

The Gujarat Tax on Entry of Specified Goods Into Local Areas Act, 2001

GUJARAT

India

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Act 22 of 2001

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The Gujarat Tax on Entry of Specified Goods Into Local Areas Act, 2001Gujarat Act No. 22 of 2001[Dated 31st August, 2001]For Statement of Objects and Reasons, See Gujarat Government Gazette, Extraordinary, Part-V, dated the 28th August, 2001, p. 36-10.This Act was assented to by the Governor on the 31st August, 2001.An Act to provide for the levy of a tax in the State of Gujarat on the entry of certain goods in to a local area of the State from any place outside the State, but not outside the territory of the Union of India for consumption, use or sale therein and for the matters connected therewith or incidental thereto.It is hereby enacted in the Fifty-Second Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001.(2)It extends to the whole of the State of Gujarat.(3)It shall come into force on the 1st September, 2001.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"Appellate Authority" means an Appellate Authority appointed under section 6;(b)["Appellate Tribunal" means the tribunal constituted under section 19 of the Gujarat Value Added Tax Act, 2003 (Gujarat 1 of 2005) and discharging functions of the Appellate Tribunal assigned to it by or under this Act;] [Clause (b) substituted by Gujarat 5 of

2006, dated 2nd March, 2006](c)"Assessing Authority" means any officer appointed under section 5;(d)"entry of specified goods into a local area" with all its grammatical variations and cognate expressions means entry of specified goods into a local area from any place outside the State but not being a place outside the territory of the Union of India, for consumption, use or sale therein;(e)"importer" means a person who brings any of the specified goods into a local area from any place outside the State but not being a place outside the territory of the Union of India, for consumption, use or sale therein;(f)"local area" means-(i)a city within the meaning of the Bombay Provincial Municipal Corporations Act, 1949 (Bombay LIX of 1949);(ii)a municipal borough, transitional area, small urban area or a notified area within the meaning of the Gujarat Municipalities Act, 1963; (Gujarat 34 of 1964);(iii)a village, within the meaning of Gujarat Panchayats Act, 1993 (Gujarat 18 of 1993);(iv)a cantonment within the meaning of the Cantonment Act, 1924; (II of 1924).(g)"person" includes any company or association or body of individuals, whether incorporated or not, a society, a club or an institution and also a Hindu Undivided Family, a firm, a local authority, the Central Government or any State Government;(h)"prescribed" means prescribed by rules;(i)"purchase value" means the value of the specified goods as ascertained from the original invoice and includes insurance, excise, duties, countervailing duties, sales-tax, transport fee, octroi, freight., charges and all other charges incidentally levied on the purchase of the specified goods and in the case of the specified goods mentioned at serial number 1 of the Schedule also the value of accessories fitted therein;Provided that where purchase value of the specified goods is not ascertainable on account of non-availability or non-production of the original invoice, or when the invoice produced is proved to be false, or if the specified goods are acquired or obtained otherwise then by way of purchase, then the purchase value shall be the value or price at which the specified goods of the like kind or quality are sold or are capable of being sold, in open market in the local area;(j)"rules" means rules made under this Act;(k)"specified goods" means goods specified in column 2 of the Schedule [and such other goods as the State Government may, by notification in the Official Gazette, specify under sub-section (1A) of section 3] [Added by Gujarat 7 of 2008, dated 29th March, 2008 (w.e.f 01-04-2008)];(l)"State" means the State of Gujarat;(m)"tax" means the tax payable under this Act.

Chapter II

Incidence and Levy of Tax

3. Incidence of tax.

(1)Subject to the provisions of this Act, on and from the 1st day of September, 2001, there shall be levied and collected on the entry of specified goods into a local area, a tax on the purchase value thereof at such rates as may be fixed by the State Government by notification in the Official Gazette, but not exceeding the maximum rates specified in [column 3] [Substituted for 'column 4' by Gujarat 5 of 2006, dated 2nd March, 2006] of the schedule; and different rates may be fixed for different specified goods.(1A)[Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in the public interest to redress an inequitable situation or for sufficient and reasonable cause for removing discrimination between goods entering into the local areas from any place outside the State but not being a place outside the territory of the Union of India, for

consumption, use or sale therein and goods manufactured or produced in the State, specify by notification in the Official Gazette, such other goods as the specified goods.] [Inserted by Gujarat 7 of 2008, dated 29th March, 2008 (w.e.f 01-04-2008)](2)The tax shall be payable and paid by an importer in such manner and within such time as may be prescribed.(3)The tax shall be addition to the tax levied and collected as octroi by a municipal corporation of a city constituted under the Bombay Provincial Municipal Corporations Act, 1949 (Bombay LIX of 1949) or any other local authority, as the case may be, within its local area.

4. Reduction in tax liability.

(1)The amount of tax leviable under this Act shall, subject to such conditions as may be prescribed, be reduced to the extent of the amount of tax paid, if any, under the law relating to Sales Tax as may be in force in any other State or Union Territory by an importer who had purchased the specified goods in that State.(2)The amount of tax leviable under this Act shall, subject to such conditions as may be prescribed, be reduced to the extent of the amount of tax paid, if any, under the Central Sales Tax Act, 1956 (74 of 1956.) on the purchase of the specified goods in the course of inter-State trade or commerce.(3)[Where an importer of specified goods liable to pay tax under this Act, being a dealer in the specified goods, becomes liable to pay tax under the Gujarat Value Added Tax Act, 2003 (Gujarat 1 of 2005) by virtue of the sales of such specified goods, then his liability under the Gujarat Value Added Tax Act, 2003 (Gujarat 1 of 2005) shall be reduced to the extent of tax paid under this Act.] [Sub-section (3) substituted by Gujarat 5 of 2006, dated 2nd March, 2006]

Chapter III

Tax Authorities

5. Assessing Authorities.

- The State Government may, by notification in the Official Gazette, appoint such officers to be the Assessing Authorities for the purpose of this Act and may assign to them such local area or areas as may be specified in the notification.

6. Appellate Authorities.

- The State Government may, by notification in the Official Gazette, appoint such officers to be the Appellate Authorities for the purpose of this Act and may assign to them such local area or areas as may be specified in the notification.

Chapter IV

Returns, Assessments, Payments, Recovery and Refund of Tax

7. Returns.

(1) Every person liable to pay tax under this Act shall furnish returns in such form, for such period, by such dates, and to such authority as may be prescribed. (2) If any person liable to pay tax under this Act, having furnished return under subsection (1) discovers any omission or incorrect statement therein, he may furnish a revised return before the expiry of [one month] [Substituted for 'three months' by Gujarat 5 of 2006, dated 2nd March, 2006] from the last date prescribed for furnishing the original return.

8. Assessment.

(1) The amount of tax due from a person liable to pay tax under this Act shall be assessed separately for such period as may be prescribed. (2) If the Assessing Authority is satisfied that the return furnished by a person liable to pay tax under this Act is correct and complete, he shall assess the amount of tax due from the person on the basis of such return. (3) If the Assessing Authority is not satisfied that the return furnished by a person liable to pay tax under this Act is correct and complete, and the Assessing Authority thinks it necessary to require the presence of the person or the production of further evidence, the Assessing Authority shall serve on the person in the prescribed manner a notice requiring him on a date and at a place specified therein, either to attend and produce or cause to be produced all evidence on which the person relies in support of this return, or to produce such evidence as is specified in the notice. On the date specified in the notice, or as soon as may be thereafter, the Assessing Authority shall, after considering all the evidence which may be produced, assess the amount of tax due from the person. (4) If a person fails to comply with the requirements of any notice issued under subsection (3), the Assessing Authority shall determine the purchase value of the specified goods under the proviso to clause (i) of section 2 and assess to the best of his judgement, the amount of tax due from him. (5) No order of assessment under sub-section (3) or (4) shall be made after the expiry of three years from the last date prescribed for furnishing of returns of the particular period. If for any reason, such order is not made within the period aforesaid, then the return so furnished shall be deemed to have been accepted as correct and complete for assessing the tax due from such person.

9. Reassessment.

- If, after a person liable to pay tax under this Act has been assessed under section 8 for any period the Assessing Authority has reason to believe that any purchase value or part thereof has, in respect of that period, escaped assessment, or has been under assessed or assessed at a lower rate, then the Assessing Authority may, within five years from the date of the order of assessment of the particular period, after giving the person a reasonable opportunity of being heard, re-assess, to the best of his judgement, the tax due from him.

10. Payment of tax.

(1) The tax shall be paid in the manner hereinafter provided. (2) A person liable to pay the tax, shall,

before furnishing return as required by subsection (2) of section 7, first pay into the Government treasury in the prescribed manner, the whole of the amount of tax due from him according to such return.(3)If a person liable to pay the tax furnishes a revised return in accordance with subsection (2) of section 7, and if such revised return shows that the amount of tax is larger than the amount of tax already paid or payable, he shall first pay into the Government treasury in the prescribed manner the additional amount of tax according to such revised return.(4)The amount of-(i)tax due where return has been furnished without full payment thereof, or(ii)difference in the tax assessed under section 8 or reassessed under section 9 for any period and the sum already paid by the person in respect of such period, and(iii)penalty (if any) levied under section 17shall be paid by the person into Government treasury by such date as may be specified in the notice issued by the Assessing Authority for this purpose, being a date not earlier than thirty days from the date of service of the notice.(5)Any tax or penalty which remains unpaid after the date specified in the notice for payment, shall be recoverable as an arrear of land revenue, and for that purpose all the Assessing Authority shall have and exercise all the powers of a Collector under the provisions of the Bombay Land Revenue Code, 1879 (Bombay V of 1879).

11. Refund of tax.

- The Assessing Authority shall, on an application made in such form and within such period as may be prescribed, refund to a person the amount of tax and penalty, if any, paid by such person in excess of the amount due from him. The refund may be either by cash payment, or at the option of such person, by deduction of such excess from the amount of tax and penalty, if any due from such person in respect of any other period:Provided that the Assessing Authority shall first apply such excess towards the recovery of any amount due in respect of which a notice under sub-section (4) of section 10 has been issued, and shall then refund the balance, if any, in such manner as may be prescribed.

12. Exemptions.

(1)No tax shall be levied and collected in respect of motor vehicles mentioned as serial number 1 in the Schedule if such motor vehicles are registered in any other State or Union Territory of India under the Motor Vehicles Act, 1988 (59 of 1988) for a period exceeding fifteen months before their entry into a local area of the State.(2)Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in public interest, by notification in the Official Gazette, exempt any class of importers from payment of the whole or any part of the tax payable under this Act.

Chapter V

Appeal

13. Appeal.

(1)An appeal from every original order under this Act or the rules made thereunder shall lie to the Appellate Authority appointed under section 6.(2)In the case of an order passed in appeal by the Appellate Authority, a second appeal shall lie to the Appellate Tribunal.(3)No appeal shall be entertained by the Appellate Authority or the Appellate Tribunal unless it is filed within thirty days from the date of receipt of the order, appealed against by the assessee and unless the entire amount of tax and penalty, if any, has been credited by the assessee in the Government treasury:Provided that an Appellate Authority or the Appellate Tribunal may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order-(a)without payment of tax with penalty (if any) or, as the case may be, or the penalty, or(b)on proof of payment of such smaller sum as it may consider reasonable, or(c)on the appellant furnishing in prescribed manner, security for such amount as the Appellate Authority or as the case may be, the Appellate Tribunal may direct.(4)Subject to such rules of procedure as may be prescribed, every Appellate Authority or as the case may be, Appellate Tribunal shall have the following powers, namely:-(a)in an appeal against an order of assessment, it may confirm, reduce, enhance or annul the assessment; or it may set aside the assessment and refer the case back to the Assessing Authority for making a fresh assessment in accordance with the direction given by it and, after making such further inquiry as may be necessary, the Assessing Authority shall thereupon proceed to make such fresh assessment and determine, where necessary, the amount of tax payable on the basis of such fresh assessment; and(b)in any other case, the Assessing Authority or the Appellate Tribunal, as the case may be, may pass such orders on appeal as it deems just and proper.

14. Application of sections 4 and 12 of Limitation Act.

- In computing the period laid down under section 13, the provisions of sections 4 and 12 of the Limitation Act, 1963 (36 of 1963) shall, so far as may be, apply.

15. Extension of period of limitation in certain cases.

- An Appellate Authority and the Appellate Tribunal may admit any appeal under section 13 after the period of limitation laid down in the said section, if the appellant satisfies the Assessing Authority or the Appellate Tribunal, as the case may be, that he had sufficient cause for not preferring the appeal within such period.

16. Transfer to defraud revenue void.

- Where, any person, after the tax has become due from him under this Act, creates a charge on, or parts with the possession by way of sale, mortgage, exchange or any other mode of transfer whatsoever of any of his property in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the person under this Act:Provided that such charge or transfer shall not be void if made for valuable consideration and without notice of any proceeding under this Act.

Chapter VI

Penalty

17. Penalty.

(1) If any person liable to pay tax under this Act fails to comply with any of the provisions of this Act, then the Assessing Authority may, after giving such person a reasonable opportunity of being heard by order in writing, impose on him, in addition to any tax payable, a sum by way of penalty not exceeding twice the amount of tax. (2) If the person does not, without reasonable cause, pay the tax within the time, he is required by or under the provisions of this Act to pay it or the Assessing Authority may, after giving such person a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty, in addition to the amount of tax and penalty under sub-section (1), a sum of equal to eighteen percent, per annum for the period during the time the person continues to make default in the payment of tax. (3) If any person commits breach of any rule punishable with penalty, the Assessing Authority may, after giving such person a reasonable opportunity of being heard, by order in writing impose upon him a sum by way of penalty not exceeding the sum of penalty specified in the rule.

17A. [Remission of tax, penalty or interest. [Section 17A inserted by Gujarat 5 of 2006, dated 2nd March, 2006]

(1) Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in the public interest to grant concession in case of double taxation or to redress an inequitable situation, remit by an order either generally or specially, the whole or any part of the tax, penalty or interest payable in respect of any period by any importer or a class of importers. (2) The Commissioner may, in such circumstances and subject to such conditions and within such limit as may be prescribed, remit the whole or any part of the tax, penalty or interest payable, in respect of any period, by any dealer.]

Chapter VII

Miscellaneous

18. Officers and servants to be public servant.

- All officers and servants appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. (XLV of 1860).

19. Protection of action taken in good faith.

- No Suit, prosecution or other legal proceedings shall lie against the Government, or any public servant for anything which is in good faith done or purported to be done under this Act.

20. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act:Provided that if the State Government is satisfied that the circumstances exist which render it necessary for it to take immediate action, it may dispense with the previous publication of any rule to be made under this section.(2)In particular and without prejudice to the generality of the foregoing power, such rule may provide for all or any of the following matters, namely:-(a)the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act.(b)all matters expressly required or allowed by this Act to be prescribed:(c)generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act;(d)any other matter including levy of fees for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the State Government, necessary for giving effect to the purposes of this Act;(e)the procedure for any other matters (including fees) incidental to the disposal of appeal, and the value of court-fee stamp which a memorandum of appeal should bear;(f)the person who may appear or attend before any authority in connection with any proceedings under the Act, including, his qualifications, the conditions subject to which the person shall be entitled to appear and attend and the form of authorisation authorising such person to attend.(3)In making any rules under this section, the State Government may direct that the breach thereof shall be punishable with penalty not exceeding two thousand rupees and when the breach is a continuing one, with a daily penalty not exceeding one hundred rupees during the continuance of the breach.(4)All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.(5)Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.[Schedule] [Schedule substituted by Gujarat 7 of 2008, dated 29th March, 2008 (w.e.f 01-04-2008)](See Section 2(K) and Section 3)

Sr. No.	Specified goods	Maximum rate of tax
1	2	4
1.	Motor vehicles including chassis of motorvehicles and the body which is built on chassis of motor vehicles	Twenty per cent
2.	Cement.	Twenty per cent
3.	Marbles or Granite (raw or polished)	Twenty per cent
4.	Kota Stones	Twenty per cent
5.	Naphtha	Twenty per cent
6.	Light Diesel Oil	Twenty per cent
7.	High Speed Diesel Oil.	Twenty five per cent
8.	Yarn of all types except Nylon Yarn, PolyesterViscose Yarn and Cotton Yarn	Twenty per cent

9. Such other goods as may be specified by the State Government by notification in the Official Gazette. Twenty per cent

Part II – The Bombay Sales of Motor Spirit Taxation Act, 1958

Sr. No.	Specified goods	Maximum rate of tax
1	2	3 4
7.	High Speed Diesel Oil.	Eighteen per cent, and Additional tax at the rate of Twenty percent of the amount of tax.

Explanation.-For the purposes of this Schedule,-(1)Where sales of any of the specified goods at Sr. No. 1 to 6 of the Schedule is, by notification under sub-section (2) of section 49 of the Gujarat Sales Tax Act, 1969 (Gujarat 1 of 1970) exempt from whole or any part of the tax payable under that Act, the maximum rate of tax for such goods shall be reduced by such exemption.(2)Where sales of any of the specified goods at Sr. No. 7 of the Schedule is, by notification under section 35 of the Bombay Sales of Motor Spirit Taxation Act, 1958 (Bombay LXVI of 1958), exempt from whole or any part of the tax payable under that Act, the maximum rate of tax for such goods shall be reduced by such exemption.