



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol : XLIX] SATURDAY, MARCH 29, 2008/CAITRA 9, 1930

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
And Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 29th March, 2008 is hereby published for general information.

H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.

GUJARAT ACT NO. 10 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 29th March, 2008).

AN ACT

further to amend the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

- (1) This Act may be called the Gujarat State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2008. **Short title and commencement.**
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of
long title of
President's Act
No. 11 of 1976.

2. In the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (hereinafter referred to as "the principal Act"), in the long title, for the word "State", the words "Panchayats, Municipalities, Municipal Corporations and the State" shall be substituted.

President's Act No.
11 of 1976.

Amendment of
section 2 of
President's Act
No. 11 of 1976.

3. In the principal Act, in section 2, -
(1) after clause (a), the following clause shall be inserted, namely :-

"(aa) "Designated Authority" means, -

- (i) a Municipal Corporation of a City constituted under section 5 of the Bombay Provincial Municipal Corporations Act, 1949;
- (ii) a Municipality as defined in clause (14) of section 2 of the Gujarat Municipalities Act, 1963;
- (iii) (a) a village panchayat constituted under section 9 of the Gujarat Panchayats Act, 1993;
- (b) a taluka panchayat constituted under section 10 of the said Act; and
- (c) a district panchayat constituted under section 11 of the said Act;

Bomb. LIX of 1949

Guj. 34 of 1964.

Guj. 18 of 1993.

or, as the case may be, the State Government, and includes, where such Municipal Corporation, Municipality or, as the case may be, Panchayat has been superseded or dissolved, a person or persons appointed to exercise the powers or to perform the functions of such Municipal Corporation, Municipality or Panchayat, designated as such, subject to such conditions and for such class of persons mentioned in column 2 of Schedule I for such area, by the State Government by notification in the *Official Gazette* for the purposes of levy and collection of tax under this Act;"

- (2) in clause (d), the following explanation shall be added, namely :-

"*Explanation.*- Every branch of a firm, company, corporation or other corporate body, any society, club or association shall be deemed to be a person and a separate assessee for the purpose of levy of tax under this Act;"

m

4. In the principal Act, in section 3,-

Amendment of
section 3 of
President's Act
No. 11 of 1976.

(1) in sub-section (1), for the words "for the benefit of the State", the words "by the Designated Authorities for the benefit of the Panchayats, Municipalities, Municipal Corporations or, as the case may be, the State" shall be substituted;

(2) for sub-section (2), the following sub-section shall be substituted, namely :-

"(2) Every person engaged in any Profession, Trade, Calling or Employment and falling under one or the other of the classes mentioned in column 2 of Schedule I shall be liable to pay the tax to the Designated Authority at such rate fixed by it but not exceeding the amount mentioned against the class of such person in the said Schedule:

Provided that the rates of tax for the class of persons mentioned in entry 1 of the said Schedule shall be fixed by the State Government by notification in the *Official Gazette* :

Provided further that the tax so payable in respect of any one person shall not exceed two thousand and five hundred rupees in any year:

Provided also that the State Government may, by notification in the *Official Gazette*, specify the minimum rate of tax for each of such class mentioned in column 2 of Schedule I, below which tax shall not be levied by the Designated Authority and different limits may be fixed for different Designated Authorities and the minimum rate so notified shall be levied till the Designated Authority fixes some other rate under the provisions of this Act:

Provided also that the State Government may, by notification in the *Official Gazette*, specify the class of persons other than those mentioned in entries 1 to 9 in Schedule I, to whom entry 10 in that Schedule shall apply:

Provided also that the tax shall not be levied from the persons mentioned below Schedule I";

(3) in sub-section (3), for the words " State Government", the words "Designated Authority" shall be substituted;

(4) after sub-section (4), the following sub-section shall be inserted, namely :-

"(5) Where a person falling under any of the entries in Schedule I is liable to pay the tax to more than one Designated Authority, he shall pay the tax to the Designated Authority where the tax liability is highest:

Provided that where a person produces a certificate to the effect that the tax has been paid by him to the Designated Authority where the

liability of tax is highest, the tax shall not be levied by any other Designated Authority.”.

Amendment of section 5 of President's Act No. 11 of 1976.

5. In the principal Act, in section 5, in sub-section (5), for the words “five rupees”, the words “ten rupees” shall be substituted.

Amendment of section 6 of President's Act No. 11 of 1976.

6. In the principal Act, in section 6, in sub-section (3), for the words “five rupees”, the words “ten rupees” shall be substituted.

Amendment of section 11 of President's Act No. 11 of 1976.

7. In the principal Act, in section 11, in sub-section (2),-

(1) in clause (i), for the words “the Additional Commissioners of Profession Tax and the Joint Commissioners of Profession Tax”, the words “and the Additional Commissioner of Profession Tax” shall be substituted;

(2) in clause (iii), the words “the Assistant Commissioners of Profession Tax and” shall be deleted;

(3) clause (iv) shall be deleted.

Amendment of section 12 of President's Act No. 11 of 1976.

8. In the principal Act, in section 12,-

(1) in sub-section (1), -

(i) for clause (a), the following clause shall be substituted, namely:-

“(a) For carrying out the purposes of this Act, the State Government may, for each Designated Authority, appoint an officer to be the Commissioner of Profession Tax.”;

(ii) after clause (a), the following clause shall be inserted, namely:-

“(aa) For carrying out the purposes of this Act, the Designated Authority may appoint such other officers as an Additional Commissioner of Profession Tax and such number of Deputy Commissioners of Profession Tax, Profession Tax Officers and other officers and persons not below such ranks, as the State Government may specify in this regards, with such designation.”;

(iii) in clause (b),-

(a) for the words “paragraph (ii) or (iii) of clause (a)”, the words, “clause (a) or (aa)” shall be substituted;

(b) for the words "State Government may, by notification in the *Official Gazette*", the words "Designated Authority may, by order" shall be substituted;

(2) sub-sections (3),(4),(4A),(5), and (6) shall be deleted.

9. In the principal Act, in section 13, in sub-section (1), in clauses (b) and (c), for the words "the Joint Commissioner", the words "the Additional Commissioner" shall be substituted.

Amendment of section 13 of President's Act No. 11 of 1976.

10. In the principal Act, in section 14,-

Amendment of section 14 of President's Act No. 11 of 1976.

(1) in sub-section (1), in clauses (a) and (b), for the words "the Joint Commissioner", the words "the Additional Commissioner" shall be substituted;

(2) in sub-section (3), for the words "the Joint Commissioner", the words "the Additional Commissioner" shall be substituted.

11. In the principal Act, in section 16, in sub-section (2), for the words "five rupees", the words "ten rupees" shall be substituted.

Amendment of section 16 of President's Act No. 11 of 1976.

12. In the principal Act, in section 18,-

Amendment of section 18 of President's Act No. 11 of 1976.

(1) for the words "Any authority", the words "The Commissioner or any officer authorised by the Commissioner" shall be substituted;

(2) in the proviso, for the words "the said authority", the words "the Commissioner or any officer authorised by the Commissioner" shall be substituted.

13. In the principal Act, in section 26, -

Amendment of section 26 of President's Act No. 11 of 1976.

(1) in sub-section (1), -

(i) for the words "The State Government may, by notification in the *Official Gazette*", the words "The Designated Authority may by passing a resolution in this behalf and by publishing the same in the *Official Gazette*" shall be substituted;

(ii) for clause (a), the following clause shall be substituted, namely :-

"(a) its power of appointments of officers and persons other than an Additional Commissioner under clause (aa) of sub-section (1) of section 12, and";

(iii) for the words "in the notification", the words "in the resolution" shall be substituted;

(2) in sub-section (2), the words "or to the officer authorised by the Collecting Agent under sub-section (4) of section 12" shall be deleted.

Substitution of section 26A of President's Act No. 11 of 1976.

14. In the principal Act, for section 26A, the following section shall be substituted, namely :-

Power to exempt.

"26A. Subject to such conditions as it may impose, the Designated Authority may, after obtaining prior approval of the State Government, if it considers it necessary so to do in public interest, by resolution to be published in the *Official Gazette*, exempt any class of person from payment of whole or any part of the tax payable under the provisions of this Act."

Pa
Go
giv

Amendment of section 27 of President's Act No. 11 of 1976.

15. In the principal Act, in section 27,-

- (1) in sub-section (2), clause (f) shall be deleted;
- (2) sub-section (3) and the proviso thereunder shall be deleted;
- (3) in sub-section (4), after the words "All rules made", the words "by the State Government" shall be inserted;
- (4) after sub-section (5), the following sub-section shall be inserted, namely :-

"(6) For carrying out the purposes of this Act, the Designated Authority may make such rules not inconsistent with the provisions of this Act under its relevant law mentioned in clause (aa) of section 2 of this Act."

Substitution of section 28 of President's Act No. 11 of 1976.

16. In the principal Act, for section 28, the following section shall be substituted, namely:-

Amendment of certain enactments.

"28. The enactments specified in column 2 of Schedule II are hereby amended in the manner and to the extent, specified in column 3 thereof."

Substitution of section 29 of President's Act No. 11 of 1976.

17. In the principal Act, for section 29, the following section shall be substituted, namely;-

Grants to Designated Authorities.

"29. Out of the proceeds of the tax and penalties, interest and fees recovered before the commencement of the Gujarat Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2008 (hereinafter referred to as "the said Act") or recoverable after such commencement as a result of previous operation of the Act under clause (a) of section 31, there shall, under the appropriation duly made by law,

Guj. 10 of 2008.

be paid annually to such local authorities as were levying a tax on professions, trades, callings and employments before the commencement of the said Act.”.

18. In the principal Act, after section 29, the following new sections shall be added, namely:-

Insertion of
new sections 30
and 31 in
President's Act
No. 11 of 1976.

Power of State
Government to
give directions.

“30. The State Government shall have the powers to issue directions to the Designated Authorities from time to time as may be required for the compliance of the provisions of this Act and the rules made thereunder and the Designated Authority shall, notwithstanding any provision in the relevant law, be bound to comply with such directions.

Savings.

31. Nothing in the amendments made by the Gujarat State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2008 (hereinafter referred to as “the said Act”) shall affect or be deemed to have affected, -

Guj. 10 of 2008.

- (a) the previous operation of any provision of the Act or anything done or suffered under the said provisions before the commencement of the said Act;
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the said provisions before the commencement of the said Act;
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the provisions of the Act before the commencement of the said Act; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said Act had not been passed.”.

19. In the principal Act, for Schedule I and Schedule II, the following Schedules shall be substituted, namely:-

Substitution of
Schedule I and
Schedule II to
President's Act
No. 11 of 1976.

“SCHEDULE I

(See section 3 and section 5(3))

Rates of tax on Professions, Trades, Callings and Employments.

Sr. No.	Class of Persons	Maximum Rate of Tax (in Rs.)
1.	2.	3.
1.	(A) Salary and Wage earners of the State Government, Central Government, Panchayats, Public Sector Undertakings of the State and the Central Government, and Grant-in-aids institutions, whose monthly salaries or wages are - (i) less than Rs.3,000/-	Zero

Sr. No.	Class of Persons	Maximum Rate of Tax (in Rs.)
1.	2.	3.
	Computer Education or Training, or Online Information and Data Base Service through Computer Network. (n) Owners of Driving Schools. (o) Owners of Marriage Halls and Party Plots. (p) <i>Angadia</i> or Courier Service Providers. (q) Owners of Health Club and Recreation Clubs.	2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum
3.	(i) Members of Association recognised under the Forward Contract (Regulation) Act, 1952 (74 of 1952). (ii) Members of Stock Exchanges recognised under the Securities Contracts (Regulation) Act, 1956 (42 of 1956). (iii) Owners of Oil Pumps and Service Stations and where any oil pumps and service stations are leased, the lessees thereof. (iv) Licenced foreign liquor vendors and employers of residential hotels and theatres as defined in the Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 1948). (v) Public Limited or Private Limited Companies registered under the Companies Act, 1956 (1 of 1956) and engaged in any profession, trade or calling. (vi) Individuals or Institutions conducting Chit Funds. (vii) Banking companies as defined in the Banking Regulation Act, 1949 (10 of 1949). (viii) Co-operative Societies registered or deemed to be registered under the Gujarat Co-operative Societies Act, 1961 (Guj. X of 1962)- (a) State Level Societies and District Level Societies engaged in any profession, trade or calling. (b) Co-operative Sugar Factories and Co-operative Spinning Mills. (ix) Estate Agents or Estate Brokers or Building Contractors. (x) Owners of Video Parlours or Video Libraries or both and where any Video Parlours or Video Libraries or both are leased, the lessees thereof.	2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum 2500/- per annum
4.	Firms registered under the Indian Partnership Act, 1932 (IX of 1932) which are engaged in any professions, trades or callings.	2500/- per annum
5.	Occupiers of factories as defined in the Factories Act, 1948 (63 of 1948).	2500/- per annum
6.	Employers of establishments as defined in the Bombay Shops and Establishments Act, 1948 (Bom. LXXIX of 1948), where on an average employees employed in the establishment during a year are more than five per day.	2500/- per annum
7.	Dealers as defined in the Gujarat Value Added Tax Act,	

Sr. No.	Class of Persons	Maximum Rate of Tax (in Rs.)
1.	2.	3.
	<p>2003 (Guj. 1 of 2005) whose annual gross turnover of all sales or of all purchases is-</p> <p>(i) not more than Rs.2,50,000/-</p> <p>(ii) more than Rs.2,50,000/- but not more than Rs.5,00,000/-</p> <p>(iii) more than Rs.5,00,000/- but not more than Rs.10,00,000/-</p> <p>(iv) more than Rs. 10,00,000/-</p> <p><i>Explanation.-</i> For the purpose of this entry, the term, 'year' shall mean the year as defined in clause (36) of section 2 of the Gujarat Value Added Tax Act, 2003 (Guj. 1 of 2005).</p>	<p>Zero</p> <p>2500/- per annum</p> <p>2500/- per annum</p> <p>2500/- per annum</p>
8.	<p>Holders of permits for transport vehicle granted under the Motor Vehicles Act, 1988 (59 of 1988) which are used or adapted to be used for hire or reward, where any such person hold permits for more than two transport vehicles buses, taxis, trucks or three wheelers goods vehicles.</p> <p><i>Explanation.-</i> Persons residing together as members of one family and holding separate permits shall be one person for the purposes of this entry.</p>	2500/- per annum
9.	<p>Money lender licensed under the Bombay Money-Lenders Act, 1946 (Bom. XXXI of 1947).</p>	2500/- per annum
10.	<p>Persons other than those mentioned in any of the preceding entries, who are engaged in any professions, trades, callings or employments and in respect of whom a notification is issued under the fourth proviso to sub-section (2) of section 3.</p>	2500/- per annum

Exemptions :- The following persons shall be exempted from the payment of tax under any of the entries 2 to 10 of this Schedule :-

- (1) Companies in respect of which orders for winding up are passed under the Companies Act, 1956 (1 of 1956) from the date of such orders.
- (2) Co-operative Societies under liquidation from the date of the commencement of liquidation proceedings.
- (3) A primary co-operative society, the members of which are workers who are carrying on the activity of the society by their own labour.

SCHEDULE II

(See section 28)

Sr. No.	Enactments	Amendments
1.	2.	3.
1.	The Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949).	In section 127, in sub-section (2), - (1) after clause (a), the following clause shall be inserted, namely :-

		<p>“(b) subject to and in accordance with the provisions of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (President’s Act No.11 of 1976) and the rules made thereunder, a tax on professions, trades, callings and employments;”;</p> <p>(2) in clause (f), the words “a tax on professions, trades, callings and employments or” shall be deleted.</p>
2.	The Gujarat Municipalities Act, 1963 (Guj. 34 of 1964).	<p>In section 99, in sub-section (1), -</p> <p>(1) after clause (xiv), the following clause shall be inserted, namely :-</p> <p>“(xiv-a) subject to and in accordance with the provisions of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (President’s Act No.11 of 1976) and the rules made thereunder, a tax on professions, trades, callings and employments;”;</p> <p>(2) in clause (xv), the words “a tax on professions, trades, callings and employments or” shall be deleted.”.</p>
3.	The Gujarat Panchayats Act, 1993 (Guj. 18 of 1993).	<p>1. In section 200, -</p> <p>(1) in sub-section (1), -</p> <p>(a) after clause (ix), the following clause shall be inserted, namely :-</p> <p>“(ix-a) subject to and in accordance with the provisions of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (President’s Act No.11 of 1976) and the rules made thereunder, a tax on professions, trades, callings and employments;”;</p> <p>(b) in clause (x), the words “or tax on professions, trades, callings and employments” shall be deleted;</p> <p>(2) after sub-section (5), the</p>

	<p>following sub-section shall be inserted, namely :-</p> <p>“(5A) Notwithstanding anything contained in sub-section (1), where a tax on professions, trades, callings and employments has been imposed by any panchayat under the provisions of this Act in the area within the limits of a village panchayat, it shall not be lawful for any other panchayat, so long as the tax is being so imposed, to levy such tax within such limits.”.</p> <p>2. In section 206, in sub-section (2), -</p> <p>(1) clause (b) shall be renumbered as sub-clause (i) of that clause, and in sub-clause (i) as so renumbered, after the words “such tax or fee”, the brackets, words, figures and letters “(other than tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976, read with clause (ix-a) of sub-section (1) of section 200)” shall be inserted;</p> <p>(2) after sub-clause (i), as so renumbered; the following sub-clause shall be inserted, namely :-</p> <p>“(ii) Total amount of gross collection of tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 read with clause (ix-a) of sub-section (1) of section 200, in any financial year in any area within the jurisdiction of a village panchayat shall not form part of the taluka fund, but shall be assigned to the concerned village panchayat.”.</p> <p>3. In section 210, -</p> <p>(1) clause (b) shall be renumbered as sub-clause (i) of that clause, and in sub-clause (i) as so renumbered, after the words “such tax or fee”, the brackets, words, figures and letters “(other than</p>
--	--

President's Act No.
11 of 1976.

President's Act No.
11 of 1976.

246

President's Act No.
11 of 1976.

President's Act No.
11 of 1976.

		<p>tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 read with clause (ix-a) of sub-section (1) of section 200)" shall be inserted;</p> <p>(2) after sub-clause (i), as so renumbered, the following sub-clause shall be inserted, namely :-</p> <p>"(ii) total amount of gross collection of tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 read with clause (ix-a) of sub-section (1) of section 200, in any financial year in any area within the jurisdiction of a village panchayat shall not form part of the district fund, but shall be assigned to the concerned village panchayat."</p>
--	--	--

Ex-10-4