

The Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993

JHARKHAND

India

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Act 16 of 1993

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The Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993(Bihar Act 16 of 1993)Statement of Objects and Reasons. - To collect funds for various public welfare schemes and to implement various financial recommendations of the State Government, taxation according to the existing financial condition is highly essential. With a view to fulfil the above object and to make the provisions of the Bihar Finance Act more workable, it is essential that tax is levied and collected on certain goods entering the local areas of the State for consumption, use or sale; Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Second Ordinance, 1993 (Bihar Ordinance 19 of 1993) has been promulgated incorporating the aforesaid provisions.The object of this Bill is to get the essential provisions of the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Ordinance, 1993 substituted by an Act of the Legislature.Published in Bihar Gazette (extra-ordinary) dated 22.8.1993.An Act to provide for levy and collection of tax on entry of goods into local areas for consumption, use or sale therein.Be it enacted by the Legislature of State of Bihar in the Forty-fourth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993.(2)It extends to the whole of Bihar.(3)It shall come in force at once.

2. Definitions.

(1)In this Act unless the context otherwise requires -(a)"Commissioner" means the Commissioner of Commercial Taxes or the Additional Commissioner of Commercial Taxes appointed under the Bihar Finance Act, 1981 and includes any other officer upon whom the State Government may by

notification confer all or any of the powers and duties of Commissioner under this Act.(b)"Dealer" shall have the meaning assigned to it under the Bihar Finance Act, 1981.(c)"Entry of goods" with all its grammatical variations and cognate expressions means Entry of goods into a local area from any place outside that local area or any place outside the State for consumption, use, or sale therein:[ijUrq;g fd oSlh oLrq ftu ij fcgkj foRr vf/kfu;e 1981 vaxhd`r dh /kkjk 12 ids varxZr fedzh dj dh ns;rk gS] ds lanHkZ esa eky ds izos'k lsvfHkizsr {ks= esa jkT; ds ckgj ds fdlh LFkku ls miHkksx] O;ogkj vFkokfedzh ds fy, eky dk izos'k- [Inserted by Jharkhand Act 2 of 2002.]](d)"Importer" means a dealer or any other person who in any capacity brings or causes to be brought any scheduled goods into a local area for consumption, use or sale therein;(e)"Import Value" means the value of scheduled goods as ascertained from the purchase invoice/bills and includes insurance charges, excise duties, countervailing duties, sales tax, transport charges, freight charges and all other charges incidental to the import of scheduled goods.Provided that where the purchase invoice/bills are not produced or when the invoice/bills produced are proved to be false or if, the scheduled goods are acquired or obtained otherwise than by way of purchase, the import value shall be the value price at which the scheduled goods of like kind or quality is sold or capable of being sold in open market.(f)"Local Areas" means the areas within the limits of a-(i)Municipal Corporation;(ii)Municipality;(iii)Notified Area Committee;(iv)Cantonment Board;(v)Town Board;(vi)Mines Board;(vii)Municipal Board;(viii)Gram Panchayat;(ix)Any other local authority by whatever nomenclature called, constituted or continued in any law for the time being in force.(g)"Motor Vehicle" means a motor vehicle as defined in clause (2B) of Section 2 of the Motor Vehicles Act, 1988;(h)"Person" includes any Company or Association or body of individuals whether incorporated or not and also a Hindu Undivided Family, a firm, a local authority, the Government of any State or Union Territory.(i)"Prescribed" means prescribed by the rules made under this Act.(j)"Scheduled Goods" means goods specified in the Schedule to this Act.(2)Words and expressions used in this Act but not defined herein shall have the meaning assigned to them under the Bihar Finance Act, 1981.

3. Charge of Tax.

(1)There shall be levied and collected a tax on entry of scheduled goods into a local area for consumption, use or sale therein at such rate, not exceeding five per cent, of the import value of such goods, as may be specified by the State Government in a notification published in a official gazette subject to such conditions as may be prescribed:Provided different rates for different scheduled goods may be specified by the State Government.(2)The Tax leviable under this Act shall be paid by every dealer liable to pay tax under Bihar Finance Act, 1981 or any other person who brings or causes to be brought into the local areas such scheduled goods whether on his own account or on account of his principal or takes delivery or is entitled to take delivery of such goods on such entry;Provided no tax shall be leviable in respect of entry of such scheduled goods effected by a person other than the dealer if, the value of such goods does not exceed 25 thousands in a year:[ijUrq ;g vkSj fd vf/kfu;e ds varxZr dj pqdkus dk nk;h vk;krd ;fn fcgkj foRr vf/kfu;e 1981 vaxhd`r ds varxZr vuqlwfr eky dh fedzh ds dkj.k dj pqdkus dk nk;h gks tk; rc fcgkj foRr v/kfu;e 1981 [Inserted by Jharkhand Act 2 of 2002.](vaxhd`r) ds varxZr mldk dj ns;rk bl vf/kfu;e ds vf/kfu;e ds varxZr pqdk;k x;k dkj dh jkf'k rd ?kVk nh tk;sxhA][3 vuqlwfr eky ij LFkkuh; {ks= esa izos'k ds izFke fcUnq ij gh izos'k dkj dh ns;rk gksxh vkSj fdlh vU; LFkkuh; {ks= esa vuqlwfr ekyksa

ds vuqorhZ izos'k ij bl vf/kfu;e ds v/khu dj dh ns;rk ugha gksxh] c'krsZ vuqorhZ vk;krd O;kikjh ml O;kikjh ftuls mlus eky [kjhmk ;k izkIr fd;k gks izkIr dS'keseksa] fcy vFkok pkyku dh ewy izfr ds lkFk fofgr Qkje esa ?kks"k.kk fofgr jhfr ls dj fu/kkZj.k inkf/kdkjh ds le{k izLrqr djsA [Substituted by Jharkhand Act 2 of 2002.]]

4.

[x x x] [Deleted by Act 2 of 2002.].

5. Registration.

- Every dealer in scheduled goods shall get himself registered under the Act in such manner and within such period as may be prescribed.

6. Exemption from tax.

- The State Government may by notification and subject to such conditions and restrictions as it may impose, exempt from levy of tax any class of dealers, persons or importers.

7. Offences and Penalties.

(1)Any person who fraudulently evades payment of any tax payable under this Act or wilfully acts in contravention of any of the provisions of this Act or Rules made thereunder shall, in addition to the penalty which may be imposed upon him, be punishable with a simple imprisonment for a term which may extend to one year or fine which shall not be less than one thousand rupees but may extend to five thousand rupees or both and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of the continuance of the offence.(2)No court shall take cognizance of any offence punished under this Act, except with the previous sanction of Commissioner of Commercial Taxes.(3)Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) shall be cognizable and bailable.(4)Subject to the other provisions of the Act all the provisions relating to offences and penalties of the Bihar Finance Act, 1981 (Act 5, 1981) relating to assessment, reassessment, collection and enforcement of payment of tax required to be collected shall apply mutatis mutandis in relation to any process connected with such assessment, reassessment, collection or enforcement of payment of tax under this Act as if the tax under the Act is payable under the said Act.

8. Applicability of the provisions of the Bihar Finance Act, 1981 (Bihar Act 5,1981) and Rules made thereunder.

- Subject to other provisions of this Act and the Rules framed thereunder the authority empowered to assess, reassess, collect and enforce payment of tax and penalty payable by a dealer under the Bihar Finance Act, 1981 (Bihar Act 5, 1981) shall assess, reassess, collect and enforce payment of tax and penalty payable under this Act and for this purpose they may exercise all or any of the powers

assigned to them under the said Act and Rules made thereunder for the time being in force including the provisions relating to returns, assessment, reassessment, escaped assessment, recovery to tax, special mode of recovery, maintenance of accounts inspection, search and seizure liability in representative character, refund, appeal, revision and reviews, statement of cases to the High Court, compounding of offences and other miscellaneous matter and the provisions of the said Act shall mutatis mutandis apply accordingly.

9. 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 purpose of this Act. Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with 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 be made or provide for all or any of the matters expressly required or allowed by this Act to be made or provide for all or any of the matters expressly required or allowed by this Act to be prescribed by Rules. (3)In making any Rules the State Government may direct that for a breach thereof the prescribed authority may in the prescribed manner impose a penalty not exceeding one thousand rupees and when a breach is continuing one a penalty not exceeding rupees twenty-five for every day of default during the continuance of the breach. (4)Every Rule made under this Act shall be laid as soon as may be after it is made before the Houses of the State Legislature while it is in session for a total period of fourteen days which may comprise of in one session or in two consecutive sessions and if before the expiry of the session in which they are so laid or of the session immediately following both Houses agree in making any modifications in the Rule or resolve that such Rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under the Act.

10. Restriction on Registration.

- Notwithstanding anything contained in any other law for the time being in force where the liability to pay tax in respect of a motor vehicle arises under this Act and such motor vehicle is required to be registered in the State under the Motor Vehicles Act, 1988, no Registering Officer shall register any such motor vehicle unless payment of such tax has been made by the persons concerned in respect of such motor vehicle.

11. Removal of difficulty.

- If any difficulty arises in giving effect to the provisions of the Act the State Government may as occasion may require by an order not inconsistent with the Acts or Rules made thereunder, do anything which appears to it necessary for the purpose of removing the difficulties.

12. Repeal and Savings.

(1)The Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Second Ordinance, 1993 (Bihar Ordinance No. 19,1993) is hereby repealed.(2)Notwithstanding such repeal anything done or any action taken in exercise of the powers under the said Ordinance, shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing or action was done or taken.[vuqlwph]

1.

- eksVj okguA

2.

- rEckdw mRikn (chM+h NksM+dj)A

3.

- Hkkjr esa fufeZr fons'kh 'kjkA

4.

- ouLifr ,oa gkbM~ktsuVsM vkW;yA

5.

- lhesaVA

6.

- dPpk rsy (dzwM vkW;y)A

7.

- rEckdwA

8.

- beYlu isaVA

9.

- lSfuVjh fQfVaXlA

10.

- ,;j dafM'ku] ,;j dwyj ,oa ,;j ljdwwsVjA

11.

- laxejej] laxejej fpIl ,oa VkbZYl] xzsukbV iRFkj ,oa fljkfed rFkk XysTM VkbZYlA

12.

- bysDV~hdYl fQfVaXlA

13.

- dks;ykA

14.

- vkWju ,oa LVhyA

15.

- LVhy] IykfLVd ,oa ihHkhlh ikbZiA

16.

- vydrrjkANotificationsS.O. 37 dated the 25th February, 1993. - In exercise of the powers conferred under sub-section (1) of section 3 of the Bihar Tax on Entry on Goods into Local Areas for Consumption, Use or Sale Therein Ordinance, 1993 (Bihar Ordinance No. 11 of 1993) and proviso to sub-section (1) of section 12 of the Bihar Finance Act, 1981, the Governor of Bihar is pleased to specify the rates at which and the conditions subject to which the tax on entry of scheduled goods shall be levied and paid on Entry in any Local Areas of the State of Bihar from any other Local Areas or a place outside the State of Bihar.

Sl.no.	Description of the Scheduled Goods	Rate of tax
1.	Motor Vehicles	4%
2.	Tobacco Products (excluding Biris)	3%
3.	India made Foreign Liquor	5%

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|----|--------------------------------|----|
| 4. | Vegetable and Hydrogenated Oil | 5% |
| 5. | Cement | 5% |
| 6. | Crude Oil | 2% |

2. Where an Importer of India Made Foreign Liquor, Vegetable Hydrogenated Oil or Cement is liable to pay tax under sub-section (2) of section 3 of the Ordinance becomes liable to pay tax under the Bihar Finance Act, 1981 by virtue of sale of such scheduled goods, his liability under the Bihar Finance Act, 1981 shall be reduced to the extent of tax paid under the Ordinance.

3. The scheduled goods shall be subject to Entry Tax only at the first point of Entry in local areas and at the subsequent Entry in any other local areas the scheduled goods shall not be subject to tax under the Ordinance provided the subsequent importing dealer produces before the assessing officer the original copy of the Cash memo or Bill or Challan of the dealer from whom he purchased or received the goods supported by a declaration in the form and manner prescribed.

4. This notification shall come into force with effect from the date of issue.

[S.O. 39, dated the 25th February, 1993. - In exercise of the powers conferred by Section 6 of the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein Ordinance, 1993 (Bihar Ordinance No. 11 of 1993) the Governor of Bihar is pleased to exempt goods meant for the Defence Service and Defence Project from the levy of tax on entry into any local area of the State of Bihar subject to the condition that the person effecting entry of any such scheduled goods into any local area from any place outside that local area or any place outside the State produces before the prescribed authority on demand a certificate signed and bearing seal of the Chief Commanding/Executive Officer of the Defence services or the Defence Project unit to the effect that the goods belong/are meant for Defence Services or Defence Project and are of the benefit/ use of the said unit of the Defence Services or the Defence Project.

2. This notification will come into force from the date of issue.]

[Substituted by Jharkhand Act 2 of 2002.]