

**THE ASSAM TAX ON LUXURIES
(HOTELS AND LODGING
HOUSES) RULES, 1989**

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No. FTX. 19/89/93 : In exercise of the powers conferred by Section 19 of the Assam Tax On Luxuries (Hotels and Lodging Houses) Act, 1989 (Assam Act V of 1989), the Governor of Assam hereby makes the following rules,—

1. Short title and commencement: - (1) These rules may be called the Assam Tax On Luxuries (Hotels and Lodging Houses) Rules, 1989.

(2) They shall come into force at once.

2. Definitions: — (1) In these rules, unless the context otherwise requires,—

(a) "Act" means the Assam Tax On Luxuries (Hotels and Lodging Houses) Act, 1989;

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

(c) "rule" means a rule of the Assam Tax On Luxuries (Hotels and Lodging Houses) Rules, 1989;

(d) "Section" means a section of the Act.

(2) All other words and expressions used but not defined in these rules shall have the same meanings as assigned to them in the Act.

3. Registration :- (1) An application for registration specified sub-section (2) of Section 6 shall be in Form-1.

(2) Every application for registration shall be accompanied Court fee stamp of twenty-five rupees.

(3) The certificate of registration specified in sub-section (3) Section 6, shall be in Form-2. An additional certificate bearing the same number shall be granted in respect of each branch, if any.

(4) The application for cancellation of certificate of registration under sub-section (5) of Section 6, shall be in Form-3.

(5) An application under sub-rule (4) of this rule shall be made within fifteen days of the occurrence of the event which occasions such an application.

(6) The certificate of registration may be cancelled with effect from the date of occurrence of the event which occasions the prayer for cancellation or any other date as may be

determined by the authority.

- (7) Any hotelier may, on application accompanied by a fee of twenty five rupees payable in Court Fee Stamp obtain a duplicate copy of a certificate of registration which had been issued to him and which may have been lost, destroyed or defaced.

Amendments : Sub-rule (7) has been inserted w.e.f. 25-11-1992 by Notification No. FIX. 19/89/234 dated 31st October 1992.

- 4. Period within which information to be furnished:** - Information required to be furnished under Section 8 shall be furnished to the assessing officer within fifteen days of the occurrence of the event in respect of which the information is furnished.

5.

Returns: — (1) Every registered hotelier shall submit to the assessing officer, a return of tax due from him in Form—4 in respect of each quarterly period specified below :

- (i) 1st April to 30th June;
- (ii) 1st July to 30th September,
- (iii) 1st October to 31st December;
- (iv) 1st January to 31st March.

- (2) The return shall be submitted within twenty days from the end of the quarter to which it relates; provided that the returns in respect of the quarters comprised in the period from 1st April 1989 to 30th September, 1989 shall be submitted within 31st December, 1989.

- (3) The return shall be accompanied by evidence of tax paid in accordance with sub-section (2) of section 16 and working sheet showing the computation of the tax at different rates.

- 6. Bill or cash memorandum :-** (1) The bill or cash memorandum issued to the customer under Section 12 of the Act shall contain the following particulars :

- (i) full name and address of the customer or customers;
- (ii) period of stay;
- (iii) the charge separately for—
 - (a) accommodation for residence including charges for airconditioning, television, radio, music, extra beds and the like;
 - (b) food and drink, if separately charged;
 - (c) telephone calls; and
 - (d) amount of tax collected.

- (2) Every registered hotelier shall keep a register showing the serial numbers of bills or cash memorandum brought into stock and used from time to time. |

- 7. Maintenance of accounts :-** (1) The assessing Officer may under sub-section (1) of Section 13, by notice in writing served on any hotelier having a place of business within the limits of his local jurisdiction, require the hotelier, after making an order in writing in this behalf and for reasons to be recorded therein, to keep a true account of:
- (i) the charges leviable for different types of residential accommodation provided in the hotel including charges for airconditioning and other facilities, if any;
 - (ii) position of occupancy of such residential accommodation from time to time; and
 - (iii) charges received or receivable by the hotelier in respect of the occupation of such accommodation by customers from time to time.
- (2) A notice under sub-rule (1) may be served on a hotelier who in the opinion of the assessing officer, is liable to pay tax under the Act but has nevertheless failed to apply for registration under Rule 3 and the accounts maintained by the hotelier do not enable a proper check for the purposes of the Act.
- (3) A hotelier on whom a notice is served under sub-rule (1) shall start keeping accounts as specified in the notice within ten days from the date of service of notice on him and shall continue to keep such accounts for such period as may be specified in the notice.
- (4) In issuing a direction under sub-section (1), (2) or (3) of Section 13, the assessing officer or, as the case may be, the Commissioner shall have strict regard to the necessity of not disturbing the accounting procedure of the hotelier or hoteliers or the work of his or their staff more than is absolutely necessary for the purpose of applying an adequate check in connection with the enforcement of the Act.
- 8. Declaration of name of owner: -** (1) The declaration required to be made under Section 14 shall be filed with the assessing Officer along with the application for registration made under Rule 3.
- (2) If a hotelier has more than one place of business, he shall file a declaration under sub-rule (1), with every assessing officer within whose local jurisdiction he has a place of business.
- 9. Forfeiture of excess tax, its refund and penalty :-** (1) A notice under sub-section (2) of Section 15 shall be in Form-5 and the date fixed for compliance therewith shall not be earlier than fifteen days from the date of service thereof.
- (2) When an order of forfeiture is made under Section 15, the assessing Officer shall, by a notice placed on the Notice Board of his Office, publish the following details for the information of persons concerned, namely :—
- (i) The name, address and registration number, if any of the person in whose case the order is made.

- (ii) Number and date of the order.
 - (iii) The amount forfeited.
 - (iv) The period for which the order is made.
 - (v) Reasons for forfeiture.
- (3) An application for refund under subsection (6) of Section 16, shall be in Form-6.

10. Payment of tax etc: - (1) (i) The dues required to be paid under the Act, (except the fees to be paid by means of Court Fee Stamps) shall be paid into a Designated Bank notified under the Assam Value Added Tax Act, 2003 by Challan in Form- 12 or by way of a crossed cheque or a crossed demand draft in favour of the assessing officer. In case of cheque or bank draft, it must be drawn on a local branch of the Bank.

(ii) Challans shall be filed in quadruplicate. Two copies of the Challan i.e. original and the duplicate copies duly signed as proof of payment shall be returned to the hotelier or the tenderer and the other two copies, i.e. the triplicate and the quadruplicate copies shall be returned by the Bank.

(iii) The quadruplicate copy retained by the Bank shall be transmitted to the assessing officer on the day following the day of payment.

(iv) Every designated Bank shall send the scroll along with the triplicate copies of challans to the concerned Treasury officer on the 5th day of every month showing therein the amount received in the previous month. The scroll shall contain the challan number and dates, the name of the hoteliers and the amount paid by each. The Treasury Officer on receipt of the scroll from the bank forthwith send an advice list to the assessing officer of the area showing the same details as given in the scroll.

(v) The amount of tax, interest or penalty or any other sum except when the same is payable by court fee stamps, shall be deposited in the Government Account under the Head of Account “0045 – Other Taxes and Duties and service- 105- Luxury Tax- (i)- Taxes on Hotels and Lodging Houses.

(vi) Every assessing officer shall maintain a Daily Collection Register in Form-13 wherein the particular of every challan received in proof of payment shall be recorded.

(vii) Every assessing officer shall maintain Demand, Assessment and Collection Register in Form-14 showing the returns filed, assessments framed and payments made under the Act or these rules by each dealer.

Amendment : *In the principal Rules, in rule 10, for the existing sub-rule has been*

substituted vide notification no.FTX.36/2008/23 Dated 16th October, 2008 published in the Assam Gazette Extraordinary No. 299 Dated 16th October, 2008.

- (2) The amount of tax or any other amount due under the Act :-
- (a) in excess of payments, if any, already made under Section 16 or any other provision of the Act or of these rules, or
 - (b) where no payment has been made,

shall be paid by the hotelier or as the case may be by the person from whom it is due by such date as may be specified in a notice of demand to be served on the hotelier or the person by the assessing officer in this behalf, which shall not normally be earlier than thirty days from the date of service of the notice.

11. Procedure for assessment :- (1) At the close of every half year, after making an assessment of the tax payable by a hotelier for the half year, the assessing Officer shall serve on the hotelier an order of assessment.

(2) If on making an assessment under sub-rule (1) any amount is found to be due from the hotelier after deducting the tax or other amount if any, already paid, the assessing officer shall serve upon him a notice of demand in Form-7.

(3) If the amount determined under sub-rule (1), is less than the amount already paid by the hotelier, the excess amount shall be adjusted towards the arrears of tax and other dues, if any, due from him and a notice in Form-8 shall be issued intimating such adjustment. If, after such adjustment, there is still an excess, or if no arrears are due from the hotelier, the excess amount shall be refunded to the hotelier along with a notice in Form-8.

4) the procedure laid down in sub-rules (1) to (3) shall be followed mutatis mutandis in case of re-assessment.

12. Provisional assessment :- (1) If no return is submitted in respect of a quarter on or before the date specified in sub-rule (2) of Rule 5 or if the return submitted appears to be incorrect or incomplete, the assessing officer shall, after making such enquiry as he considers necessary and after giving a reasonable opportunity to the hotelier determine the turnover of receipts of the hotelier to the best of his judgment and provisionally assess the tax payable by the hotelier for the quarter and shall serve upon the hotelier a notice in Form—9 and the hotelier shall pay the sum determined at the time and in the manner specified in the notice.

(2) The tax paid by a hotelier in pursuance of a provisional assessment shall be adjusted against an assessment made in accordance with Rule 11.

13. Appeals and revisions: - (1) Every appeal against an order of assessment or penalty shall be in Form—10 and shall be verified in the manner specified therein. It shall be in duplicate and shall be accompanied by the order appealed against in original or a certified copy thereof.

- (2) Every application for revision shall be in Form—11 and shall be verified in the manner specified therein. It shall be in duplicate and shall be accompanied by the original order/ orders against which it is filed or by a certified copy/copies thereof.
- (3) Every appeal under this rule shall bear Court fee stamp of the value of ten rupees. Every revision petition under these rules shall bear Court-fee stamp of the value of twenty rupees.

14. Service of notice: - (1) Notices or requisitions under the Act or these rules may be served by any of the following methods:

- (a) by delivery to the addressee or his agent, by hand of a copy of the notice;
- (b) by post :

Provided that if upon an attempt having been made to serve any such notice or requisition by any of the above mentioned methods, the authority issuing the notice or requisition is satisfied that the addressee is evading the service of notice or requisition or that for any other reasons, the notice or requisition cannot be served by any of the above mentioned methods, the said authority shall cause such notice or requisition to be served by affixing copy thereof on some conspicuous place in his office and also upon some conspicuous part of the last notified place of business or residence of the addressee and such service shall be good and effectual as if it had been served on the addressee personally.

- (2) when service is made by post, it shall be deemed to effected by properly addressing prepaying and posting either by registered post or under a certificate of posting the notice or requisition and unless the contrary is proved, the service shall be deemed to have been effected at the time at which notice or requisition would be delivered in the ordinal course of post.

15. Verification :- An application under rule 3, a return under rule 5, an appeal or revision petition under rule 13, and any other statement or declaration made in connection with the Act and required to be verified, shall be signed and verified, in the case of—

- (1) Individuals, by the proprietor of the business;
- (2) an association of persons, by an adult member or the principal officer;
- (3) a firm, by the managing partner or an adult partner of the firm;
- (4) a Hindu Undivided or joint family, by the manager or Karta or any adult member of the family;
- (5) a Company, by the Managing Director or any Director of Company, or Secretary, Manager or Principal Officer or Chief Executive Officer of the Company in India;
- (6) any Government Department or Local Authority, by the Head of the Office.

16. Place of assessment: - A hotelier shall be assessed by the assessing officer within whose jurisdiction his place of business is situated. Where a hotelier has more than one place of business, he shall normally be assessed by the assessing officer within whose jurisdiction his principal place of business in Assam is situated.
