

Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979

HIMACHAL PRADESH

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Act 15 of 1979

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Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979(Act No. 15 of 1979)[Dated 19.6.1979](Received the assent of the Governor, H.P. on the 16th June, 1979 and was published in R.H.P. Extra, dated the 19th June, 1979 at Pages 1939-1945)An Act to provide for the levy and collection of tax on luxury provided in hotels and lodging houses.Whereas it is expedient to provide for the levy and collection of a tax on luxuries provided in hotels and lodging houses and for matters connected with the purpose aforesaid; it is hereby enacted by the Legislative Assembly of Himachal Pradesh in the Thirtieth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Himachal Pradesh Tax on Luxuries (in Hotels and Lodging Houses) Act, 1979.(2)It extends to the whole of the State of Himachal Pradesh.(3)It shall come into force from the date the Act is notified in the Official Gazette.

2. Definitions.

- In this Act, unless the context otherwise requires-(a)["assessing authority" means the Assistant Excise and Taxation Officer Commissioner or the Excise and Taxation Officer, appointed under sub-section (1) of section 3 of this Act and conferred the powers under sub-section (2) of section 3 thereof for carrying out the purpose of this Act;] [Substituted by Himachal Pradesh Act No. 9 of 1991](b)"commissioner" means the Excise and Taxation Commissioner appointed under sub-section(1) of section 3;(c)[***] [Omitted by Himachal Pradesh Act No. 14 of 2000](cc)["Deputy Excise and Taxation Commissioner" means the Deputy Excise and Taxation Commissioner, appointed under sub-section (1) of section 3 of this Act, to assist the Commissioner and shall also include the Joint Excise and Taxation Commissioner;] [Inserted by Himachal Pradesh Act No. 9 of

1991](d)["hotel" means any premises or part of premises including a house-boat, restaurant, bar on or a tent where lodging with or without board or any kind of eatables or beverages or other services are by way of business provided for a monetary consideration, and includes such premises as are given on rent during any period of a financial year; [Substituted by Himachal Pradesh Act No. 7 of 1993](e)"luxury provided in hotel" means accommodation for residence provided in a hotel, rate of charges for which (including charges for air conditioning, telephone, television, radio, music sports, extra beds and other amenities provided in a hotel) is [fifty] rupees per person per day or more;](ee)["new hotel" means a hotel, located within the State of Himachal Pradesh, which commences operation on or after 1st day of August, 1993, and shall also included an existing hotel, the proprietor of which after the 1st day of August, 1993- [Inserted by Himachal Pradesh Act No. 15 of 1994](i)expands, alongwith facilities and services already being provided therein, its existing accommodation by atleast twenty five per cent with an additional capital investment of not less than twenty five per cent of the existing capital investment but without any change in the nature of the facilities and services, or(ii)diversifies it by providing new facilities and services with an additional capital investment of less than twenty-five per cent of the existing capital investment.but does not include anyhtel which is formed as a result of re-establishment. more change of ownership, change in the constitution, reconstruction of the hotel.Explanation. - For the purposes of this clause "capital investment" means investment made on land, building, machinery and plant by the proprietor of the hotel;](f)"proprietor" in relation to a hotel includes the person who for the time being is in-charge of the management of the hotel; [***] [Omitted 'and' by Himachal Pradesh Act No. 9 of 1991](g)"prescribed" means by the rules made under this Act;(gg)["receipt" means the amount of monetary consideration received or receivable by a proprietor for any luxury provided in a hotel;] [Inserted by Himachal Pradesh Act No. 14 of 2000](h)["registered" means registered under this Act.] [Inserted by Himachal Pradesh Act No. 9 of 1991](i)["turnover of receipts" means aggregate of the amounts of receipt during any period of a financial year.] [Inserted by Himachal Pradesh Act No. 14 of 2000]

3. Taxing authorities.

(1)For carrying out the purpose of this Act, the State Government may appoint a person to be the Excise and Taxation Commissioner and such other persons to assist him s it thinks fit.(2)Persons appointed under sub-section (1) shall exercise such powers as may be conferred and perform such duties as may be required, by or under this Act.(3)All persons appointed under sub-section 1 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. (45 of 1860).

4. [Levy and collection of tax. [Substituted by Himachal Pradesh Act No. 8 of 1992.]

(1)Subject to the provisions of this Act, there shall be levied and paid a tax in respect of any luxury provided in a hotel (hereinafter called the "luxury tax") on the [turnover of receipts of] the luxury.(2)The luxury tax under sub-section (1) shall be payable by the proprietor at the rates not exceeding ten paise in a rupees as the Government may be. notification direct.(3)[Notwithstanding anything contained in sub-sections (1) and (2), no tax shall be levied, charged and paid in respect of

residential accommodation provided to his employees by the proprietor of the hotel.] [Inserted by Himachal Pradesh Act No. 14 of 2000.](4)Notwithstanding anything contained in sub-section (1), (2) and (3) the luxury tax may be assessed and recovered from the proprietor, at lump sum, in the manner prescribed, after taking into consideration, the capacity of a hotel, the rates and the charges fixed for such luxury by the prescribed authority under the Himachal Pradesh Registration of Tourist Trade Act, 1988 (9 of 1988), [such period of financial year as may be specified by notification issued under this sub-section] [Substituted 'the entire period of a financial years' by Himachal Pradesh Act No. 7 of 1993, dated 3.4.1993.] and the rate of luxury tax as may be notified by the Government under sub-section (5).[Provided that the period of a financial year to be notified under this sub-section shall not be less than fifty per cent of the number of days in that financial year.] [Inserted by Himachal Pradesh Act No. 7 of 1993, dated 3.4.1993.](5)the Government may, for the purposes of sub-section (2) and assess and recover the luxury tax on the entire luxury available in a hotel, subject to the condition that the rate shall not exceed the ceiling of ten paise in a rupee specified in sub-section (2).(5A)[During the period commencing from the 1st day of July, 1992 and ending on the day the notification revising the rate of luxury tax under sub-section (5) is published in the Official Gazette issued after the promulgation of the Himachal Pradesh tax on Luxuries (in Hotels and lodging Houses) Amendment ordinance, 1992 (H.P. Ordinance 7 of 1992) the luxury tax for the purposes of sub-section (4) shall be and shall always be deemed to have been levied at the rate of ten paise in a rupee.] [Inserted by Himachal Pradesh Act No. 7 of 1993, dated 3.4.1993.](6)The luxury tax under [Sub-section (2)] [Substituted 'the foregoing sub-sections' by Himachal Pradesh Act No. 7 of 1993, dated 3.4.1993.] may be collected by the proprietor from the persons to whom the luxury is provided in a hotel.:Provided that the liability to pay tax shall not be affected where a proprietor does not collect the luxury tax payable by him.(7)In computing luxury tax under this section, a fraction of a rupee which is less than fifty paise shall be ignored and a fraction which is more than fifty paise shall be rounded off to the next higher rupee.]

5. [[Omitted by Himachal Pradesh Act No. 8 of 1992.]

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5. Mode of collection of tax, etc.- (1) Where the rate of charges for luxury provided in a hotel is inclusive of the charges for food or drink, or other amenities, if any, being amenities referred to in clause (e) of section 2 then the Commissioner or any other officer, not below the rank of the Deputy Excise and Taxation Commissioner, authorised in writing may, from time to time after giving the proprietor an opportunity of being heard, fix separate rates of charges for such luxury and for food or drink or other amenities, if any, being amenities referred to in clause (e) of section 2, for the purpose of calculating the luxury tax under this Act.(2) Where, in addition to the charges for luxury provided in a hotel service charges are levied and appropriated by the proprietor and not paid to the staff, then such charges shall be deemed to be part of the charges for luxury provided in the hotel.(3) Where luxury provided in a hotel to any person (not being an employee of the hotel) is not charged at all, or is charged at a concessional rate, nevertheless, there shall be levied and collected the luxury tax on such luxury, as if full charges for such luxury were paid to the proprietor of the hotel.(4) Where luxury provided in a hotel for a specified number of persons is shared by more than the number specified, then in addition to the luxury tax paid for luxury provided to the specified

number of persons, there shall be levied and recovered separately the luxury tax in respect of the charge made for the extra persons accommodated.(5) Where any proprietor fails or neglects to collect the luxury tax payable under this Act, the luxury tax shall be calculated and paid as if the tax was recovered from the person liable to pay the same.

5A. [Registration of proprietor. [Inserted by Himachal Pradesh Act No. 9 of 1991.]

(1)No proprietor shall, while being liable to pay tax under this Act, carry on business as a proprietor unless he has been registered and possesses a registration certificate.(2)Every proprietor required by sub-section (1) to be registered shall make an application in this behalf in the prescribed manner to the assessing authority of the district concerned.(3)If the assessing authority is satisfied that an application for registration is in order he shall in accordance with such rules and on payment of such fee, as may be prescribed, register the applicant and grant him certificate of registration on any sufficient cause including the cessation of liability to pay luxury tax under this act.(4)The assessing authority may, from time to time , by order, amend or cancel any certificate of registration on any luxury tax under this Act:Provided that no order affecting any person adversely shall be made under this sub-section without affording him reasonable opportunity of being heard.(5)When any proprietor has paid the amount of penalty imposed under section 14 in respect of any contravention of sub-section (1) of this section, the assessing authority shall register such proprietor and grant him a certificate of registration and such registration shall take effect as if it had been made under sub-section (3) of this section on the proprietors application.(6)When any business in respect of which a certificate of registration has been granted under this section has been discontinued or transferred in the name of other proprietor or person, the assessing authority shall cancel the registration and the cancellation shall come into force after such discontinuance or transfer.]

6. [Payment of tax and submission of returns. [Substituted by Himachal Pradesh Act No. 9 of 1991.]

(1)Every proprietor liable to pay luxury tax under this Act shall deposit the full amount of luxury tax due and payable by him, in respect of each month within [thirty] days after the close of the month to which the luxury tax relates into a Government treasury or the State Bank of India, and shall furnish to the assessing authority of the district concerned a proof of having paid the tax due in the prescribed manner.(2)Every proprietor shall furnish a return in the prescribed form to the assessing authority of the district concerned quarterly within 15 days after the close of each quarter along with the receipts of payment of luxury tax for each month of the quarter to which the return relates.(3)Every such return shall show the number of rooms or other accommodation in the hotel which is intended to be occupied, the number of persons who occupied such rooms or accommodation, the periods of their stay, the amount of charges recovered from them, together with such other information as may be prescribed.(4)Every return shall be verified in the prescribed manner.(5)If a proprietor fails without sufficient cause to comply with the requirements of provisions of sub-sections (1), (2) and (3) the assessing authority of the district concerned may, after giving such proprietor a reasonable opportunity of being heard, direct him to pay, by way of penalty, a sum not exceeding one and a half times of the amount of luxury tax due and payable by him under

this Act.(6)If a proprietor has maintained false or incorrect accounts with a view to suppressing any transaction pertaining to his business or has concealed any particulars of his business or has furnished to, or produced before, any assessing authority under this Act or the rules made thereunder any account, return or information which is false or incorrect in any material particular, the Commissioner or any other person appointed to assist him under sub-section (1) of section 3 of this Act may, after affording such proprietor a reasonable opportunity of penalty in addition to the luxury tax to which he is assessed or is liable to be less than twenty-five percentun but which shall not exceed one and half times of the amount of luxury tax to which he is assessed or is liable to be assessed.]

6A. [Special provisions relating to deferred payment of luxury tax by proprietors of new hotels. [Inserted by Himachal Pradesh Act No. 15 of 1994.]

(1)Notwithstanding anything contained in any other provision of this Act, if the Governments of the opinion that with a view to provide incentives to the proprietors setting up new hotels in the under scheme notified in this behalf under this Act, and subject to such restrictions and conditions as may be specified in such scheme, provide for deferred payment of luxury tax payable under section 4 by such proprietor who is registered under this Act:Provided that the State Government may, for the purposes of this sub-section, make a scheme retrospectively with effect from the 1st day of August, 1993.(2)Subject to the provisions of sub-section (1), the proprietor referred to therein, if eligible for grant of facility of making deferred payment of luxury tax under the scheme notified sub-section (1), may make deferred payment of luxury tax payable by him.

6B. Power to exempt the proprietors of new hotels from payment of luxury tax.

(1)Notwithstanding anything contained in any other provision of this Act, if the Government of the opinion that with a view to provide incentives to the proprietors setting up new hotels in the State, for providing luxury therein it is necessary or expedient in the public interest so to do, it may, by notification, exempt the proprietor of a new hotel from the payment of luxury tax for such period, not exceeding five years, as may be specified in the said notification subject to the condition that-(i)such new hotel come into operation between the period commencing from the 1st day of August, 1993 and ending on the 31st day of July, 1998, and(ii)the rates of charges for the luxury provided in such new hotel do not exceed one hundred rupees per person per day.(2)The Government may, for the purposes of sub-section (1) issue notification retrospectively with effect from the 1st day of August, 1993 in respect of the new hotels coming into operation between the 1st day of August, 1993, and the commencement of the Himachal Pradesh Tax on luxuries (in Hotels and Lodging Houses) Amendment Act, 1994.(3)Notwithstanding anything contained in sub-section (6) of section 4, no proprietor of a new hotel, in respect of which a notification under sub-section (1) has been issued, shall during the period when such exemption remains in force. collect any sum by way of luxury tax to the extent of exemption provided in the notification.(4)Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before the State Legislature.]

7. [Assessment of luxury tax. [Substituted by Himachal Pradesh Act No. 9 of 1991.]

(1)The amount of luxury tax due from a proprietor shall be assessed separately for every half financial year or part thereof.(2)If the assessing authority is satisfied without requiring the presence of proprietor or the production by him of any evidence that the returns furnished in respect of any period are correct and complete he shall assess the amount of luxury tax due from the proprietor on the basis of such returns.(3)If the assessing authority is not satisfied without requiring the presence of proprietor who furnished the returns or production of evidence that the return furnished in respect of any period are correct and complete, he shall serve on such proprietor a notice in the prescribed manner requiring him. on a date and at a place specified therein, either to attend in person or to produce or to cause to be produced any evidence on which such proprietor may rely in support of such returns.(4)On the day specified in the notice or as soon afterwards as may be, the assessing authority shall, after hearing the proprietor and considering such evidence as the proprietor and considering such evidence as the proprietor may produce and such other evidence as the assessing authority may require on specified points, assess the amount of luxury tax due from the proprietor.(5)If a proprietor, having furnished returns in respect of a period, fails to comply with the terms of a notice issued under sub-section (3), the assessing authority shall, within five years after the expiry of such period, proceed to assess to the best of his judgement the amount of the luxury tax due from the proprietor.(6)If a proprietor does not furnish returns in respect of any period by the specified date, the assessing authority shall within five years after the expiry of such period, after giving the proprietor a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, the amount of luxury tax, if any, due from the proprietor.(7)If upon information which has come into his possession, the assessing authority is satisfied that any proprietor has been liable to apply for registration, the assessing authority shall within five years after the expiry of such period after giving the proprietor a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, the amount of tax, if any due from the proprietor in respect of such period and all subsequent periods and in cases where such proprietor has wilfully failed to apply for registration the assessing authority may direct that the proprietor shall pay by way of penalty, in addition to the amount of luxury tax so assessed, an amount which shall not be less than ten per centum but which shall not exceed one and a half time of the amount of luxury tax to which he is assessed.(8)The amount of any luxury tax penalty or interest payable under this Act shall be paid by the proprietor in the manner prescribed by such date as may be specified in the notice issued by the assessing authority for the purpose and the date so specified shall not be less than fifteen days and not more than thirty days from the date of service of such notice.(9)If the luxury tax assessing under this Act is not paid by any proprietor within time specified therefor in the notice of assessment, the assessing authority of the district concerned may after giving such proprietor in opportunity of being heard, impose on him a penalty not exceeding an amount the sum due from him.(10)Any assessment made under this section shall be without pre-judice to any penalty imposed under this Act.]

7A. [Re-assessment of luxury tax. [Inserted by Himachal Pradesh Act No. 9 of 1991.]

- If in consequence of any information which has come into his possession, the assessing authority discovers that the luxury tax payable by a proprietor has been under-assessed or has escaped assessment in any financial year or half financial year, as the case may be, the assessing authority may, at any time within five years following the close of such year for which luxury tax is proposed to be re-assessed and after giving the proprietor a reasonable opportunity in the prescribed manner of being heard, proceed to re-assess the luxury tax payable, which has been under-assessed or has escaped assessment.(2)The assessing authority or any such authority as may be appointed by the Government, may , at any time, within one year from the date of any order passed by him and subject to such conditions as may be prescribed, rectify any clerical or arithmetical mistake apparent from the record.

7B. Payment of interest.

(1)If any proprietor fails to pay the amount of luxury tax due from him under this Act, except to the extent mentioned in sub-section (2), he shall in addition to the amount of luxury tax, be liable to pay simple interest on the amount of luxury tax due and payable by him, at the rate of one percentum per month from the date immediately following the last date on which the proprietor should have filed the return and paid the luxury tax under the Act for a period of one month, and thereafter at the rate of one and a half percentum per month till the default continues.(2)If the amount of luxury tax or penalty due from a proprietor is not paid by him within the period specified in the notice issued under sub-section (8) of section 7 or, if no period is specified within thirty days from the service of such notice, the proprietor shall, in addition to the amount of luxury tax or penalty, be liable to pay simple interest on such amount, at the rate of one percentum per month from the date immediately following the date on which the period specified in the notice or the period of thirty days, as the case may be, expires, for a period of one month, and thereafter at the rate of one and a half percentum per month till the default continues:Provided that where the recovery of any luxury tax penalty is stayed by an order of stay is vacated, be recoverable along with interest at the aforesaid rate on the amount ultimately found to be due and such interest shall be payable from the date luxury tax or penalty first became due.(3)the amount of interest payable under this section shall-(i)be calculated by considering if part of a month is more than fifteen days as one month and any amount if more than fifty rupees but less than one hundred rupees as one hundred rupees;(ii)for the purposes of collection and recovery, be deemed to be luxury tax under this Act; and(iii)be in addition to the penalty, if any, imposed under this Act.]

8. Appeal.

(1)Any person aggrieved by any order passed by the assessing authority under this Act may, in the prescribed manner, appeal to the Deputy Excise and Taxation Commissioner within 90 days from the date of receipt of such order:Provided that no appeal shall be entertained by the Deputy Excise and Taxation Commissioner, unless he is satisfied that the amount of tax assessed [including

interest payable] [Inserted by Himachal Pradesh Act No. 15 of 1994.] and the penalty, if any, imposed on the proprietor has been paid: Provided further that if the Deputy Excise and Taxation Commissioner is satisfied that the proprietor is unable to pay the tax assessed or the penalty, if any, imposed or both, he may for reasons to be recorded in writing, entertain the appeal without the tax [including interest payable] [Inserted by Himachal Pradesh Act No. 15 of 1994.] or penalty or both having been paid. (2) Subject to the rules of procedure as may be made in this behalf by the State Government the Deputy Excise and Taxation Commissioner, may pass such orders in relation thereto as he may think fit.

9. [Revision. [Substituted by Himachal Pradesh Act No. 9 of 1991.]

(1) The Commissioner may, of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by, any authority subordinate to him, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit. (2) The State Government may by notification confer on any officer powers of the Commissioner under sub-section (1) to be exercised subject to such conditions and in respect of such areas as may be specified in the Notification. (3) No order shall be passed under this section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.]

10. Court fees.

- Notwithstanding anything contained in the Himachal Pradesh Court Fees Act, 1968 (8 of 1968) an appeal preferred under section 8 [***] [Omitted 'or an application for revision made under section 9' by Himachal Pradesh Act No. 15 of 1994.] shall bear court fee stamp of such value as may be prescribed.

11. [Tax, penalty and interest recoverable as arrears of land revenue. [Substituted by Himachal Pradesh Act No. 15 of 1994.]

- The amount of luxury tax and penalty imposed or interest payable under this Act, which remains unpaid after the due date shall be recoverable as arrears of land revenue.]

12. Service of notice.

- A notice under the provisions of the Act may be served by post or by delivering or tendering it to the person to whom it is addressed or to his agent or in such manner as may be prescribed.

13. Power to inspect accounts and documents etc. and search of premises.

(1) The assessing authority may, subject to such conditions as may be prescribed, require any proprietor to produce before him the working records of accounts, registers or documents or to furnish any information relating to the business of the hotel as may be necessary for the purpose of

this Act.(2)All working records of accounts, registers or documents relating to the business of any hotel shall, at all reasonable time, be open to inspection by the assessing authority, and the assessing authority may, take or cause to be taken such copies of or extracts from any of the said records or accounts as may be necessary for the purpose of testing accuracy of any return or charges of such luxury or for informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder as would appear to him necessary.(3)If the assessing authority has reasons to believe that any proprietor has evaded or is attempting to evade the payment of luxury tax due from him, he may, for reasons to be recorded in writing, seize such records of accounts, registers or documents of the proprietor as may be necessary and shall grant a receipt for the same and shall retain the same so long as may be necessary in connection with any proceedings under this Act or for a prosecution.(4)For the purposes of this Act, the assessing authority may enter and search any hotel or any place of business of the proprietor or any other place where the assessing authority has reason to believe that the proprietor keeps or is for the time being keeping, any records of accounts, registers or documents of his business in relation to the hotel.

13A. [Proprietor to maintain accounts. [Inserted by Himachal Pradesh Act No. 9 of 1991]

(1)Every registered proprietor and other proprietor who any person appointed to assist him under sub section (1) o section 3, by notice served on him in his hotel, and if accounts are not sufficiently clear or intelligible to enable him to make a proper check of the returns or the statement furnished, he may require such proprietor by notice in writing to keep such accounts including such records of luxury provided in his hotel, as he may consider necessary.(2)Every registered proprietor shall, issue to the customer or customers a bill or a cash memorandum serially numbered bearing the name and address of the proprietor, the date of issue and the signature of such proprietor or his servant, manager or agent and showing therein such other particulars of charges for the luxury provided in the hotel, and preserve a carbon copy of such bill or cash memorandum for a period of not less than five years from the date of issue thereof.(3)Where any proprietor contravenes the provisions of sub-section (1) or sub-section under sub-section (2), the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may, after affording such proprietor it reasonable opportunity of being heard, impose upon him a penalty which may extend of five hundred rupees.

13B. Power to transfer proceedings.

- The Commissioner may, after giving the parties a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so by order in writing transfer any officer to any officer to any other officer subordinate to him:Provided that nothing in this section shall be deemed to require any such opportunity to be given where the offices of the afforesaid officers are situated in the same city, locality or place.Explanation. - In this section, the word "proceedings" in relation of any proprietor whose name is specified in any order issued thereunder, means all or any proceeding under this Act in respect of any period which may be pending on the date of such order or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order,

in respect of any period in relation to such proprietor.]

14. Penalty.

(1) Any person who being a proprietor liable to pay the luxury tax under this Act—(a) submits or allows or causes to be submitted an incorrect or incomplete return or fails to submit the return as required by or under the provisions of this Act; or (b) fraudulently evades or allows to be evaded the payment of any luxury tax due from him; or (c) fraudulently makes or causes or allows to be made any wrong entry in or fraudulently omits or causes or allows to be omitted any entry from any statement submitted or any accounts or register; or (d) contravenes, or fails to comply with, any of the provisions of this Act or the rules made thereunder or any order or direction made or given thereunder, shall, if no other penalty is provided under this Act for such contravention or failure, be liable to the imposition of a penalty not exceeding double the amount of tax involved. (2) [The officer not below the rank of the Excise and Taxation Officer, appointed under sub-section (2) of section 3, may, after affording to the person concerned a reasonable opportunity of being heard, impose a penalty specified under sub-section (1).] [Substituted by Himachal Pradesh Act No. 9 of 1991.]

15. Offences by companies.

(1) Where an offence under this Act has been committed by the company, every person who at the time when 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 committed was without his knowledge or that he exercised 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 or secretary or any 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 purposes of this section—(a) "company" means a body corporate and includes a firm or other association of individuals; (b) "director" in relation to a firm means a partner in the firm.

16. Indemnity.

- No suit, prosecution or other legal action shall lie against the Government or any officer of the Government for anything which is in good faith done or intended to be done by or under this Act or the rules made thereunder.

17. Power to make rules.

(1) The State Government may make rules for securing payment of the luxury tax on hotels, and

generally for carrying into effect the provisions of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:- (a)[to prescribe the form, fee and the manner in which the registration certificate is to be issued under section 5A;] [Inserted by Himachal Pradesh Act No. 9 of 1991.](aa)[] [Renumbered '(a)' by Himachal Pradesh Act No. 9 of 1991.] the form in which the return shall be submitted under section 6, further information to be furnished with the return and the manner in which returns shall be verified;(b)the form of notice to be served under section 7 and the procedure to be followed for assessment and collection of the assessed dues;(bb)[the manner of payment of luxury tax, penalty or interest under sub-section (8) of section 7; [Inserted by Himachal Pradesh Act No. 9 of 1991.](bbb)the manner in which the opportunity to be given to the proprietor under sub-section (1) and the conditions as may be prescribed under sub-section (2) of section 7A;](c)the procedure for, and other matters incidental to, the disposal of appeals under section 8;(d)fixation of the value of court for stamp to be affixed on an appel or application for revision under section 10;(e)the other manner in which a notice may be served under section 12;(f)the procedure for inspection and taking copies of records and accounts under section 13;(g)the fees to be paid for any of the matters provided in this Act; and(h)any other matter which is required to be or may be prescribed.(3)[All rules made under this section shall be subject to the condition of previous publication:Provided that the State Government may, for the purposes of sub-section (4) of section 4 of this Act make rules without previous publication.] [Substituted by Himachal Pradesh Act No. 8 of 1992][Provided further that the State Government may, for the purposes of sub-section (4) of section 4 make rules with retrospective effect, but not earlier than the 1st day of July, 1992.] [Inserted by Himachal Pradesh Act No. 7 of 1993, dated 3.4.1993.](4)Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Assembly makes any modification in the rules or decides that the rule should not be made, the rule shall thereafter 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 under that rule.