature of DTH broadcasting service provider.....

Attested Assistant Entertainment Tax Commissioner/District Entertainment Tax Officer/In-charge
District Entertainment Tax Inspector Form 4 (See Rule 10(1)) Register to be Maintained by DTH
broadcasting Service Provider

1. Name of DTH broadcasting service centre.....

2. Name and full address of DTH broadcasting service provider.....

3. Details of DTH broadcasting service provided during the month.....

Month.....Financial year.....

SI. No.	Receipt Serial No. issued to the subscriber (Receipt Book No.)	Name and Address of Subscriber	Amount of Monthly Subscription for DTH broadcasting service	Monthly entertainment tax due	Date from which DTH broadcasting service allowed	Other details
1	2	3	4	5	6	7
Total						

Form 5 [See Rule 10(2)] Statement for the month.....of the financial year.....

1. Name and address of DTH broadcasting service provider.

2. Name of month for which tax is to be deposited.

3. Total number of connections given during the month.

4. Total amount recovered from the subscriber during the month.

5. Total amount of Entertainment Tax payable during the month.

Signature of DTH Broadcasting Service Provider Form 6 [See Rule 13] Security Bond to be executed by the DTH broadcasting service provider This deed is executed on the.....day of..... 20..... corresponding to Saka Samvat the..... day..... of..... by..... son of..... resident of..... presently residing at..... (called "the Bounden") in favour of the Governor of Uttarakhand (called "the Governor"). Whereas in pursuance of Rule 17 of the rules the Bounden as proprietor of DTH broadcasting service..... name..... situated at..... in the district of..... (called "the Entertainment") have opened security deposit account by depositing..... Rs..... in..... (Name of Bank) Under SB account/Fixed deposit scheme and has pledged in to the Entertainment Tax Commissioner/District Magistrate of..... (called "the Entertainment Tax Commissioner/District Magistrate"). This Deed witnesses as follows -

1. The Bounden shall pay the tax as required by the Act and the rules.

2. The District Magistrate may exercise one or more of the following rights -

(a) To withdraw the security or a part of it; (b) To deal with the security in any manner provided in the Act or the rules; (c) To realize from the security the tax due in the Bounden in respect of entertainment other than the one mentioned in the recital.

3. Where the Bounden ceases to be the DTH broadcasting service provider mentioned in the recital the Entertainment Tax Commissioner/ District Magistrate shall release to the Bounden the Security, or the balance of the security which remains after exercising the rights mentioned in clause (2), as the case maybe.

4. The release of the security or its part shall not exonerate the Bounden from the liability to pay the tax due from him.

5. The Governor may, on the certificate of the District Magistrate, which shall be final conclusive and binding on the Bounden, recover as arrears of land revenue any amount due from the Bounden under this deed.

6. Unless a contrary intention appears -

(a) 'the Act' means the Uttarakhand Entertainments and Betting Tax Act, 2009; (b) 'the Bounden' includes his heirs, representatives, executors, administrators and assignees; (c) 'the Governor' includes his successor in-office and assigns; (d) 'the rules' means the Uttarakhand DTH Broadcasting Service (Exhibition) Rules, 2009; (e) 'the security' means the amount deposited by the Bounden in Nationalized Bank as mentioned in the recital; (f) 'the tax' has the same meanings as it has in Section

2 of the Act. In witness whereof the Bounden has signed this deed on the day and year above written.

Signed by

Signed by Bounden

District Magistrate

In the presence of

For and on behalf of the Governor 1.....Address2.....Address

Form 7L.T. FORM 1FORM 43-A(1)Form No. 43-A, F.H.B. Vol. 5 Part II(See Paras 417 and 478)Amount Deposit Challan FormSub-treasury (non-Banking)/Name of bank and branch.....

1. By whom tendered name (designation, if necessary)..... or the name of institution on whose behalf money is being paid

2. Address.....

3. Registration No./Name of Party and No. of case (if necessary).....

4. Full details of amount deposited (Purpose for which the amount is being deposited and name of department in whose favour amount is being deposited).....

5. Gross amount of challan.....

6. Net amount of challan.....

7. Full information of Account Head/Seal of Account Head.....

8. 13 Digit code of Account Head

Main account head	Sub-main head	small-head	sub-head	Detail wise-head	Amount (in figure)
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Amount (in words).....totalSignature with seal of departmental officer for confirmation of account head in ChallanName and signature of depositor