HARYANA GOVERNMENT

EXCISE AND TAXATION DEPARTMENT
Notification

The 10th February, 2008

No. S.O. 10/H.A.23/2007/S.40/2008.- In exercise of the powers conferred by sub- section (1) of section 40 of the Haryana Tax on Luxuries Act, following rules for the levy and collection of tax on luxuries, namely:-

PART-I

Short title and Commencement

1.(1) These rules may be called the Haryana Tax on Luxuries Rules, 2007

(2) They shall come into force with immediate effect.

Definitions

2. In these rules, unless the context otherwise requires, –

(a) "Act " means the Haryana Tax on Luxuries Act, 2007 (23 of 2007);

(b) "agent" means a person authorized in writing by a proprietor to appear on his behalf before any officer empowered under the Act to carry out the purposes of the Act, being—

(i) a relative of the proprietor; or

(ii) a person in the regular and wholetime employ of the proprietor; or

(iii) a person who has been enrolled as Chartered Accountant in the Register of Accountants maintained by the Central Government under the Auditor's Certificate Rules, 1932; or

(iv) a person who possesses a degree in commerce, law, economics or banking including higher auditing conferred by any Indian University incorporated by law for the time being in force or any Foreign University duly approved in this behalf by the State Government;

(c) "appropriate assessing authority" in respect of any particular proprietor means an assessing authority within whose area of jurisdiction,-

(i) the place of business of such proprietor; and

(ii) if he has more than one place of business in the State (hereinafter called the

"branches"), the place where head office in the State of such proprietor;
is situated;

(d) "appropriate Government treasury" means a treasury or sub-treasury of Government or a branch or subsidiary of the State bank of India situated in the district/ circle in which the proprietor of a hotel or a banquet hall has his place of business or the head office in the state, if there is more than one branch of the proprietor;

(e) "Deputy Excise and Taxation Commissioner" means Deputy Excise and Taxation Commissioner incharge of sales tax administration in a district in the State of Haryana;

(f) "Excise and Taxation Officer" means Excise and Taxation Officer incharge of sales tax circle ;

(g) "Assistant Excise and Taxation Officer" means Assistant Excise and Taxation Officer posted under the control of Deputy Excise and Taxation Commissioner (sales tax);

(h) "declaration" means a declaration made in terms of section 12 in Form LT-D and submitted to appropriate assessing authority regarding the normal rate;

(i) "Form" means a form appended to these rules;

(j) "inspector" means a Taxation Inspector posted under the control of Deputy Excise and Taxation Commissioner (ST);

(k) "month" means a calendar month ;

(l) "section" means a section of the Act;

(m) 'statement' means a statement in terms of section 14 relating to gross/ taxable receipts from the guest (s) during a month and luxury tax due thereon;

(n) words and expressions used in the rules, but not defined, shall have the meanings respectively assigned to them in the Act.

PART-II

Registration. Section 11

3 (1) Every proprietor liable to pay tax under the Act shall, for the purpose of registration under sub-section (1) of section 11 make an application within a period of thirty days of the publication of the rules or his becoming liable for payment of tax under the Act to the appropriate assessing authority in Form LT-1. It shall be signed by the proprietor or in the case of a firm, by a partner or in the case of a Hindu Undivided Family business, by the Manager or Karta of the Hindu Undivided Family or in the case of a company incorporated under the Companies Act, 1956,(Act 1 of 1956) or under any other law, by the principal officer managing the business or in the case of Government department or a public sector undertaking by the Head of the Department or by Head of Public Sector Undertaking, as the case may be, or any other officer duly authorized by such Head of the Department or the Undertaking.

(2) An application, referred to in sub-rule (1), shall be affixed with court fee stamp or accompanied by a treasury challan vide which a sum of five hundred rupees has been deposited in the appropriate Government treasury as registration fee under the head "0040-102(State Sales Tax)-sub minor head 96 (other Receipts)".

(3) When the assessing authority, after making any enquiry that it may think necessary, is satisfied that the applicant is a bona-fide proprietor and has correctly given all the requisite information, that he has deposited the required registration fee into the appropriate Government treasury and that the application is in order, it shall register the proprietor and shall issue a certificate of registration in Form LT-2.

(4) The appropriate assessing authority shall give to the proprietor an attested copy of the registration certificate, free of cost, for every additional hotel/ banquet hall enumerated therein.

(5) When any proprietor, who is registered under sub-section (1) of section 11 desires to apply for cancellation under sub section (7) of section 11, he shall send his

application to the appropriate assessing authority not less than two months before the date from which the cancellation is sought together with a statement of the reasons due to which the cancellation of registration certificate is necessitated.

(6) If the assessing authority is satisfied that the proprietor has actually discontinued, transferred or otherwise disposed off the business, the assessing authority shall cancel ,modify or amend the registration certificate issued by it, under sub-section (8) of section 11.

Furnishing of security/ surety. section 40.

4 (1) If it appears to the assessing authority necessary so to do, for securing the payment of luxury tax, on hotel and banquet hall, it may require the proprietor to furnish security/surety of an amount not exceeding the amount equivalent to one-fourth of tax anticipated for the year and paid in the following manner, namely:-

(a) by depositing each through a challan in the Government treasury under the head of account "__0040-102(State Sales Tax) sub minor head-96 (other receipts)"; or

(b) by purchasing the National Savings Certificates or by opening Post Office Savings Bank Account duly pledged in favour of the assessing authority of the district in which the proprietor is registered under the Act; or

(c) by furnishing a bank guarantee secured from a Scheduled bank agreeing to pay to the assessing authority on demand the amount of security; or

(d) by furnishing a personal surety bond in Form LT-8 with two solvent sureties for the amount of security acceptable to the assessing authority and to be executed on a non judicial stamp paper of the appropriate value.

(2) The security/surety furnished under sub rule (1) shall be maintained in full so long the registration certificate granted under sub-section (1) of section(11) continues to be in force and the assessing authority may, for sufficient reasons to be recorded in writing, demand, at any time, an additional amount of security, if it has reason to believe that the security /surety furnished by

any proprietor under sub rule (1) is rendered inadequate.

Payment of luxury tax section 14.

5. The amount of luxury tax, falling due under the Act, shall be paid into appropriate Government treasury by means of a challan in Form LT-3 / demand draft and the proprietor shall furnish a copy of the challan to the appropriate assessing authority along with the declaration / return to which the payment relates.

Declaration section 12

6. (1) Every proprietor liable to pay tax under the Act shall, for the purpose of section 12, submit a declaration in Form LT-D within a period of fifteen days of publication of the rules specifying therein the normal rates as defined in the explanation to clause (g) of section 2.

Provided that a proprietor incurring liability on a subsequent date shall submit the declaration in Form LT-D along with his application for registration.

Provided further that in the event of down-ward revision of the normal rate, advance intimation, which in any case shall not be less than 10 days before such revision, shall be given to the appropriate assessing authority. In case of non-receipt of advance intimation, assessing authority shall be justified in concluding that no down-word revision of normal rate has taken place and that the normal rate as declared earlier shall continue to be the same.

Maintenance of accounts section 26.

7. Every proprietor for the purpose of section 26 (1) shall maintain --

(a) information of accommodation and tariff thereof in his hotel;

(b) daily account of occupation of accommodation in his hotel or lodging house and collection of luxury tax therefor;

(c) information of banquet hall and tariff thereof;

(d) daily account of occupation of a banquet hall and collection of luxury therefor;

(e) monthly abstract of remittance of luxury tax.

Maintenance of registers section 26.

8. The Proprietor shall maintain a separate register for each of the purposes specified in rule 7.

Statement section 14

9. (1) Every proprietor liable to pay tax under the Act shall furnish a statement in respect of a month in Form LT-S latest by 15th day of the subsequent month showing clearly the receipts from the guest (s) and the amount of luxury tax due thereon.

(2) The statement, referred to in sub-rule (1), shall be accompanied by a receipt from appropriate Government treasury or crossed demand draft or pay order in favour of the assessing authority showing payment of full amount *of* tax due according to the statement. A statement, not accompanied by proof of payment, shall be deemed to have not been filed (*nonest).*

Filing of return section 13.

10. (1) Every registered proprietor and every proprietor whose application for registration is pending with the assessing authority shall submit a complete and correct return for the year in Form LT-4 latest by 31st May to the appropriate assessing authority.

(2) Every proprietor, who submits a return under sub-rule (1) shall submit along with the return, receipt from the appropriate Government treasury or cross demand draft or pay order in favour of the assessing authority for the full amount of tax due according to the return.

(3) Every return filed under sub-rule (1) shall have a declaration at the end thereof as to the correctness of its contents.

Assessment and collection of tax section 15.

11. (1) When the appropriate assessing authority considers necessary to make an assessment under section 15 or section 17 or re-assessment under section 16 in respect of proprietor, it shall serve a notice in Form LT-5 -

(a) calling upon him to produce or cause to be produced the bound registers maintained under rule 8 and such other documents as may be specified in the notice which such authority wishes to examine, together with any other evidence on which such proprietor may wish to rely in support of its claim;

(b) stating the period or the return period or periods in respect of which assessment or re-assessment is proposed and he shall fix a date ordinarily not less than 10 days after the date of the service of the notice for producing such documents and evidence and for considering any objection which the proprietor may prefer.

(2). A proprietor, who has been served with a notice under sub-rule (1), may prefer an objection in writing personally or through an agent . No fee shall be payable in respect of any such objection.

(3). The assessing authority may make such enquiries, in respect of the objection preferred under sub-rule (2), as it may deem fit and record a finding thereon.

(4). After the tax has been assessed under sections 15, 17 or 16, together with interest and / or penalty, if any, the assessing authority shall issue an assessment order which shall be in writing and where the assessing authority determines the tax at a figure different from that shown in the return submitted under the provisions of these rules, the order shall state briefly the reasons thereof but failure to state the reasons shall not affect the validity of the assessment order.

Demand notice section 21

12. If any sum becomes payable by the proprietor upon completion of assessment, under sections 15,16 or 17, assessing authority shall serve a demand notice in Form LT-7 upon him specifying the date, not less than 15 days and not more than 30 days from the date of service of the notice, on or before which payment shall be made and proof thereof submitted to the appropriate assessing authority.

Disposal register Section 40.

13. Every assessing authority shall maintain a register called disposal register where he shall enter the details of each case of assessment, penalty etc.

Imposition of penalty. sections 16,17,18,19 and 20.

14. Where a proprietor registered under the Act or not liable to pay tax commits an offence punishable under the Act, the assessing authority or any authority competent to impose penalty , as the case may be, shall serve on him a notice in Form LT-6 specifying the offence and calling upon him to show cause by such date, ordinarily not less than 10 days after the date of service of the notice, as may be fixed in that behalf, why a penalty should not be imposed by him.

Prior approval section 30.

15. An assessing authority, shall, in order to carry out the functions envisaged under sub section (1) of section 30, obtain prior approval of the district in-charge (Sales Tax). In case, the in-charge

of the district is not available at the relevant time, intimation regarding the inspection shall be duly given to the district in-charge within 24 hours of the inspection.

Appeal, revision, review, and rectification Sections 31,32 and 33.

16.(1) Every memorandum of appeal under-section 31(1) shall--

(a) be written on the standard water marked judicial paper, along with a court fee of five hundred rupees duly affixed thereon;

(b) be filed in triplicate;

(c) specify all the particulars required to be stated in such a memorandum;

(d) contain a clear statement of facts and grounds of appeal briefly but clearly set-out;

(e) state precisely the relief prayed for;

(f) be accompanied by-

(i) the order in original against which it is made or duly authenticated copy thereof unless the omission to do so or to produce such order or copy is explained at the time of presentation of memorandum of appeal to the satisfaction of the appellate authority;

(ii) proof of payment of tax (including interest payable) or of penalty, or of both ; or

(iii) written prayer (in triplicate) substantiating the plea of inability to make payment of the tax assessed (including interest payable) or penalty imposed, or both, as the case may be ; and

(g) be verified and signed by the appellant or by an agent duly authorized by him in that behalf.

(2). Every memorandum of appeal referred to in sub-rule (1) shall be presented by the appellant or his agent to the appellate authority or be sent to the said authority by registered post (acknowledgment due).

Hearing and disposal of appeal section 31.

17. (1) If the memorandum of appeal omits to state any of the particulars required under rule 16 or is not accompanied by the order in original or duly authenticated copy of the order against which it is made or any other grounds considered sufficient, the appeal may be rejected summarily after providing the reasons therefor:

Provided that no appeal shall be rejected summarily under this sub-rule unless the appellant is given a reasonable opportunity to amend the memorandum of appeal.

Rejection of appeal for want of sufficient particulars Section 31.

18. (1) If the appellate authority does not reject the appeal under rule 17, it shall fix a date for admission of the appeal and it shall also give a notice of the same to the assessing authority or officer against whose order the appeal has been preferred. Such notice may be delivered personally or may be sent by registered post.

(2) The appellate authority shall send a copy of memorandum of appeal and the written prayer along with other documents to the assessing authority or the officer against whose order the appeal has been preferred asking him to send the records of the order appealed against together with his comments.

(3) If on the date of admission the appellate authority orders the admission of appeal, it shall decide such appeal after consideration of any representation that may be made by the assessing authority or the officer either in person or through any of its subordinates not below the rank of Taxation Inspector or through an authorized representative of the Excise and Taxation Department and after giving an opportunity to the appellant of being heard either in person or by a duly authorized agent.

(4) The appellate authority may, before deciding the appeal under sub-rule (3) either itself, hold such further enquiry or direct it to be held by the assessing authority.

(5) The appellate authority may for sufficient reasons to be recorded in writing adjourn, at any stage, the hearing of an appeal to a different time on the same day or on any other day.

(6) If on the date and at the time fixed for hearing or on any other date or at any other time to which the hearing may be adjourned, the appellant does not appear before the appellate authority either in person or through an agent, it may dismiss the appeal or decide it ex-parte:

Provided that if, within thirty days from the date on which the appeal was dismissed or decided ex-parte under this sub-rule, the appellant makes, an application to the appellate authority for setting aside the orders and it is satisfied that the intimation of the date of hearing was not duly served on him or that he was prevented by sufficient cause from appearing when the appeal was called for hearing, it shall make an order setting aside the dismissal or ex-parte decision upon such terms as it may think fit and shall appoint a day for proceeding with the appeal.

Revision section 32.

19.(1) When the Commissioner proposes to pass an order under section 32, which adversely affects any person, he shall issue a notice to such person or the proprietor and a notice to the assessing authority or the appellate authority concerned, as the case may be, before whom the proceedings referred to in that section are pending and by whom the same have been disposed of or by whom the order has been made therein. Such notice may be delivered personally or may be sent by registered post (acknowledgement due).

(2) The Commissioner shall pass an order under section 32 after consideration of any representation that may be made, either in person or through any of its subordinates not below the rank of Taxation Inspector, by the assessing authority or such other officer before whom the proceedings are pending or by whom these have been disposed of or by whom any order has been made therein, and after giving an opportunity to the person or the proprietor of being heard either in person or by a duly authorized agent.

(3) The provisions of sub-rules (4), (5) and (6) of rule 18 shall, *mutatis mutandis* apply in relation *to* the passing of an order by the Commissioner under section 32.

Information to be furnished regarding change of business section 24.

20. The information, as envisaged under section 24, shall be furnished by the proprietor to the appropriate assessing authority within a period of thirty days of any change having come about in regard to the business.

Transfer of proceedings/ Section 35.

21. The Deputy Excise and Taxation Commissioner **(sale tax)** Incharge of the district, may, suo-motu or an application made to him in this behalf, by order in writing transfer any case or proceedings or class of proceedings to any other assessing authority working under his control and may likewise transfer any such case (including a case already transferred) from one such officer to another.

(2) Jt. Excise and Taxation Commissioner (Range) may, suo-motu or on an application made to him in this behalf, transfer any case from one district to another district in his area of his jurisdiction.

(3) The commissioner may, suo-motu or on an application made to him in this behalf, by an order in writing, transfer any appeal from one appellate authority to another.

(4) The Commissioner may, suo-motu or on an application made to him in this behalf, by an order in writing, transfer any revision from one revisional authority to another.

(5) The order of transfer of any case by any authority shall be communicated to every party affected by the order and the taxing authority concerned.

Delegation of powers - section 37.

22. (1) The Commissioner may under section 37(1) delegate, in writing, any of his powers to any officer not below the rank of an assessing authority.

(2) Any assessing authority may by an order in writing, authorize generally or in any particular case any officials subordinate to and working under its administrative control to exercise the powers conferred upon such authority under these rules to prepare and sign receipts, notices, challans and other documents and registers required to be drawn up, maintained or issued under the Act or the rules.