

The M.P. Hotel Tatha Vas Grihon Me Vilas Vastuon Par Kar Adhiniyam, 1988

MADHYA PRADESH

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Act 13 of 1988

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The M.P. Hotel Tatha Vas Grihon Me Vilas Vastuon Par Kar Adhiniyam, 1988 No. 13 of 1988 Received the assent of the Governor on the 26-5-1988; assent first published in the "Madhya Pradesh Gazette Extraordinary", dated the 31-5-1988. An Act to levy tax on luxuries provided in hotels and lodging houses in the State of Madhya Pradesh. Be it enacted by the Madhya Pradesh Legislature in the Thirty-ninth Year of the Republic of India as follows :

1. Short title, extent and commencement.

(1) This Act may be called the Madhya Pradesh Hotel Tatha Vas Grihon Me Vilas Vastuon Par Kar Adhiniyam, 1988. (2) It extends to the whole of Madhya Pradesh. (3) It shall come into force on such [date] [Enforced on 16-8-1988.] as the State Government may, by notification, appoint.

2. Definitions.

(1) In this Act, unless the context otherwise requires, - (a) "business" includes the activity of providing residential accommodation and any other service in connection with or incidental or ancillary to such activity of providing residential accommodation, by a hotelier for monetary consideration; (b) "concessional rate" in relation to a luxury provided in a hotel means a rate lower than the normal rate fixed for such luxury by the hotelier or lower than that fixed by any Government authority, or under any law for the time being in force; (c) "hotel" includes a residential accommodation, a lodging house, an inn, a public house or a building or part thereof where residential accommodation is provided in the course of business; (d) "hotelier" means the owner of the hotel and includes the person who for the time being is in charge of the management of the hotel; (e) "luxury provided in a hotel" means accommodation and other services provided in a hotel, the rate of charges for which, including the charges for air-conditioning, telephone, television, radio,

music, entertainment, extra beds and the like is sixty rupees [x x x] [Omitted by M.P. Act No. 19 of 1990 (w.e.f. 15-9-1990).] per day or more, but does not include the supply of food and drinks where such supply is separately charged for;(f)"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, a State Government and the Central Government;(g)"place of business" includes an office, or any other place which a hotelier uses for the purpose of his business or where he keeps his books of accounts;(h)"receipt" means the amount of monetary consideration received or receivable by a hotelier or by his agent for any luxury provided in a hotel but shall not include the tax payable under this Act and collected separately by the hotelier;(i)"registered hotelier" means a hotelier registered under this Act;(j)["Vanijyik Kar Adhiniyam" means the Madhya Pradesh Vanijyik Kar Adhiniyam, 1994 (No. 5 of 1995);] [[Substituted by Section 2 of M.P. Act No. 34 of 2001 (w.e.f. 24-12-2001). Prior to substitution it reads as under:(j)'Sales Tax Act' means the Madhya Pradesh General Sales Tax Act, 1958 (No. 2 of 1959).]](k)"turnover" in relation to any period means the aggregate of the amount of receipts received or receivable by a hotelier in respect of the luxuries provided by him in a hotel.(2)All those expressions which are used but are not defined in this Act and are defined in the [Vanijyik Kar Adhiniyam] [Substituted by Section 3 of M.P. Act No. 34 of 2001 (w.e.f 24-12-2001), for 'Sales Tax Act'.] shall have the meaning assigned to them in that Act.

3. Incidence of taxation.

(1)There shall be levied a tax on the turnover and such tax shall be payable by a hotelier in accordance with the provisions of this Act.(2)If a person other than the owner (including part-owner) is for the time being in-charge of the hotel, then such person and the owner (including part-owner) shall jointly and severally be liable to pay the tax.

4. [Charge and rate of tax. [Substituted by M.P. Act No. 19 of 1990 (w.e.f. 15-9-1990).]

(1)The tax payable by a hotelier under this Act shall be charged at the following rates, namely :-Where the charge for luxury provided in a hotel per day,-

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| (a) is less than sixty rupees | Nil |
| (b) is sixty rupees or more but does not exceed one hundred and fifty rupees. | 5 per cent of the turnover. |
| (c) is more than one hundred and fifty rupees. | 10 per cent of the turnover. |

(2)Where, in addition to the charges for luxury provided in a hotel service charges are levied and appropriated by the hotelier and not paid to the staff, then such charges shall be deemed to be the part of the charges for luxury provided in the hotel.(3)[The tax shall be levied and collected at the rates specified in sub-section (1), on the charges actually paid to the hotelier for such luxury.](4)The tax shall not be levied and payable in respect of the turnover for supply of food and drinks, where they are not separately charged for and on the sale of which the hotelier is liable to pay tax under [the Madhya Pradesh Vanijyik Kar Adhiniyam, 1994] [Substituted by Section 4 (ii) of M.P. Act No.

34 of 2001, for 'the M.P. General Sales Tax Act 1958 (No. 2 of 1959) (w.e.f. 24-12-2001).].]

5. Liability of firms as hoteliers.

- Where a hotel is owned, managed or run by a firm, the firm and each of the partners of the firm shall jointly and severally be liable to pay tax under this Act: Provided that where any partner retires from the firm he shall be liable to pay the tax, penalty, interest or any other amount payable under this Act remaining unpaid at the time of his retirement, and any tax due up to the date of his retirement, even if assessment of tax, or levy of penalty or interest is made at a later date.

6. [Certain provisions of Vanijyik Kar Adhiniyam to apply. [[Substituted by Section 5 of M.P. Act No. 34 of 2001 (w.e.f. 24- 12-2001). Prior to substitution it reads as under:

'6. Certain provisions of sales tax Act, to apply.-Subject to the provisions of this Act and the rules made thereunder Sections 3, 17, 18, 19, 19-A, 20, 21, 22, 22-A, 23, 24, 24-A, 26, 27, 29, 30, 31, 33, 33-B, 33-C, 34, 35, 36, 37, 38, 39, 39-A, 40, 41, 42, 42-A, 43, 44, 45, 45-A, 45-B, 46, 47, 47-A and 51 of the Sales Tax Act and the rules, orders and notifications issued thereunder shall mutatis mutandis apply to a hotelier in respect of tax levied and payable under this Act as if those sections were mutatis mutandis incorporated in this Act and the rules, orders and notifications issued under those sections were mutatis mutandis issued under the relevant sections as so incorporated in this Act.']] - Subject to the provisions of this Act and the rules made thereunder Section 3, 26, 27, 28, 29, 30, 31, 32, 33, 38, 39, 40, 42, 43, 45, 46, 47, 49, 50, 51, 52, 53, 54, 55, 56, 60, 61, 62, 63, 64, 65, 66, 67, 69, 70, 71, 72, 73, 74, 75, 76, 77 and 80 of the Vanijyik Kar Adhiniyam and the rules, orders and notifications issued thereunder shall mutatis mutandis apply to a hotelier in respect of tax, interest or penalty levied and payable under this Act as if those sections were mutatis mutandis incorporated in this Act and the rules, orders and notifications issued under those sections were mutatis mutandis issued under the relevant section as so incorporated in this Act.]

7. Assessment, collection etc. of tax.

- Subject to the provisions of this Act, and the rules made thereunder the administration of this Act in so far as it relates to levy, assessment and collection of tax from hoteliers shall vest in the authorities specified in Section 3 of the [Vanijyik Kar Adhiniyam] [Substituted by Section 3 of M.P. Act No. 34 of 2001 (w.e.f. 24-12-2001) for 'Sales Tax Act'.] and accordingly the authorities for the time being empowered to assess, re-assess, collect and enforce the payment of tax under the [Vanijyik Kar Adhiniyam] [Substituted by Section 3 of M.P. Act No. 34 of 2001 (w.e.f. 24-12-2001) for 'Sales Tax Act'.] shall assess, re-assess, collect and enforce the payment of tax including any penalty or other amount payable by hotelier under this Act as if the tax or penalty or any other amount payable by such hotelier under this Act or under the provisions of the [Vanijyik Kar Adhiniyam] [Substituted by Section 3 of M.P. Act No. 34 of 2001 (w.e.f. 24-12-2001) for 'Sales Tax Act'.] as made applicable under Section 6 to hoteliers in relation to tax levied under this Act is a tax or penalty or any other amount payable under that Act and for this purpose they may exercise all or

any of the powers conferred upon them by or under that Act.

8. Registration.

(1) Every hotelier liable to pay tax under this Act shall obtain registration certificate from the appropriate [Commercial Tax Officer] [Substituted by Section 3 of M.P. Act No. 34 of 2001 (w.e.f. 24-12-2001) for 'Sales Tax Act'.] in such manner and form as may be prescribed. (2) Every hotelier required to obtain a registration certificate shall within sixty days from the date of commencement of this Act or if he was not carrying on business on that date shall within thirty days of his becoming liable to pay tax, apply for grant of a registration certificate. (3) Where a hotelier required to obtain a registration certificate under subsection (1) fails to apply for the same within the time specified in sub-section (2), the appropriate [Commercial Tax Officer] [Substituted by Section 3 of M.P. Act No. 34 of 2001 (w.e.f. 24-12-2001) for 'Sales Tax Act'.] may, after giving him a reasonable opportunity of being heard, direct him to pay by way of penalty a sum not exceeding five thousand rupees, subject to a minimum of five hundred rupees. (4) A registration certificate granted on application made within the period specified in sub-section (2) shall be valid from the date of liability. A registration certificate granted on an application made after such period shall be valid from the date of application. (5) The provisions of [Section 22 of the Vanijyik Kar Adhiniyam] [Substituted by Section 6 of M.P. Act No. 34 of 2001 (w.e.f. 24-12-2001), for 'Section 15 of the Sales Tax Act'.] and the rules made thereunder so far as they relate to the amendment and cancellation of registration certificates granted under that Act shall mutatis mutandis apply to the registration certificate granted under this section.

9. Power to exempt.

- The State Government may, by notification, and subject to such restrictions and conditions as may be specified therein exempt whether prospectively or retrospectively in whole or in part any hotelier or class of hoteliers from the payment of tax under this Act.

10. Power to make rules.

(1) The State Government may make rules to carry out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules, prescribing, - (a) the manner and form in which registration certificate shall be obtained under sub-section (1) of Section 8; (b) the form in which the returns shall be filed; (c) the form and the manner in which and the period before which tax shall be paid; (d) the form in which the order of assessment shall be passed; (e) the form in which notice of demand shall be issued; (3) All rules made under this section shall be laid on the table of the Legislative Assembly. Notifications [Notification No. 37-B-5-16-2000-CT-V-(1), dated 25-10-2001.] [Published in M.P. Rajpatra (Asadharan), dated 25-10-2001.] - In exercise of the powers conferred by Section 9 of the Madhya Pradesh Hotel Tatha Vas Grihon Me Vilas Vastuon Par Kar Adhiniyam, 1988 (No. 13 of 1988), the State Government hereby exempts integrated Family Entertainment Multiplex Centres (Multiplex Complex) from payment of tax under the said Adhiniyam, for a period of 5 years from the date of first commercial exhibition of a movie in any of the cinema-halls of such centres. Explanation. - "Integrated Family

Entertainment Multiplex Centres (Multiplex Complex)" means such centres, in construction of which, an amount of rupees 3 crore has been spent as capital investment and which has minimum following facilities, namely:-(1)Minimum three cinema-halls within a minimum combined capacity of one thousand spectators, wherein three movies can be shown at a time.(2)Video Game Arcade.(3)Fast Food Centre.(4)Place and facility for children for play and entertainment.(5)Place for vehicle parking.(2)This notification shall come into force from the date of its publication in the "Madhya Pradesh Gazette".