

The U.P. Advertisements Tax Rules, 1983

UTTAR PRADESH

India

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Rule THE-U-P-ADVERTISEMENTS-TAX-RULES-1983 of 1983

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In exercise of the powers under Section 20 of the Uttar Pradesh Advertisements Tax Act, 1981 (U.P. Act No. 16 of 1981), the Governor is pleased to make the following rules:

1. Short title and commencement.

(1) These rules may be called the Uttar Pradesh Advertisement Tax Rules, 1983. (2) They shall come into force with effect from March 1, 1983.

2. Definitions.

- In these Rules unless the context otherwise requires (i)'Act' means the Uttar Pradesh Advertisements Tax Act, 1981; (ii)'Assessing authority' means the Commissioner as defined in clause (e) of Section 2 of the Act; (iii)'Entertainment Tax Officer' means an officer authorised as such by the District Magistrate or the Commissioner ; (iv)'Form' means a form prescribed under these rules; (v)'Government' means the Government of Uttar Pradesh ; (vi)'Inspecting Officer' means the Commissioner, the District Magistrate, or any other officer authorised by the Commissioner under sub-section (1) or by the District Magistrate under sub-section (2) of Section 9 of the Act; and (vii)'Treasury' means a Government treasury and includes a sub-treasury.

3. Accounting and return for payment of tax.

(1)The proprietor of every . cinema liable to pay tax under Section 4 of the Act shall keep a register in Form 'A' separately for accounting of all advertisements, viz. shorts, trailers, slides and other advertisement material received by him for exhibition on the screen, whether taxable or exempted from tax under Section 6 of the Act.(2)The proprietor shall also prepare separately for each day a return in Form 'B' in duplicate with ball pen and double-sided carbon showing the number of each kind of advertisement material exhibited on the screen including the exempted advertisement and the amount of advertisement tax payable thereon.(3)The account in Form 'B' shall be completed every day before the commencement of the exhibition of advertisements except in respect of the advertisement shorts for which tax payable is to be worked out weekly. In the case of advertisement shorts the amount of tax shall be entered in the Form 'B' prepared for the last day of the week.(4)Form 'B' shall be kept readily available for inspection in the manager's office, if it is situated on the ground floor or, if there be no manager's office or where manager's office is not on the ground floor, in the booking office which shall be treated as manager's office for the purpose.(5)No advertisement shall be exhibited unless the same has been entered in the account in Form 'B' and no new advertisement shall be exhibited after the account in Form 'B' for any day has been completed.(6)Where it may be necessary to make corrections in the Form 'B' no over-writing or correction in the figures shall be made and the correction shall be made only by encircling the wrong figure and writing the correct figure above it neatly under the signature of the Manager. No erasure or over-writing in the Form 'B' shall be made.(7)The proprietor shall, within three days from the last day of each week ending with Sunday or any other period which may be specified for the purpose by the Commissioner, submit to the District Magistrate the original Form 'B' statements as also a consolidated statement in such form as may be specified by the Commissioner showing the total amount of tax payable for the week.

4. Payment of tax.

(1)The proprietor shall deposit the amount of tax into Government Account under the sub-head "Tax on Advertisement Displayed in Cinema" under the head "045-Other Taxes and Duties on Commodities and Services" in the State Bank of India conducting Government business or the Treasury, as the case may be, within three days from the last day of each week ending with Sunday or any other period which may be specified for the purposes by the Commissioner and which shall correspond with the period prescribed under Rule 3 for submission of returns in Form 'B':Provided that where the third day is a public holiday under the Negotiable Instruments Act, 1881, the tax may be deposited on the next-working day:Provided further that where the payment is made by cheque, which shall invariably be drawn on a local nationalised or Scheduled Bank the same shall be handed over to the State Bank, or the Treasury, as the case may be, within two days from the end of the period to which the payment relates.(2)The treasury challans for depositing the tax shall be prepared in triplicate bearing the words, 'Treasury Copy', 'Departmental Copy' and 'Depositor's Copy' and shall be presented before the Entertainment Tax Officer along with the statements, for verification of tax and head of account.(3)The proprietor shall, immediately after the tax has been paid, intimate the treasury challan number and the date of deposit to the District Magistrate and shall also keep the depositor's copy of the treasury challan received back after depositing the tax

along with the weekly statement of the period to which the payment relates in a file strictly in chronological order and shall, on demand, produce the same before an inspecting officer.

5. Slide relating to exhibition of film in the cinema.

- The proprietor of a cinema shall submit to the District Magistrate a list of all slides relating to the exhibition of feature films in the cinema in respect of which no tax is required to be paid under the provisions of clause (b) of sub-section (1) of Section 6 of the Act before the proposed date of exhibition of the slide.

6. Exemption from payment of tax.

(1) Any person claiming exemption from payment of tax under sub-section (2) of Section 6 of the Act in respect of any advertisement proposed to be exhibited for or on his behalf shall submit an application in this behalf at least ten clear days before the proposed date of exhibition of such advertisement to the District Magistrate of the district in which the cinema, where the advertisement is proposed to be exhibited, is situated. The applicant shall give full description of the advertisement in respect of which exemption is claimed and also state clearly the purpose of the advertisement. He shall also state the name of the cinema or cinemas where the exhibition of the advertisement is proposed and the exact period of exhibition. The applicant shall also certify and given a written undertaking in this behalf, if so required by the District Magistrate, that he shall not be making any profit by such advertisement. (2) If the District Magistrate is satisfied that the advertisement in question will actually be exhibited for philanthropic, charitable or educational purposes and the applicant shall not be making any profit by such advertisement he may exempt the advertisement from liability to pay the tax and issue a certificate of exemption to the applicant in Form 'C' and endorse a copy of the same to the proprietor of every cinema in which the advertisement in question is proposed to be exhibited and also to the Commissioner. (3) The District Magistrate or the Government or the Commissioner may, at any time, by order in writing withdraw or cancel the exemption so granted after giving a reasonable opportunity of being heard to the person obtaining the exemption if, upon information, which has come into his possession, he is satisfied that the exemption was obtained through fraud or misrepresentation or that the person obtaining exemption is making profit from such advertisement. A copy of such order shall be issued immediately to the person, who obtained the exemption and also to the proprietor of the cinema in which the exempted advertisement is being exhibited or is proposed to be exhibited. (4) No proprietor of any cinema shall accept any advertisement for exhibition as an exempted advertisement under sub-section (2) of Section 6 of the Act unless he receives a copy of the order of the District Magistrate exempting the advertisement.

7. Refund of tax.

(1) The proprietor claiming refund of tax under Section 7 of the Act shall submit an application in this behalf to the Commissioner giving full details of the amount of tax actually due and the amount of tax deposited into Government Account, the amount of tax deposited in excess, the name of treasury and the number of the treasury challan and the date of deposit after getting the same

verified by the Treasury Officer concerned. He shall also submit along with the application a certified copy of the full and true accounts showing the amount of tax actually due.(2)The application for refund under sub-rule (1) above shall be made within ninety days from the date on which the tax, in respect of which the refund is claimed, was deposited.(3)If the Commissioner is satisfied, he may either order that the amount of tax deposited in excess be refunded to the proprietor of the cinema in cash or allow its adjustment against future payment of tax in which case the number of instalments in which the adjustment is allowed shall also be specified. The order passed by the Commissioner shall be communicated to the proprietor of the cinema and a copy of the same shall also be supplied to the District Magistrate concerned for taking further necessary action in the matter.

8. Assessment of tax.

(1)Where on perusal of the Books of Accounts prepared and return of tax submitted or upon consideration of any information received either in writing or otherwise and of evidence, if any, which has come into his possession the Commissioner is of the opinion that sufficient grounds do exist for making assessment of tax in respect of any cinema under Section 8 of the Act, he shall cause a notice to be served on the proprietor of such cinema stating the grounds on which the assessment is proposed to be made and calling upon him to produce all his books of accounts and other relevant records for the period to be specified in the notice and to show cause why the tax should not be assessed.(2)The proprietor of the cinema shall, on receipt of the notice, submit his reply to the Commissioner within the time allowed and shall also produce all his books of accounts and other relevant records and evidence in support of his reply to the show-cause notice.(3)If, after considering the objections of the proprietor, the Commissioner is satisfied that the proprietor has actually evaded or attempted to evade the payment of tax due fraudulently or has actually failed to submit true and full returns within the time prescribed, he shall, to the best of his judgment, assess the amount of tax to be paid by the proprietor of the cinema for the period in question in addition to the amount of tax, if any, already paid by him. The Commissioner may also impose a penalty as provided under Section 8 of the Act.(4)The order of assessment shall be given to the proprietor of the cinema and a copy of the same shall also be sent to the District Magistrate concerned for realising the amount of assessed tax along with penalty in accordance with the provisions of the Act and the rules made thereunder.

9. Appeal against assessment.

(1)An appeal under sub-section (2) of Section 8 of the Act shall be submitted to Sachiv, Uttar Pradesh Shasan, Vitta (Manoranjan Kar) Anubhag, Uttar Pradesh Sachivalaya, Lucknow, along with a copy of the order of assessment made by the Commissioner stating clearly the grounds of such appeal and the date of receipt of the assessment order. A copy of the appeal shall also be sent to the Commissioner.(2)The Government may, if it considers necessary, call for the comments of the Commissioner and after giving an opportunity to the appellant of being heard, pass such order as it may think fit, confirming, modifying or annulling the order appealed against. The order of the Government of the appeal shall be communicated to the appellant and a copy of the same shall be sent to the Commissioner and the District Magistrate concerned.

10. Inspections.

(1)The Commissioner may, by order made in writing authorise other officers of his department not below the rank of an Entertainment Tax Inspector and the District Magistrate may likewise authorise any officer of the District not below the rank of Naib-Tahsildar to make inspections of the cinemas under subsection (1) or (2) of Section 9 of the Act, as the case may be, and shall send a copy of such order to the proprietors of all cinemas in which the inspections have to be made by such officers.(2)Every inspecting officer shall note the result of his inspection on the Form 'A' register and if any records are taken into possession by him he shall make a recovery made in duplicate which shall be signed both by the inspecting officer and the proprietor of the cinema and the duplicate copy of the same shall be given to the proprietor as a receipt of the records.

11. Prosecution.

- A prosecution for contravening any of the provisions of the Act or these rules shall be filed by Entertainment and Betting Tax Inspector as defined in Section 2 (h) of the Uttar Pradesh Entertainments and Betting Tax Act, 1979 on behalf of the State Government in a competent court of law after the same has been duly sanctioned by the District Magistrate.

12. Compounding of offences.

(1)An application for compounding of an offence under Section 13 shall be made in writing to the Commissioner stating full particulars of the offence committed.(2)After the composition fee has been realised the Commissioner may by order compound the offence and a copy of such order shall be sent to the District Magistrate concerned, who shall drop any further proceedings in the matter where a prosecution has not already been instituted or where a prosecution has already been launched he shall inform the law court for dropping further proceedings.

13. Payment of tax to local bodies.

(1)The tax received from the cinemas situated in each local body shall be transferred to the same local body after deducting the collection charges in the shape of grant to local bodies by the State Government.(2)The amount of tax to be transferred to local bodies shall be credited under the Head "363 - Compensation and Assignments to Local Bodies and Panchayati Raj Institutions - D---Other miscellaneous compensations and assignments - Payments to Local Bodies, Zila Parishads and Panchayat Raj Institutions from receipts under the Uttar Pradesh Advertisements Tax Act, 1981 - Grants-in-aid/Contributions/Subscriptions."

14. Inspection Board.

- The proprietor of every cinema shall maintain an Inspection Book and produce the same immediately on demand for recording of remarks by various inspecting officers. The Inspection Book shall contain 100 pages serially numbered and shall be brought into use after getting the same

authenticated in the manner as may be required by the Commissioner. When an Inspection Book is exhausted a new Inspection Book shall be brought into use after getting it authenticated as aforesaid and the previous book shall be surrendered to the District Magistrate concerned for record after obtaining a receipt for the same which shall be pasted on the first page of the new Inspection Book. Form 'A' (Prescribed under Rule 3 of Advertisements Tax Rules) (a) Shorts

From to whom received	Date of receipt	Title	length	Number and date of censorship certificate	Period of exhibition	Whether exempted or taxable	If exempted name of authority for such exemption	If taxable	Remarks	
From	To	Rate of tax	Amount of tax payable for a week or part thereof							
1	2	3	4	5	6	7	8	9	10	11 12

(b) traitors -

From whom received	Date of receipt	Title viz. Name of film	Number and date of censorship certificate	Period of exhibition	Amount of tax payable for a week	remarks
From	To					
1	2	3	4	5	6	7 8

(e) and (d) Slides and other Advertisements material

From whom received	Date of receipt	Short description	Period of exhibition	If received from Government/local authority, number and date of order	If amount of tax payable for week	Remarks
From	To					
1	2	3	4	5	6	7 8

Form 'B' (Return of tax prescribed under Rule 3 of Advertisements Tax Rules) Name and place of Cinema..... Period of tax from.....to.....

Description of Advertisement	Number of Advertisement exhibited during the week	Rate of weekly tax per advertisement	Amount of tax payable for the week	Remarks
Taxable	Exempted	Total		
1	2	3	4	5 6 7

1. Shorts
2. tailors
3. slides
4. other
advertisement
material

Total

Certified that the entries made above have been checked from the entries in the relevant books of accounts Form 'A' and that the rate and amount of tax payable has been correctly calculated. Signature of proprietor. N.B. - (1) Number of shorts at different rates shall be shown separately. (2) Number of Slides and other advertisements material exhibited for different number of days in a week shall be shown separately. Form 'C' (Certificate of exemption prescribed under Rule 6 of the Advertisement Tax Rules) The exhibition of advertisement detailed below by..... (name and address of the person on whose behalf the advertisement is to be exhibited) at..... (name and place of cinema or cinemas) from..... to being for philanthropic, charitable or educational purposes and without any profit to the said..... is hereby exempted from liability to pay advertisement tax. Full particulars of advertisements

Nature of Advertisement viz. Shorts, slides and other material	Title and description of Advertisement	Length in case of shorts	Number of date of censorship certificate where required	remarks
1	2	3	4	5
Date District Magistrate				