

# The Maharashtra Tax on Sale of Electricity Act, 1963

MAHARASHTRA

India

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### Act 21 of 1963

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The Maharashtra Tax on Sale of Electricity Act, 1963 Maharashtra Act No. 21 of 1963[24th April, 1963]For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1963, Part-V page 11.An Act to levy a tax on the sale of electricity in the State of Maharashtra and to provide for the creation of a Fund therefrom for the improvement and development of power supply in the State.Whereas, it is expedient to levy a tax on the sale of electricity in the State of Maharashtra and to provide for the creation of a Fund therefrom for the improvement and development of power supply in the State; It is hereby enacted in the Fourteenth Year of the Republic of India as follows:-

#### 1. Short title, extend and commencement.

(1)This Act may be called the Maharashtra Tax on Sale of Electricity Act, 1963.(2)It extends to the whole of the State of Maharashtra.(3)It shall be deemed to have come into force on the 1st day of January 1963.

#### 2. [ Definitions. - In this Act, unless the context otherwise requires,-

(a)"Board" means the State Electricity Board constituted under sub-section (1) of section 5 of the Electricity (Supply) Act, 1948 and functioning as such at the commencement of the Electricity Act;(b)"Electricity Act" means the State Electricity Act, 2003;(c)"power utility" shall include the Board, a generating company, a licensee and a person generating electricity primarily for his own use and for the use of his associates;(d)"prescribed" means prescribed by rules made under this Act;(e)"tax" means a tax imposed under this Act;(f)words and expressions used but not defined herein shall have their respective meanings as assigned to them under the Electricity Act.]

#### 3. [ Incidence of tax. - Subject to the provisions of this Act, there shall be levied and paid, at such rate and from such date, either prospective or retrospective, as may be specified by the State Government, by notification

**in the Official Gazette, a tax not exceeding fifty paise per unit,] [Section was substituted by Maharashtra 50 of 2000, Section 3, (w.e.f. 1-10-2000).] [in respect of all sales of electricity to a consumer by a power utility]: [These words were substituted for the words 'in every unit of energy sold by a generating licensee' by Maharashtra 21 of 2004, Section 3(a) (w.e.f. 5-4-2004).]**

[Provided that, no tax shall be levied and collected or paid on the electricity sold by one power utility to another power utility.] [This proviso was added by Maharashtra 21 of 2004, Section 3(b) (w.e.f. 5-4-2004).]

#### **4. Payment of tax.**

- Every [power utility] [These words were substituted for the words 'generating licensee' by Maharashtra 21 of 2004, Section 4, (w.e.f. 5-4-2004).] shall pay to the State Government at the time or times and in the manner prescribed, the amount of tax payable under this Act.

**5. [ [Utilisation [Section 5 was substituted by Maharashtra 21 of 2004, Section 5, (w.e.f. 5-4-2004).] of proceeds of tax]. - (1) The proceeds of the tax (together with any interest payable under section 9) recovered under this Act, shall first be credited to the Consolidated Fund of the State, and under appropriation duly made by law in this behalf,-**

(a)an amount of tax equivalent to [eight paise] [These words were substituted for the words 'four paise' by Maharashtra 15 of 2008, Section 2, (w.e.f. 2-5-2008).] per unit paid by power utility to the State Government in respect of sale of electricity to commercial and industrial consumers shall be transferred to the Maharashtra Energy Development Agency established under the Societies Registration Act, 1860 or its successor, for executing schemes of generation of renewable and non-conventional sources of energy; and[\* \* \*] [Clause (b) was deleted by Maharashtra 5 of 2008, Section 9(a), (w.e.f. 22-2-2008).](2)Any amount transferred to the Maharashtra Energy Development Agency [\* \* \*] [The words 'and the State Electricity Fund' were deleted by Maharashtra 5 of 2008, Section 9(b), (w.e.f. 22-2-2008).] under sub-section (1) shall be charged on the Consolidated Fund of the State.] [Section 2 substituted by Maharashtra 21 of 2004 Section 2, (w.e.f. 5-4-2004).]

**5A. [ Purposes for which Fund may be expended. - Deleted by Maharashtra 5 of 2008, Section 9(c), (w.e.f. 22-2-2008).] [[Section 5A was deleted by Maharashtra 5 of 2008, Section 10, (w.e.f. 22-2-2008).**

Prior deleted matter read as under :

## **5A. Purposes for which Fund may be expended.**

The Fund may be expended for executing schemes for development and improvement of power supply in the State and for operating rural electrification schemes therein, and in furtherance of this purpose, the State Government may from out of the Fund give subsidies or loans or ways and means advances to the State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948.]]

## **6. Licensee to keep books of account and submit returns.**

- Every [power utility] [These words were substituted for the words 'generating licensee' by Maharashtra 21 of 2004, Section 7, (w.e.f. 5-4-2004).] who is required to pay tax shall keep books of account in the prescribed form, and submit to the State Government or to an officer authorised by that Government in this behalf, returns, in such form, and at such times, as may be prescribed, showing the units of energy sold by him and the amount of tax payable thereon and the amount of tax already paid by him.

## **7. Power to exempt.**

- Subject to such conditions (if any) as it may impose, the State Government may, if it considers it necessary in the interest of the development of power supply so to do, by notification in the Official Gazette, exempt the sale of energy [by any class of power utility or to consumers] [These words were substituted for the words 'to any class of licensee or consumers' by Maharashtra 21 of 2004, Section 8 (w.e.f. 5-4-2004).] from the payment of the whole or any part of the tax payable under this Act.

## **7A. [ Energy consumed by or sold to Government of India or railway not liable to tax. - Notwithstanding anything contained in this Act, no tax shall be levied on the consumption or sale of energy (whether produced by a Government or other persons) which is-**

(a)consumed by the Government of India or sold to the Government of India for consumption by that Government; or(b)consumed in the construction, maintenance or operation of any railway by the Government of India, or sold to that Government for consumption in the construction, maintenance or operation of any railway.]

## **8. Inspecting Officers.**

(1)The State Government may, by notification in the Official Gazette, appoint any persons, having the prescribed qualifications, to be Inspectors for the purposes of this Act.(2)Every Inspector shall perform such duties and exercise such powers, as may be prescribed.(3)Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

## **9. Recovery of tax.**

- [Any sum due on account of the tax, if not paid at the time and in the manner prescribed, shall be deemed to be in arrears; and thereupon, interest on such sum shall be payable at the rate of 18 per cent per annum for the first three months immediately after the time such sum has become due and thereafter, at the rate of 24 per cent per annum till such sum is paid;] [This portion was substituted for the portion beginning with 'Any sum due' and ending with 'payable on such sum,' by Maharashtra 75 of 1975, Section 2.] and the sum together with the interest thereon, shall be recoverable either through a civil court or as an arrear of land revenue at the option of the State Government, or any officer authorised by the State Government in this behalf.

## **10. Refund of tax.**

- The State Government may by rules prescribe that in such circumstances and subject to such conditions (including any period of limitation) as may be specified in the rules, a refund of the whole or any part of the tax may be granted to the [power utility] [These words were substituted for the words 'generating licensee' by Maharashtra 21 of 2004, Section 9, (w.e.f. 5-4-2004).].

## **11. Penalties.**

- If any person-(a) fails to keep books of account, or to submit returns, in accordance with the provisions of section 6 and the rules made in that behalf, or (b) wilfully obstructs an Inspector in the exercise of the powers conferred, or in the discharge of duties imposed, upon him by or under this Act, or (c) contravenes any rule, he shall, on conviction, be punished with fine which may extend to one thousand rupees.

## **12. Offences by companies.**

(1) Where an offence under this Act has been committed by a company every person who at the time the offence was committed, was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purpose of this section-(a) "company" means a body corporate and includes a firm or other association of individuals, and (b) "director" in relation to a firm means a partner in the firm.

### 13. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.(2)In Particular, and without prejudice to the generality of the foregoing power such rules may-(a)prescribe the time or times and the manner of payment of tax under section 4;(b)[\* \* \*] [Clause (b) was deleted by Maharashtra 32 of 1974, Section 4.](c)prescribe the form of books of account to be kept and the times at which and the form in which, the returns required by section 6 shall be submitted;(d)prescribe the qualifications, the powers and duties of Inspectors under section 8;(e)prescribe the circumstances in which, and conditions subject to which, refund may be granted under section 10;(f)provide for giving effect to the provisions of this Act.(3)The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject, to the condition of the rules being made after previous publication.(4)Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date of publication of a notification in the Official Gazette of such decision have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Notifications G.N., I.E. & L.D., No. EBT/1074/1531/NRG-3, dated 20th January, 1976 (M.G., Part IV-B, page 152) - In exercise of the powers conferred by sub-section (2) of section 1 of the Maharashtra Tax on Sale of Electricity (Amendment) Act, 1975 (Maharashtra LXXV of 1975), the Government of Maharashtra, hereby appoints the 1st day of January 1976, to be the date on which the said Act, shall come into force. G.N.I.E. & L.D., No. MSC 1089/CR-1137/NRG-2, dated 30th June, 1993 (M.G., Part IV-B, page 935) - In exercise of the powers conferred by sub-section (2) of section 1 of the Maharashtra Tax on Sale of Electricity (Amendment) Act, 1992 (Maharashtra VIII of 1993), the Government of Maharashtra hereby appoints the 1st day of July, 1993, to be the date on which the said Act shall come into force. G.N.I.E. & L.D., No. MSC. 1092/CR-1137/NRG-2, dated 4th April, 1994 (M.G., Part IV-B, page 594) - In exercise of the powers conferred by sub-section (2) of section 1 of the Maharashtra Tax on Sale of Electricity (Amendment) Act, 1992 (Maharashtra VIII of 1993), and all other powers enabling it in this behalf, and in supersession of all the previous notifications issued in this behalf, the Government of Maharashtra hereby appoints the 1st day of January 1994 to be the date on which the said Act shall come into force. G.N.I.E. & L.D., No. EBT.2000/10249/NRG-1, dated 30th September, 2000 (M.G., Part IV-B, page 1242) - In exercise of the powers conferred by section 3 of the Maharashtra Tax on Sale of Electricity Act, 1963 (Maharashtra XXI of 1963) as amended by Maharashtra Ordinance No. XVIII of 2000; and of all other powers enabling in this behalf, and in supersession of the Government Notification, Industries, Energy and Labour Department, No. EBT. 1096/CR. 2828/NRG-2, dated 1st October 1996, the Government of Maharashtra hereby specifies with effect from the 1st October, 2000, the rate of tax 10 paise per unit, on every unit of energy sold by the generating licensee. G. N.I.E. & L.D., No. EBT. 2004/CR-42/NRG-1, dated 19th May, 2004 (M.G., Part IV-B, page 341) - In exercise of the powers conferred by Section 3 of the Maharashtra Tax on Sale of Electricity Act, 1963 (Maharashtra XXI of 1963) and of all other powers enabling it in this behalf, and in supersession of the

Government Notification, Industries, Energy and Labour Department No. EBT. 2001/CR-1070/NRG-1, dated the 31st March 2001 the Government of Maharashtra hereby, with effect from the 6th April 2004, specifies the rates mentioned in column, (3) of the Table appended hereto, to be the rates for levy of tax per unit of electricity sold by the power utility in the areas mentioned in column (2) of the said Table.

Serial No.(1)	Area(2)	Rate of tax Payable(3)
1.	In the areas covered under the licence granted to Tata Power Company, BSES Ltd., (Reliance Energy Limited) and Bombay Electricity Supply and Transport Undertakings.	
	(a) in respect of sale of electricity to industrial or commercial consumers.	19 paise per unit
	(b) in respect of sale of electricity to any consumers other than industrial or commercial consumers.	15 paise per unit
2.	In any other area in the State-	
	(a) in respect of sale of electricity to industrial or commercial consumers.	4 paise per unit
	(b) in respect of sale of electricity to any other consumers other than industrial or commercial consumers.	Nil

G.N.I.E. & L.D., No. EBT. 1096/CR-2828/NRG-2, dated 1st October, 1996 (M.G., Part IV-B, page 209) - In exercise of the powers conferred by sub-section (1) of section 3 of the Maharashtra Tax on Sale of Electricity Act, 1963 (Maharashtra XXI of 1963) and all other powers enabling it in this behalf, the Government of Maharashtra hereby specified with effect from the 1st October 1996, the rates 1 per cent of the energy charges on all sales of energy in bulk by a bulk licensee. G.N., I. & L. D., No. EBT. 1074/910101 (ii)-Elec-I, dated 9th July, 1974 (M.G., Part IV-B, page 899) - In exercise of the powers conferred by section 9 of the Maharashtra Tax on Sale of Electricity Act, 1963 (Maharashtra XXI of 1963) and in supersession of all the previous notifications issued in this behalf, the Government of Maharashtra hereby fixes 12 per centum to be the rate of interest for the purposes of that section. [Section 7A was inserted by Maharashtra 8 of 1993, Section 4.]