

The Hotel-Receipts Tax Act, 1980

(ACT NO. 54 OF 1980)

[*As on the* 1*st October*, 2026]

LIST OF AMENDING ACTS

1. The Finance Act, 1981 (16 of 1981).
2. The Finance Act, 1982 (14 of 1982).
3. The Repealing and Amending Act, 1988 (19 of 1988).

LIST OF ABBREVIATIONS USED

Cl., cls.	*for*	Clause, clauses.
Ins.	,,	Inserted.
Notifn.	,,	Notification.
S., ss.	,,	Section, sections.
Sch.	,,	Schedule.
Subs.	,,	Substituted.
w.e.f.	,,	with effect from.

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THE HOTEL-RECEIPTS TAX ACT, 1980

ARRANGEMENT OF SECTIONS

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28. Failure to produce accounts and documents.
29. False statement in verification, etc.
30. Abetment of false return, etc.
31. Punishment for second and subsequent offences.
32. Certain offences to be non-cognizable.
33. Institution of proceedings and composition of offences.
34. Power to make rules.
35. Power to exempt.
36. Power to remove difficulties.
37. [*Repealed*].

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THE HOTEL-RECEIPTS TAX ACT, 1980

ACT NO. 54 OF 1980

[9*th December*, 1980.]

An Act to impose a special tax on gross receipts of certain hotels.

BE it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:—

1. Short title and extent.—(*1*) This Act may be called the Hotel-Receipts Tax Act, 1980.

(*2*) It extends to the whole of India.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*1*) "assessee" means a person by whom hotel-receipts tax or any other sum of money is payable under this Act and includes—

(*a*) every person in respect of whom any proceeding under this Act has been taken for the assessment of his chargeable receipts or of the amount of refund due to him or of the chargeable receipts of any other person in respect of which he is assessable or of the amount of refund due to such other person;

(*b*) every person who is deemed to be an assessee in default under any provision of this Act;

(*2*) "assessment" includes reassessment;

(*3*) "assessment year" means the period of twelve months commencing on the 1st day of April every year;

(*4*) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);

(*5*) "chargeable receipts" means the total amount of all charges referred to in section 6, computed in the manner laid down in section 7;

(*6*) "hotel" includes a building or part of a building where residential accommodation is, by way of business, provided for a monetary consideration;

(*7*) "hotel-receipts tax" or "tax" means the tax chargeable under the provisions of this Act;

(*8*) "Income-tax Act" means the Income-tax Act, 1961 (43 of 1961);

(*9*) "prescribed" means prescribed by rules made under this Act;

(*10*) "room charges" means the charges for a unit of residential accommodation in a hotel and includes the charges for—

(*a*) furniture, air-conditioner, refrigerator, radio, music, telephone, television; and

(*b*) such other services as are normally included by a hotel in room rent,

but does not include charges for food, drink and any services other than those referred to in sub-clauses (*a*) and (*b*);

(*11*) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

3. Application of the Act.—(*1*) Subject to the provisions of sub-section (*2*) and sub-section (*3*), this Act shall apply in relation to every hotel wherein the room charges for residential accommodation provided to any person at any time during the previous year are seventy-five rupees or more per day per individual.

Explanation.—Where the room charges are payable otherwise than on daily basis or per individual, then the room charges shall be computed as for a day and per individual based on the period of occupation of the residential accommodation for which the charges are payable and the number of

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individuals ordinarily permitted to occupy such accommodation according to the rules and custom of the hotel.

(*2*) Where a composite charge is payable in respect of residential accommodation and food, the room charges included therein shall be determined in the prescribed manner.

(*3*) Where—

(*i*) a composite charge is payable in respect of residential accommodation, food, drink and other services, or any of them, and the case is not covered by the provisions of sub-section (*2*); or

(*ii*) it appears to the Income-tax Officer that the charges for residential accommodation, food, drink or other services are so arranged that the room charges are understated and the other charges are overstated,

the Income-tax Officer shall, for the purposes of sub-section (*1*), determine the room charges on such reasonable basis as he may deem fit.

4. Tax authorities.—(*1*) Every Director of Inspection, Commissioner of Income-tax, Commissioner of Income-tax (Appeals), Inspecting Assistant Commissioner of Income-tax, Income-tax Officer and Inspector of Income-tax shall have the like powers and perform the like functions under this Act as he has and performs under the Income-tax Act, and for the exercise of his powers and the performance of his functions, his jurisdiction under this Act shall be the same as he has under the Income-tax Act.

(*2*) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued—

(*a*) so as to require any tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(*b*) so as to interfere with the discretion of the Commissioner (Appeals) in the exercise of his appellate functions.

(*3*) Every Income-tax Officer employed in the execution of this Act shall observe and follow the orders, instructions and directions issued for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions.

5. Charge of tax.—(*1*) Subject to the provisions of this Act, there shall be charged on every person carrying on the business of a hotel in relation to which this Act applies, for every assessment year commencing on or after the 1st day of April, 1981, a tax in respect of his chargeable receipts of the previous year at the rate of fifteen per cent. of such receipts:

Provided that where such chargeable receipts include any charges received in foreign exchange, then, the tax payable by the assessee shall be reduced by an amount equal to five per cent. of the charges (exclusive of the amounts payable by way of sales tax, entertainment tax, tax on luxuries or tax under this Act) so received in foreign exchange.

Explanation.—For the purposes of this sub-section,—

(*a*) charges received in Indian currency obtained by conversion of foreign exchange into Indian currency shall, in such cases and in such circumstances as may be prescribed, be deemed to have been received in foreign exchange; and

(*b*) "foreign exchange" and "Indian currency" shall have the meanings respectively assigned to them in clauses (*h*) and (*k*) of section 2 of the Foreign Exchange Regulation Act, 1973 (46 of 1973).

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(*2*) Where, under an arrangement made between a person carrying on the business of a hotel to which this Act applies and any other person having close connection with him, any food, drink or other services is or are provided on the premises of such hotel by the second-mentioned person and the Income-tax Officer is of opinion that such arrangement has been made with a view to avoiding or reducing the liability under this Act by the first-mentioned person, then,—

(*a*) the second-mentioned person shall also be deemed to be a person carrying on the business of a hotel to which this Act applies; and

(*b*) hotel-receipts tax shall be charged on the second-mentioned person in respect of charges for food, drink or other services so provided by him as if such charges were the chargeable receipts of the business of a hotel deemed to be carried on by him under clause (*a*), and all the provisions of this Act shall apply accordingly.

Explanation.—For the purposes of this sub-section,—

(*i*) a close connection shall be deemed to exist between a person carrying on the business of a hotel and another person if, in relation to the person carrying on the business of a hotel, such other person is a person referred to in clause (*b*) of sub-section (*2*) of section 40A of the Income-tax Act;

(*ii*) any food, drink or other service shall be deemed to have been provided on the premises of a hotel if the same is or are provided in the hotel or any place appurtenant thereto and where the hotel is situate in a part of building, in any other part of the building.

6. Scope of chargeable receipts.—(*1*) Subject to the provisions of this Act, the chargeable receipts of any previous year of an assessee shall be the total amount of all charges, by whatever name called, received by, or accruing or arising to, the assessee in connection with the provision of residential accommodation, food, drink and other services or any of them (including such charges from persons not provided with such accommodation [1][but excluding such charges from persons within the purview of the Vienna Convention on Diplomatic Relations, 1961 or the Vienna Convention on Consular Relations, 1963]) in the course of carrying on the business of a hotel to which this Act applies and shall also include every amount collected by the assessee by way of tax under this Act, sales tax, entertainment tax and tax on luxuries.

(*2*) For the removal of doubts, it is hereby declared that where any such charges have been included in the chargeable receipts of any previous year as charges accruing or arising to the assessee during that previous year, such charges shall not be included in the chargeable receipts of any subsequent previous year in which they are received by the assessee.

7. Computation of chargeable receipts.—(*1*) Subject to the provisions of sub-section (*2*), the following deductions shall be allowed in computing the chargeable receipts of any previous year—

(*i*) the amount of charges accruing or arising in an earlier previous year which is established to have become a bad debt during the previous year:

Provided that such charges have been taken into account in computing the chargeable receipts of the assessee of any earlier previous year and the amount has been written off as irrecoverable in the accounts of the assessee for the previous year during which it is established to have become a bad debt;

(*ii*) any amount payable by way of sales tax, entertainment tax or tax on luxuries in respect of any charges included in the chargeable receipts of the previous year;

(*iii*) the amount of tax chargeable under this Act.

Explanation.—For the removal of doubts, it is hereby declared that in computing the chargeable receipts of a previous year, no deduction, other than the deductions specified in this sub-section, shall be allowed from the total amount of charges received by, or accruing or arising to, the assessee.

1. Ins. by Act 14 of 1982, s. 41 (w.e.f. 1-4-1982).

(*2*) In computing the chargeable receipts of a previous year, the amount of charges which is received by or which accrues or arises to the assessee before the expiry of one month from the end of the month in which this Act comes into force [1][or after the 27th day of February, 1982] shall not be taken into account.

8. Return of chargeable receipts.—(*1*) Every person, who, during the previous year, carried on the business of a hotel in relation to which this Act applies or is assessable in respect of the chargeable receipts of any other person under this Act, shall furnish a return of his chargeable receipts or the chargeable receipts of such other person of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, before the expiry of four months from the end of the previous year in respect of the business of the hotel or where there is more than one previous year in respect of such business, from the end of the previous year which expired last before the commencement of the assessment year, or before the 30th day of June of the assessment year, whichever is later:

Provided that, on an application made in this behalf, the Income-tax Officer may, in his discretion, extend the date for furnishing the return.

(*2*) In the case of any person who, in the Income-tax Officer's opinion is assessable under this Act, whether in respect of his own chargeable receipts or in respect of the chargeable receipts of any other person, the Income-tax Officer may, before the end of the relevant assessment year, issue a notice to him and serve the same upon him, requiring him to furnish within thirty days from the date of service of the notice a return of his chargeable receipts or the chargeable receipts of such other person of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed:

Provided that on an application made in this behalf, the Income-tax Officer may, in his discretion, extend the date for furnishing the return.

(*3*) Any assessee who has not furnished a return within the time allowed under sub-section (*1*) or sub-section (*2*), or having furnished a return under sub-section (*1*) or sub-section (*2*), discovers any omission or wrong statement therein, may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

9. Self-assessment.—(*1*) Where any hotel-receipts tax is payable on the basis of any return required to be furnished under section 8 or section 13 after taking into account the amount of hotel-receipts tax, if any, already paid under any provision of this Act, the assessee shall be liable to pay such tax before furnishing the return and the return shall be accompanied by proof of payment of such tax.

(*2*) After an assessment under section 10 or section 11 has been made, any amount paid under sub-section (*1*) shall be deemed to have been paid towards such assessment.

(*3*) If any assessee fails to pay the hotel-receipts tax or any part thereof in accordance with the provisions of sub-section (*1*), the Income-tax Officer may direct that a sum equal to two per cent. of such tax or part thereof, as the case may be, shall be recovered from him by way of penalty for every month during which the default continues:

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard.

10. Assessment.—(*1*) For the purpose of making an assessment under this Act, the Income-tax Officer may serve on any person who has furnished a return under section 8 or upon whom a notice has been served under sub-section (*2*) of section 8 (whether a return has been furnished or not) a notice requiring him on a date therein to be specified, to produce or cause to be produced such accounts or documents or other evidence as the Income-tax Officer may require for the purposes of this Act and may, from time to time, serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

(*2*) The Income-tax Officer, after considering such accounts, documents or other evidence, if any, as he has obtained under sub-section (*1*) and after taking into account any relevant material which he has

1. Ins. by Act 14 of 1982, s. 42 (w.e.f. 1-4-1982).

gathered, shall, by an order in writing, assess the chargeable receipts and the amount of the hotel-receipts tax payable on the basis of such assessment.

11. Best judgment assessment.—If—

(*a*) any person fails to make the return required by any notice given under sub-section (*2*) of section 8 and has not made a return or a revised return under sub-section (*3*) of that section; or

(*b*) any person having made a return, fails to comply with all the terms of a notice issued under sub-section (*1*) of section 10; or

(*c*) the Income-tax Officer is not satisfied about the correctness or the completeness of the accounts of the assessee,

the Income-tax Officer, after taking into account all relevant material which he has gathered shall make the assessment of the chargeable receipts to the best of his judgment and determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment.

12. Re-opening of assessment at the instance of the assessee.—(*1*) Where an assessee assessed under section 11 makes an application to the Income-tax Officer, within one month from the date of service of a notice of demand issued in consequence of the assessment, for the cancellation of the assessment on the ground—

(*i*) that he was prevented by sufficient cause from making the return required under sub-section (*2*) of section 8; or

(*ii*) that he did not receive the notice issued under sub-section (*1*) of section 10; or

(*iii*) that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of the notice referred to in clause (*ii*),

the Income-tax Officer shall, if satisfied about the existence of such ground, cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 10 or section 11.

(*2*) Every application made under sub-section (*1*) shall be disposed of within ninety days from the date of receipt thereof by the Income-tax Officer:

Provided that in computing the period of ninety days aforesaid, any delay in disposing of the application which is attributable to the assessee shall be excluded.

13. Receipts escaping assessment.—If—

(*a*) the Income-tax Officer has reason to believe that by reason of the omission or failure on the part of the assessee to make a return under section 8 for any assessment year or to disclose fully and truly all material facts necessary for his assessment for any assessment year, chargeable receipts for that year have escaped assessment or have been under-assessed or have been made the subject of excessive relief under this Act; or

(*b*) notwithstanding that there has been no omission or failure as mentioned in clause (*a*) on the part of the assessee, the Income-tax Officer has, in consequence of information in his possession, reason to believe that chargeable receipts assessable for any assessment year have escaped assessment or have been under-assessed or have been the subject of excessive relief under this Act,

he may, in cases falling under clause (*a*), at any time, and in cases falling under clause (*b*), at any time within four years of the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under section 8 and may proceed to assess or reassess the amount chargeable to hotel-receipts tax, and the provisions of this Act shall, so far as may be, apply, as if the notice were a notice issued under that section.

14. Advance payment of hotel-receipts tax.—(*1*) Hotel-receipts tax shall be payable in advance during the financial year in respect of the chargeable receipts of the period which would be the previous year for the immediately following assessment year in accordance with the provisions of this section.

(*2*) Hotel-receipts tax shall be payable in advance in two instalments on the following dates during the financial year, namely: —

(*i*) the 15th day of September in respect of the chargeable receipts attributable to the first half of the previous year; and

(*ii*) the 15th day of March in respect of the chargeable receipts attributable to the second half of the previous year:

Provided that the hotel-receipts tax payable in advance during the financial year commencing on the 1st day of April, 1980 shall be payable in one sum on the 15th day of March, 1981.

(*3*) Every assessee shall, in each financial year, on or before such of the dates on which an instalment of hotel-receipts tax is payable in advance, send to the Income-tax Officer, an estimate of the chargeable receipts attributable to the relevant part of the previous year and the hotel-receipts tax payable in advance on such chargeable receipts and shall pay such amount of hotel-receipts tax as accords with his estimate on or before the relevant date specified in sub-section (*2*):

Provided that in respect of the hotel-receipts tax payable in advance during the financial year commencing on the 1st day of April, 1980, the assessee shall send to the Income-tax Officer an estimate of the chargeable receipts attributable to the period which would be the previous year for the assessment year commencing on the 1st day of April, 1981 and the hotel-receipts tax payable in advance on such chargeable receipts and shall pay such amount of hotel-receipts tax as accords with his estimate on or before the 15th day of March, 1981.

(*4*) Every estimate under this section shall be sent in the prescribed form and verified in the prescribed manner.

(*5*) If any assessee does not pay on or before the specified date any instalment of hotel-receipts tax payable in advance, he shall be deemed to be an assessee in default in respect of such instalment.

15. Penalty for failure to furnish returns, comply with notices, concealment of receipts, etc.—(*1*) If, in the course of any proceedings under this Act, the Income-tax Officer or the Commissioner (Appeals) is satisfied that any person—

(*a*) has, without reasonable cause, failed to furnish the return of chargeable receipts which he was required to furnish under sub-section (*1*) of section 8 or by notice given under sub-section (*2*) of section 8 or section 13 or has, without reasonable cause, failed to furnish it within the time allowed and the manner required by sub-section (*1*) of section 8 or by such notice, as the case may be; or

(*b*) has, without reasonable cause, failed to comply with the notice under sub-section (*1*) of section 10, or

(*c*) has concealed the particulars of his chargeable receipts or furnished inaccurate particulars of such receipts,

he may direct that such person shall pay by way of penalty,—

(*i*) in the cases referred to in clause (*a*), in addition to the hotel-receipts tax payable by him, a sum equal to two per cent. of the assessed tax for every month during which the default continued, but not exceeding in the aggregate fifty per cent. of the assessed tax.

Explanation.—In this clause, "assessed tax" means hotel-receipts tax chargeable under the provisions of this Act, as reduced by the sum, if any, paid in advance under section 14;

(*ii*) in the cases referred to in clause (*b*), in addition to the hotel-receipts tax payable by him, a sum which shall not be less than ten per cent. but which shall not exceed fifty per cent. of the amount of the hotel-receipts tax which would have been avoided if the return made by him had been accepted as correct;

(*iii*) in the cases referred to in clause (*c*), in addition to the hotel-receipts tax payable by him, a sum which shall not be less than, but which shall not exceed twice, the amount of hotel-receipts tax which would have been avoided if the return made by him had been accepted as correct:

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Provided that in a case falling under clause (*c*), the Income-tax Officer shall not impose any penalty without the previous approval of the Inspecting Assistant Commissioner.

(*2*) On making an order imposing a penalty under this section, the Commissioner (Appeals) shall forthwith send a copy of the same to the Income-tax Officer.

16. Penality for false estimate of, or failure to pay, hotel-receipts tax payable in advance.—If, in the course of any proceedings in connection with the assessment under section 10 or section 11, the Income-tax Officer is satisfied that any assessee—

(*a*) has furnished under section 14, an estimate of the hotel-receipts tax payable in advance by him which he knew or had reason to believe to be untrue; or

(*b*) has, without reasonable cause, failed to furnish an estimate of the hotel-receipts tax payable in advance by him in accordance with the provisions of section 14,

he may direct that the assessee shall, in addition to the hotel-receipts tax payable by him, pay by way of penalty a sum—

(*i*) which, in the case referred to in clause (*a*), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which the hotel-receipts tax paid in advance during the financial year immediately preceding the assessment year, falls short of eighty-five per cent. of the hotel-receipts tax chargeable under the provisions of this Act;

(*ii*) which, in the case referred to in clause (*b*), shall not be less than ten per cent. but shall not exceed one and a half times of eighty-five per cent. of the hotel-receipts tax chargeable under the provisions of this Act.

17. Opportunity of being heard.—No order imposing penalty under section 15 or section 16 shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard.

18. Appeals to the Commissioner (Appeals).—(*1*) Any person objecting to the amount of hotel-receipts tax for which he is assessed by the Income-tax Officer, or denying his liablility to be assessed under this Act, or objecting to an order under section 12 refusing to re-open an assessment made under section 11 or objecting to any penalty or fine imposed by the Income-tax Officer, or to the amount allowed by the Income-tax Officer by way of any relief under any provision of this Act, or to any refusal by the Income-tax Officer to grant relief, or to an order of rectification having the effect of enhancing the assessment or reducing the refund, or to an order refusing to allow the claim made by the assessee for a rectification under section 20, may appeal to the Commissioner (Appeals).

(*2*) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(*3*) An appeal shall be presented within thirty days of the following date, that is to say,—

(*a*) where the appeal relates to assessment or penalty or fine, the date of service of the notice of demand relating to the assessment or penalty or fine; or

(*b*) in any other case, the date on which the intimation of the order sought to be appealed against is served:

Provided that the Commissioner (Appeals) may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(*4*) The Commissioner (Appeals) shall hear and determine the appeal and, subject to the provisions of this Act, pass such orders as he thinks fit and such orders may include an order enhancing the assessment or penalty:

Provided that an order enhancing the assessment or penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(*5*) The procedure to be adopted in the hearing and determination of the appeals shall, with any necessary modification, be in accordance with the procedure applicable in relation to income-tax.

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19. Appeals to Appellate Tribunal.—(*1*) Any assessee aggrieved by an order passed by a Commissioner under section 22, or an order passed by a Commissioner (Appeals) under any provision of this Act, may appeal to the Appellate Tribunal against such order.

(*2*) The Commissioner may, if he objects to any order passed by the Commissioner (Appeals) under any provision of this Act, direct the Income-tax Officer to appeal to the Appellate Tribunal against the order.

(*3*) Every appeal under sub-section (*1*) or sub-section (*2*) shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the Commissioner, as the case may be.

(*4*) The Income-tax Officer or the assessee, as the case may be, on receipt or a notice that an appeal against the order of the Commissioner (Appeals) has been preferred under sub-section (*1*) or sub-section (*2*) by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Commissioner (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (*3*).

(*5*) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (*3*) or sub-section (*4*), if it is satisfied that there was sufficient cause for not presenting it within that period.

(*6*) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (*2*) or a memorandum of cross-objections referred to in sub-section (*4*), be accompanied by a fee of [1][two hundred rupees].

(*7*) Subject to the provisions of this Act, in hearing and making an order on any appeal under this section, the Appellate Tribunal shall exercise the same powers and follow the same procedure as it exercises and follows in hearing and making an order on any appeal under the Income-tax Act.

20. Rectification of mistakes.—(*1*) With a view to rectifying any mistake apparent from the record, the Income-tax Officer, the Commissioner (Appeals), the Commissioner and the Appellate Tribunal may, of his or its own motion or on an application by the assessee in this behalf, or where the authority concerned is the Commissioner (Appeals), by the Income-tax Officer also, amend any order passed by him or it in any proceeding under this Act within four years of the date on which such order was passed.

(*2*) An amendment which has the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the assessee shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(*3*) Where an amendment is made under this section, the order shall be passed in writing by the authority concerned.

(*4*) Subject to the other provisions of this Act, where any such amendment has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee.

(*5*) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable.

21. Hotel-receipts tax deductible in computing total income under Income-tax Act.—Notwithstanding anything contained in the Income-tax Act, in computing the income chargeable to income-tax under the head "Profits and gains of business or profession" in the case of an assessee carrying on the business of a hotel to which this Act applies, the hotel-receipts tax payable by the assessee

1. Subs. by Act 16 of 1981, s. 45, for "one hundred and twenty-five rupees" (w.e.f. 1-6-1981).

for any assessment year shall be deductible from the profits and gains of the business of the hotel assessable for that assessment year.

22. Revision of order prejudicial to revenue.—(*1*) The Commissioner may call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

(*2*) No order shall be made under sub-section (*1*)—

(*a*) to revise an order of reassessment made under section 13; or

(*b*) after the expiry of two years from the date of the order sought to be revised.

(*3*) Notwithstanding anything contained in sub-section (*2*), an order in revision under this section may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

Explanation.—In computing the period of limitation for the purposes of sub-section (*2*), any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

23. Revision of orders by Commissioner.—(*1*) The Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this Act which has been taken by an Income-tax Officer subordinate to him and may make such enquiry or cause such enquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

(*2*) The Commissioner shall not of his own motion revise any order under this section if the order has been made more than one year previously.

(*3*) In the case of an application for revision under this section by the assessee, the application shall be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

Provided that the Commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

(*4*) The Commissioner shall not revise any order under this section in the following cases:—

(*a*) where an appeal against the order lies to the Commissioner (Appeals) but has not been made and the time within which such appeal may be made has not expired, or the assessee has not waived his right of appeal; or

(*b*) where the order has been made the subject of an appeal to the Commissioner (Appeals).

(*5*) Every application by an assessee for revision under this section shall be accompanied by a fee of twenty-five rupees.

Explanation.—An order by the Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to the assessee.

24. Application of provisions of Income-tax Act.—The provisions of the following sections and Schedules of the Income-tax Act and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, shall apply with necessary modifications as if the said provisions and the rules referred to hotel-receipts tax instead of to income-tax:—

2(43B) and (44), 41(4), 118, 125, 125A, 128 to 136 (both inclusive), 138, 140, 144A, 156, 159 to 163 (both inclusive), 166, 167, 170, 171, 173 to 179 (both inclusive), 187, 188, 189, 219 to 227 (both inclusive), 228A, 229, 231, 232, 237 to 242 (both inclusive), 244, 245, 254 to 262 (both inclusive),

265, 266, 268, 269, 278B, 278C, 278D, 281, 281B, 282, 283, 284, 287, 288, 288A, 288B, 289 to 293 (both inclusive), the Second Schedule and the Third Schedule:

Provided that references in the said provisions and the rules to the "assessee" shall be construed as references to an assessee as defined in this Act.

25. Income-tax papers to be available for the purposes of this Act.—(*1*) Notwithstanding anything contained in the Income-tax Act, all information contained in any statement or return made or furnished under the provisions of that Act or obtained or collected for the purposes of that Act may be used for the purposes of this Act.

(*2*) All information contained in any statement or return made on furnished under the provisions of this Act or obtained or collected for the purposes of this Act may be used for the purposes of the Income-tax Act.

26. Wilful attempt to evade tax, etc.—(*1*) If a person wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable or imposable under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable,—

(*i*) in a case where the amount sought to be evaded exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

(*2*) If a person wilfully attempts in any manner whatsoever to evade the payment of any tax, penalty or interest under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and shall, in the discretion of the court, also be liable to fine.

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Explanation.—For the purposes of this section, a wilful attempt to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof shall include a case where any person—

(*i*) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement; or

(*ii*) makes or causes to be made any false entry or statement in such books of account or other documents; or

(*iii*) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

(*iv*) causes any other circumstance to exist which will have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof.

27. Failure to furnish returns of chargeable receipts.—If a person wilfully fails to furnish in due time the return of chargeable receipts which he is required to furnish under sub-section (*1*) of section 8 or by notice given under sub-section (*2*) of section 8 or section 13, he shall be punishable,—

(*i*) in a case where the amount of tax, which would have been evaded if the failure had not been discovered, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(*ii*) in any other case, with imprisonment for a term which shall not be less than three months but which may extend to three years and with fine:

Provided that a person shall not be proceeded against under this section for failure to furnish in due time the return of chargeable receipts under sub-section (*1*) of section 8, if—

(*a*) the return is furnished by him before the expiry of the assessment year; or

(*b*) the tax payable by him on the chargeable receipts determined on assessment as reduced by the tax paid in advance under section 14, if any, does not exceed three thousand rupees.

28. Failure to produce accounts and documents.—If a person wilfully fails to produce, or cause to be produced, on or before the date specified in any notice served on him under sub-section (*1*) of section 10, such accounts and documents as are referred to in the notice, he shall be punishable with rigorous imprisonment for a term which may extend to one year, or with fine equal to a sum calculated at a rate which shall not be less than four rupees or more than ten rupees for every day during which the default continues, or with both.

29. False statement in verification, etc.—If a person makes a statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable,—

(*i*) in a case where the amount of tax, which would have been evaded if the statement or account had been accepted as true, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

30. Abetment of false return, etc.—If a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to any chargeable receipts which is false and which he either knows to be false or does not believe to be true or to commit an offence under sub-section (*1*) of section 26, he shall be punishable,—

(*i*) in a case where the amount of tax, penalty or interest which would have been evaded, if the declaration, account or statement had been accepted as true, or which is wilfully attempted to be evaded, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(*ii*) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

31. Punishment for second and subsequent offences.—If any person convicted of an offence under sub-section (*1*) of section 26 or section 27 or section 29 or section 30 is again convicted for an offence under any of the aforesaid provisions, he shall be punishable for the second and for every subsequent offence with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.

32. Certain offences to be non-cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under section 26 or section 27 or section 29 or section 30 shall be deemed to be non-cognizable within the meaning of that Code.

33. Institution of proceedings and composition of offences.—(*1*) A person shall not be proceeded against for any offence under section 26 or section 27 or section 28 or section 29 or section 30 for any offence under the Indian Penal Code (45 of 1860) relating to any matter connected with or arising out of this Act, except at the instance of the Commissioner.

(*2*) The Commissioner may, either before or after the institution of proceedings, compound any offence punishable under section 26 or section 27 or section 28 or section 29 or section 30.

34. Power to make rules.—(*1*) The Board may, subject to the control of the Central Government, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which the room charges may be determined under sub-section (*2*) of section 3 in cases where composite charges are payable in respect of residential accommodation and food;

(*b*) the cases and the circumstances in which payments made in Indian currency by conversion of foreign exchange into Indian currency shall be deemed to have been made in foreign exchange for the purposes of sub-section (*1*) of section 5;

(*c*) the form in which returns under section 8 may be furnished, the manner in which they may be verified and the other particulars which a form may contain;

(*d*) the form in which an estimate under section 14 may be sent and the manner in which it may be verified;

(*e*) the form in which appeals under section 18 or section 19 may be filed and the manner in which they may be verified;

(*f*) the form in which a memorandum of cross-objections under sub-section (*4*) of section 19 may be verified;

(*g*) the procedure to be followed on applications for rectification of mistakes under section 20;

(*h*) the form in which a notice of demand may be served on the assessee under sub-section (*5*) of section 20;

(*i*) any other matter which by this Act is to be or may be prescribed.

(*3*) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date of commencement of this Act.

(*4*) The Central Government shall cause every rule made under this section to be laid, as soon as may be, after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

35. Power to exempt.—Where the Central Government is of the opinion that it is necessary or expedient so to do either in the public interest or having regard to the peculiar circumstances of the case, it may, by notification in the Official Gazette and subject to such conditions, if any, as may be specified in the notification, exempt any hotel or any class of hotels from the levy of hotel-receipts tax.

36. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

37. [*Consequential amendments*].—*Rep. by the Repealing and Amending Act, 1988* (19 *of* 1988)*, s.* 2 *and the First Schedule (w.e.f.* 31-3-1988).

STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to impose a special tax on gross receipts of certain categories of hotels. The provisions of the Bill will apply in relation to hotels in which the room charges for residential accommodation provided to any person at any time during the relevant accounting year are Rs. 75 or more per day per individual. The tax will be levied at the rate of 15 per cent. on the chargeable receipts of the hotel which will include all charges received or accruing or arising during the accounting year. A rebate equal to five per cent. will, however, be allowed in respect of charges received in foreign exchange. The charges received or accruing or arising before the expiry of one month from the end of the month in which the legislation comes into force will not be liable to tax. The tax will be allowed as deduction in computing the taxable income under the Income-tax Act, 1961

2. The Notes on clauses explain the various provisions of the Bill.

NEW DELHI; R. VENKATARAMAN.

The 7*th August,* 1980.

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