

# **The U.P. Sales or Purchase of Motor Spirit, Diesel Oil and Alcohol Taxation Rules, 1977**

UTTAR PRADESH

India

## **The U.P. Sales or Purchase of Motor Spirit, Diesel Oil and Alcohol Taxation Rules, 1977**

### **Rule**

### **THE-U-P-SALES-OR-PURCHASE-OF-MOTOR-SPIRIT-DIESEL-OIL-AND of 1977**

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The U.P. Sales or Purchase of Motor Spirit, Diesel Oil and Alcohol Taxation Rules, 1977Published vide Abkari Vibhag's Notification No. 579-E/13-514-74, dated January 24, 1977, published in U.P. Gazette, Extraordinary, dated 24th January, 1977, pages 11-20In exercise of the powers under sub-sections (1), (2) and (4) of Section 17 of the U.P. Sales of Motor Spirit, Diesel Oil and Alcohol Taxation Act, 1939 (U.P. Act No. 1 of 1939), read with Section 2 of the U. P. General Clauses Act, 1904 (U.P. Act No. 1 of 1904), and in supersession of Government Notification No. 3558/R/XII-C, dated June 7, 1939, and Government Notification No. 3809-E/XII-C-253, dated July 18, 1939, the Governor is pleased to make the following rules :

### **1. Short title and commencement.**

(1)These Rules may be called the Uttar Pradesh Sales or Purchase of Motor Spirit, Diesel Oil and Alcohol Taxation Rules, 1977.(ii)They shall come into force with effect from the date of their publication in the Gazette.

### **2. Definitions.**

- In these Rules, unless the context otherwise requires,-(a)"Act" means, the U.P. Sales or Purchase of Motor Spirit, Diesel Oil and Alcohol Taxation Act, 1939 (Act No. 1 of 1939);(b)"manager" or "agent" means a person expressly authorised in writing by a dealer to act as his manager or agent for all or any of the purposes of these rules and in respect of all or any place or places of business of sale, such authority having been accepted in writing by such person and filed with the registering

authority;(c)"registering authority" means-(i)in case a dealer applies for a registration certificate in respect of one district, the District Magistrate of that district; and(ii)in case a dealer applies for a registration certificate in respect of more than one district, the Excise Commissioner, Uttar Pradesh;(d)"registration certificate" means the registration certificate granted under the provisions of the Act and these rules;(e)"tax" means the tax levied under the provisions of Section 3 of the Act.

### **3. Administration of the Act, delegation and investing of power. [ Sections 9, 10, 10-B, 13, 14-A, and 17 (2)].**

(1)The Excise Commissioner shall, subject to the control of the State Government, superintend the administration under the provision of the Act and the collection of the tax leviable thereunder.(2)The District Magistrate shall be the prescribed authority for the purpose of sub-section (2) of Section 3 of the Act in respect of the tax leviable in his district.(3)The District Magistrate is charged with the duty of carrying out in his district the provisions of the Act subject to the control and direction of the Excise Commissioner and the orders of the State Government.(4)All officers of the Revenue Department of and above the rank of Tahsildar, and all officers of the Excise Department of and above the rank of Excise Inspector shall, within the local limits of their jurisdiction, have power of entry, search and seizure under sub-section (1) of Section 10 of the Act.(5)All officers of the Excise Department not below the rank of Excise Inspector shall, within the local limits of their jurisdiction, have power of investigation under Section 10-B of the Act.(6)All Deputy Collectors and Assistant Collectors appointed as District Excise Officers under the U. P. Excise Act, 1910, and all officers of the Excise Department of and above the rank of Superintendent of Excise shall, within the local limits of their jurisdiction, have the power to compound offences under Section 13 of the Act and to file complaint or report before a Magistrate in respect of an offence under the Act.

### **4. Application for registration certificate [Section 5 (1)].**

(1)An application for a registration certificate shall be made in Form 'A' set out in the Schedule.(2)Such application shall be made to-(i)the District Magistrate of the district in which the station or stations of business of the applicant is or are situate, if the dealer applies for a registration certificate in respect of that district only; or(ii)the Excise Commissioner if the dealer applies for a registration certificate in respect of more than one district :Provided that if the applicant carries on sales/purchases in more than one district, he may make separate application to the DistrictMagistrate of each such district or a single application to the Excise Commissioner.(3)When the Excise Commissioner issues a registration certificate, he shall forward, for information, a copy of the certificate to the District Magistrate of every district in respect of which the certificate has been granted.(4)The District Magistrate of each district shall maintain a register in which the particulars of each registration certificate, issued by him or by the Excise Commissioner in respect of his district, its renewal, suspension, cancellation and amendment shall be recorded.

## **5. Form, particulars and amendment of the registration certificates. [Section 5 (1)].**

(1) A registration certificate, granted by the registering authority shall be in Form 'B', set out in the Schedule, and shall be held subject to the restrictions and conditions, therein set forth, and subject to the provisions of the Act and the rules made thereunder. A copy of these rules shall be given free of charge with every such certificate. (2) Any registration certificate, granted under these rules, may be amended by the registering authority, granting such registration certificate, provided that the amendments shall not be inconsistent with the provisions of the Act or of these rules.

## **6. Refusal of registration certificate [Section 5 (1)].**

- A registering authority, refusing to grant or amend a registration certificate, shall record his reasons for such refusal which may be based on the considerations that-(i) the previous registration certificate of the applicant has been suspended or cancelled and the order of such suspension or cancellation is in force, or (ii) applicant does not hold a valid licence for the storage of motor spirit as required under the Petroleum Act, 1934.

## **7. Renewal of registration certificate [Section 5 (2)].**

(1) Every application for the renewal of the registration certificate shall be made in Form 'A', set out in the Schedule, to the registering authority, by whom the original certificate was granted, not less than thirty days before the date on which the registration certificate is due to expire : Provided that the registering authority may accept such application after the expiry of the said period of thirty days if it is satisfied that the applicant had sufficient cause for not making the application within such period. The application shall be accompanied by the registration certificate to be renewed and a treasury challan showing deposit of the renewal fee, specified in Rule 8 into the treasury. (2) If the application is so made, the applicant shall be deemed to be a duly registered dealer until orders have been passed on his application for renewal and subject to the provisions of the proviso to sub-section (1) of Section 5 of the Act and the considerations mentioned in Rule 6, the registration certificate shall be renewed.

## **8.**

The registration certificate shall be granted or renewed on payment of the following fee for a year or part thereof :

For sale of motor spirit or diesel oil or both in depots by oil companies.	.. Rs. 500 per annum
For sale of motor spirit or diesel oil or both through pumps.	.. Rs. 250 per annum
For sale of motor spirit or diesel oil or both in drums or tins.	.. Rs. 50 per annum
For sale or purchase of alcohol.	.. Rs. 50 per annum

## **9. Transfer of the registration certificate and partnership [Section 5 (1)].**

(1) Subject to the provisions of Rule 10 of these rules, every registration certificate, granted under these rules, shall be deemed to have been granted to the dealer named therein. No registration certificate shall be sold or transferred nor shall the dealer enter into partnership for carrying on the business of sale or purchase without the written permission of the registering authority which shall be endorsed on the registration certificate. (2) A transferee or partner shall be bound by all the conditions of the registration certificate and, in case of a partnership, the original dealer shall be responsible to the State Government for the payment of the tax.

## **10. Procedure on death [Section 5 (1)].**

(1) Subject to the provisions of the next succeeding sub-rules, if a dealer dies during the period of his registration certificate, the person carrying on the business of such dealer shall be liable for the payment of the tax and shall be bound by the terms and conditions of the registration certificate in the same manner and to the same extent as if the certificate had been originally granted to him. (2) A person carrying on the business of a dealer after the dealer's death shall within a period of thirty days from the date of death of such person apply to the registering authority for the substitution of his name in place of the name of the deceased dealer and shall, with his application, submit to the registering authority the registration certificate granted to the deceased dealer. (3) If no application is submitted in accordance with the provision of sub-rule (2), the person carrying on the business of the deceased shall be deemed to be a person carrying on business as a dealer without holding a registration certificate and shall be liable for the penalties provided in the Act ; Provided that the registering authority may, for sufficient reasons, condone any delay in the making of the application. (4) Where a dispute arises as to whose name should be substituted in a registration certificate in place of the name of a deceased dealer, the registering authority shall, in his discretion, decide the same and the aggrieved party may, by suit in a Civil Court, obtain a declaration of his right in which case the decision of the Civil Court shall be binding on the registering authority, and, if necessary, the registration certificate shall be amended accordingly. (5) No tax shall be refundable by the State Government to a person if a Civil Court decided that he was not entitled to carry on the business of a deceased dealer.

## **11. Loss of registration certificate [Section 5 (1)].**

- Where a registration certificate, granted under these rules is lost or accidentally destroyed, a duplicate copy may be granted on payment of a fee of rupee one only.

## **12. Production of registration certificate on demand [Section 5 (1)].**

- Every person holding a registration certificate or acting under it in accordance with the provisions of sub-rule (1) of Rule 10 or his agent or manager shall produce it when called upon to do so by an officer of the Revenue department not below the rank of a Tahsildar or of the Excise Department not below the rank of an Excise Inspector.

### **13. Closing of business [Section 5 (1)].**

(1)Where a person, holding a registration certificate, proposes to close his business, he shall, on or before the date of closing of his business communicate his intention to the District Magistrate of the district in which his business is situate and shall at the same time surrender his registration certificate or where the certificate is in respect of more than one station of business and the dealer intends to close his business at one or some of such stations only, he shall submit the registration certificate to the registering authority for amendment.(2)Any person who contravenes the provisions of sub-rule (1) shall be punishable with fine which may extend to five hundred rupees.

### **14. Suspension or cancellation of registration certificate [Section 8].**

(1)A registration certificate may be cancelled or suspended under the provisions of sub-section (1) of Section 8 of the Act wholly or partially.(2)The District Magistrate shall be the prescribed authority for the purposes of sub-section (1) of Section 8, in respect of a registration certificate issued by him and the Excise Commissioner in respect of that issued by him, but subject to the approval of the Excise Commissioner, the District Magistrate may also cancel or suspend a registration certificate, issued by the Excise Commissioner, to the extent that it relates to his district.(3)Before passing an order under provision of sub-section (1) of Section 8 of the Act the District Magistrate or the Excise Commissioner, as the case may be, shall issue a notice to the holder of the registration certificate to show cause within a period of 15 days from the date of service of such notice, why his registration certificate should not be suspended or cancelled.(4)On the date fixed, the District Magistrate or the Excise Commissioner, as the case may be, shall, after hearing the applicant, if present, either discharge this notice or suspend or cancel the registration certificate and, in the latter case, he shall record his reasons for doing so.(5)When a registration certificate is ordered to be suspended, the period of suspension shall be specified in the order.(6)When a registration certificate, issued by the Excise Commissioner, is suspended or cancelled by a District Magistrate, in respect of his district, he shall forward to the Excise Commissioner a copy of his order and where the Excise Commissioner suspends or cancels a registration certificate he shall inform the District Magistrate concerned.

### **15. Levy, payment and recovery of tax and procedure in case of nonpayment of tax [Sections 3, 17 (2) (b) and 17 (2) (e)].**

(a)(1) The tax on the sales of motor spirit or diesel oil or both shall be payable monthly and the tax in respect of each month shall be deposited in a treasury or sub-treasury, specified in the registration certificates, before the last day of the succeeding month.(2)In case a dealer carries on the business of sale in several districts of the State, the tax payable by him in respect of sales in each district shall be deposited into the treasury of the district concerned.(3)If the amount of the tax is not deposited within the time specified in sub-rule (1), the District Magistrate may recover such tax or any amount mentioned in sub-section (2) of Section 3 of the Act, which he may consider reasonable, as arrears of land revenue .Provided that the District Magistrate may, on sufficient cause being shown by the dealer and subject to such condition as he may deem proper, set aside or modify the order in respect of the amount levied by him under the provisions of sub-section (2) of Section 3

of the Act over and above the tax unpaid.(b)(i)The tax on the purchase of alcohol shall be payable by the purchaser or the seller on his behalf at the rate of 80 paise per litre in a Treasury or sub-treasury of the district in which purchase is made unless the purchaser has obtained a certificate from the authority allotting the alcohol, into the effect that the purchaser has purchased million litres of alcohol, in which case the tax shall be payable at the rate of 40 paise per litre for the quantity beyond one million litres.(ii)No sale or purchase of alcohol shall be allowed unless the tax on its purchase has been deposited in the manner prescribed in sub-clause (i) (supra).(iii)The certificate mentioned in sub-clause (i) (supra) shall be issued by the authority allotting the alcohol on furnishing by the purchaser satisfactory proof of payment of tax at the rate of 80 paise per litre on a total quantity of not less than one million litres of alcohol ;[Provided that in case of alcohol-based units holding F. L. 39, licence, the tax on the purchase of alcohol shall be payable by the purchaser or the seller on his behalf at the rate of thirty paise per litre in a treasury or sub-treasury of the district in which the purchase is made.] [Vide Notification No. 1254/E-2/XIII-94-283-86, dated 24-3-1994 (w.e f. 1-4-1994).]

## **16. Payment of tax short levied or erroneously refunded [Sections 3, 17 (2) and 17 (2) (b)].**

- Where tax has been short levied through inadvertance, error or miscalculation on the part of the District Magistrate or through his statement or mistake in the return submitted by or on behalf of the dealer or when any such tax after having been levied has been, owing to any such case, erroneously refunded, the person chargeable with the tax so short levied, or to whom such refund has been erroneously made, shall pay the deficiency or repay the amount paid to him in excess, on demand being made in respect of the same.

## **17. Refund [Section 17 (2) (b)].**

- If the District Magistrate is satisfied upon a claim made in his behalf that a dealer has paid the tax in excess of the amount with which he was properly chargeable he shall allow a refund to such dealer of the amount so paid in excess or in lieu thereof set off the amount to be refunded or any part thereof against the tax if any, due from him :Provided that no refund of any tax paid in excess shall be made under this rule unless the claim is made within three months from the date of such payment.

## **18. Dealers to maintain books of account etc. [Section 5 (1) and 17 (2) (d)].**

(1)Every dealer shall maintain or cause to be maintained a daily record in English or Urdu or Hindi of motor spirit, diesel oil and alcohol in respect of sale of each station of business in Form 'C' set out in the Schedule.(2)The delivery challans or purchase invoices and other evidence of purchase and certificate of payment and the other evidences of payment of tax shall be retained by the dealer for three years.(3)Every dealer of selling point shall-(a)where a meter has been provided, record a meter reading in the Accounts Register every day before and after the day's transaction;(b)where a dip rod is provided, note in the Accounts Register the gauge of tank before and after day's transactions and

calculate wastages, if any, every day.(4)Every dealer of motor spirit shall maintain a dip rod and calibration chart as may be specified by the Excise Commissioner, at or near his petrol tank or pump which shall be available to the inspecting officers for finding out the actual stock at any time in tank or pump.(5)Every dealer shall close the Accounts Register in Form 'C' on the very day of transaction on the close of the day's business.Explanation.-For the purposes of closing Accounts Register in Form 'C' the latest hour for closing the day's business shall be 8 a.m. of the succeeding day.(6)If any dealer fails, without good cause (the burden of proof of which shall be upon such dealer) to maintain the record required by sub-rules (1), (2) and (3) or maintain it correctly he shall be punishable with fine which may extend to rupees five hundred only.

## **19. Furnishing of monthly returns, information etc. and grant of certificate of payment.**

- (A) (1) Every dealer of motor spirit or diesel oil shall-(a)prepare or cause to be prepared a return, for every month, of motor spirit and diesel oil in Form 'D', set out in the Schedule, in respect of every district in which he carries on sale and subscribe at the foot of the said return a declaration that-(i)the particulars set out therein are true to the best of his knowledge, and(ii)the amount of tax, payable under sub-section (1) of Section 3 of the Act on sales, shown in Column 5 of the said return, less the amount paid before the return is submitted, has been deposited in the treasury or sub-treasury specified in the registration certificate, and(b)submit the said return to District Magistrate within one month of , the close of the month to which it relates along with proof of payments or previous payments.(2)Every dealer shall furnish fully and correctly any information in his possession that he is required by the registering authority or the Excise Commissioner to furnish for the purpose of the Act or these rules.(3)The District Magistrate, after satisfying himself that the payment of the amount, shown in the monthly return, has been duly made, shall issue a certificate in Form 'E', set out in the Schedule, and have it delivered to the registered dealer or his Manager or authorised agent. The number and the date of the certificate shall also be noted at the foot of the return submitted by the dealer.(B)Every dealer who sells alcohol shall-(a)prepare or cause to be prepared a return for every month, of alcohol sold by him in Form 'F', set out in the Schedule giving the names and addresses of the purchasers along with the quantity of alcohol purchased, the amount of tax deposited by the purchaser or the seller on his behalf and the number and date of treasury challan under which deposited;(b)submit the said return to the District Magistrate within a week of the month following the month to which it relates along with proof of payments.(C)The District Magistrate, after satisfying that the payment of the amount shown in the monthly return has been duly made shall issue a certificate in Form 'E' set out in the Schedule and have it delivered to the registered dealer or his manager or authorised agent. The number and the date of the certificate shall also be noted at the foot of the return submitted by the dealer.

## **20. Appeals and Revision [Section 26].**

(1)An appeal shall lie against an order passed, under the Act or these rules, by a District Magistrate to the Excise Commissioner within thirty days of the date of the order.(2)An appeal shall lie against any order passed in the first instance by the Excise Commissioner to the Board of Revenue within thirty days of the date of the order.(3)No appeal shall lie against an order passed in appeal but such

order may be revised by the State Government if a petition is presented within sixty days of the date of such order.(4)A memorandum of appeal or a petition in revision shall be accompanied with a certified copy of the order, from which the appeal or revision is made, and may be presented by the party concerned either personally or through its Manager or agent or a legal practitioner or may be sent by registered post.

## 21. Manager or Agent. [Sections 3 and 17 (2) (d)].

(1)A manager or agent may furnish returns, supply information, and deposit the tax on behalf of the dealer employing him.(2)When a manager or agent, for any reason, ceases to work as such at any station of business or sale, the dealer shall immediately communicate this information to the District Magistrate.

## 22. Penalty [Section 17 (4)].

- Any person who commits a breach of any of the provisions of these rules shall, on conviction, if such breach is not otherwise punishable under the Act or these rules, be punished with fine which may extend to five hundred rupees and, where the breach is continuing one, with further fine which may extend to one hundred rupees for every day after the first day during which the breach has been persisted in.

## Schedule

Form 'A'[See Rules 4 and 7]\*Application for the grant/renewal of registration certificate to deal in  
\*Motor Spirit/Diesel Oil/Alcohol

- |       |                                                                            |       |
|-------|----------------------------------------------------------------------------|-------|
| **1.  | Applicant's name                                                           | ..... |
|       | Calling                                                                    | ..... |
|       | Address                                                                    | ..... |
| ***2. | Situation of the station or stations/ businessvillage or street, Tehsil or | ..... |
|       | Town, Police Station, District                                             | ..... |
|       | Estimated quantity of Motor Spirit/DieselOil/Alcohol expected to be        |       |
| 3.    | sold/ purchased during the year endingthe 31st March at each station       | ..... |
|       | of business                                                                |       |
| 4.    | Was the applicant's registration certificateever cancelled ? If so, state  | ..... |
|       | particulars.                                                               |       |
| 5.    | Was the applicant ever refused the renewal ofhis registration              | ..... |
|       | certificate ? If so state particulars.                                     |       |
| 6.    | Treasury or sub-treasury in which the applicantwill deposit the tax.       | ..... |
| 7.    | Particulars of licence held under the PetroleumAct, 1934.                  | ..... |

Signature of the Applicant.Date of application\* Strike out what is not necessary.\*\* When the application is made on behalf of a company or a firm, the name and address of the company or the



firm should be given and the application may be signed by any person holding a power of attorney from the firm or the company or in the case of the firm any partner.\*\*\* The exact situation of every place at which sale is or is proposed to be carried on should be given here. Form 'B'[See Rule 5]

Registration Certificate to a dealer .....  
 Licence Fees Rs. ... .. Tax shall be deposited in..... Treasury/Sub-treasury.  
 Name of the dealer. ....  
 Calling .....  
 Address .....  
 Whose Station(s) of business is/are situated at .....  
 Village or Street .....  
 Tehsil or Town .....  
 Police Station .....  
 District .....

is authorised to carry on the business of a dealer in [Motor Spirit/Diesel (til/ Alcohol)] [Strike out what is not necessary.], at the above mentioned place/subject to the provisions of the Uttar Pradesh Sales of Motor Spirit, Diesel Oil and Alcohol Taxation Act, 1939 and the rules made thereunder, and to the following conditions : (1) The Registration Certificate shall be valid up to the 31st-March, 19.... (2) The dealer shall maintain at his place of business specified above a correct, accurate and up to date account of his stock and daily sales of 'Motor Spirit/Diesel Oil/Alcohol in a register in the prescribed form. (3) The dealer or his agent or employee shall produce immediately on demand by an officer duly empowered in this behalf his registration certificate, accounts, register, other connected record and also his stock of 'Motor Spirit/Diesel Oil/Alcohol. (4) The dealer shall submit punctually the monthly returns of sales/ purchases in the prescribed form and shall also deposit the amount of tax chargeable in accordance with the rules on the subject. (5) On breach of any of the conditions of this certificate or of the provisions of the Uttar Pradesh Sales of Motor Spirit, Diesel Oil and Alcohol Taxation Act, 1939 (Act No. I of 1939) or of the rules made thereunder, this certificate may be suspended or cancelled by the registering authority without in any way affecting the imposition of any penalty or punishment which may thereby have been incurred. (6) On the expiry, suspension or cancellation of the Dealer's licence under the Petroleum Act, 1934 in respect of the place of the business specified above, this certificate shall cease to be valid for that place of business. Dated the .....

19 Registering Authority. Particulars of Renewal

Date of renewal Date of expiry Signature of registering Authority

FORM 'C'[Sec Rule 18] Daily Record of Motor Spirit, Diesel Oil (High Speed Diesel and Light Diesel Oil) and Powerine/Alcohol Name and address of dealer.....

Station of business Quantity received Quantity sold Quantity otherwise disposed of

Date From within U. P. From outside U. P.

1 2 3(a) 3(b) 4 5

Quantity in stock (closing balance)	Name of the person from whom [Motor Spirit/ Diesel Oil/Alcohol etc.] [Strike out what is not necessary.] received with no. and date of delivery	Signature of dealer/ Manager/ Agent	Remarks
-------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------	---------

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Station	Station of business in the district	Quantity in stock in the beginning of the month	Quantity received during the month	Quantity sold during the month	Quantity otherwise disposed of during the month
1	2	3	4	5	6

Quantity in stock at the close of the month	Amount of tax credited	Number and date of challan of reference toevidence of such payment	Name of persons from whom Motor Spirit/ DieselOil/(H.S.D.) , or L.D.O./Powerine/ Alcohol was received duringthe month with the quantity	Remarks
7	8	9	10	11

Serial No.	Name of the parties	Quantity purchased in	Amount of purchase Tax	Treasury No.	Challan Date	Name of Treasury/
------------	---------------------	-----------------------	------------------------	--------------	--------------	-------------------

	purchasing alcohol	bulk liters	paid			Sub-Treasury/ Bank in which deposited
1	2	3	4	5	6	7

I do hereby declare that-(i)I have confirmed the above particulars with my record and books and certify that they are true and complete to the best of my knowledge and belief.(ii)The amount of tax payable under sub-section (b) of Section 3 of the Act or purchases shown above has been deposited in the ..... Treasury/Sub-Treasury/Bank, as specified above.Dated this ..... day of 19.To be certified by the dealer or his Manager or Agent.Certificate No ..... dated for the payment of the sum of Rs..... assessed.Dated ..... 19.....Notification[Aabkari Vibltag's Notification No. 10775-E/XIU-60-72, dated December 24, 1976, published in U. P. Gazette;, Part I, dated January 15, 1977, page 160]In exercise of the powers under Section 9 of the U. P. Sales of Motor Spirit and Diesel Oil and Alcohol Taxation Act, 1939 (U. P. Act No. 1 of 1939), the Governor is pleased to invest Officers-in-charge of check posts, and mobile, squads established under the U. P. Sales Tax Act, 1948 (U. P. Act No. XV of 1948), with powers under Section 10 of the U. P. Sales of Motor Spirit, Diesel Oil and Alcohol Taxation Act, 1939. These Officers shall exercise the powers conferred and perform the duties imposed on them under the said section within the local limits of their jurisdictions.