



Legislative Assembly of Goa

The Goa Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Bill, 2001

(Bill No. 16 of 2001)

AS
~~to~~ be introduced in the Legislative Assembly of Goa)

**GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM
JANUARY, 2001.**

THE GOA TAX ON LUXURIES (HOTELS AND LODGING HOUSES) (AMENDMENT) BILL 2001

(Bill No. 16 of 2001)

A

BILL

further to amend the Goa Tax on Luxuries (Hotels and Lodging Houses) Act, 1988 (Goa Act No.17 of 1988).

Be it enacted by the Legislative Assembly of Goa in the Fifty-first Year of the Republic of India as follows:-

1. *Short title and commencement.*— (1) This Act may be called the Goa Tax on Luxuries (Amendment) Act, 2001.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 1.- In the Goa Tax on Luxuries (Hotels and Lodging Houses) Act, 1988 (Goa Act No. 17 of 1988) (hereinafter referred to as the "principal Act"),—

(i) in the long title, the expression "(Hotels and Lodging Houses)" shall be omitted;

(ii) in the preamble, the words "on Luxuries provided in hotels and lodging houses" shall be omitted;

(iii) in sub-section (1) of section 1, the expression "(Hotels and Lodging Houses)" shall be omitted.

3. *Amendment of section 2.*— In section 2 of the principal Act,—

(i) for clause (b), the following clause shall be substituted, namely:—

"(b) 'business' includes,—

(i) the activity of providing residential accommodation and any other services in connection with, or incidental or ancillary to such activity of providing residential accommodation by a hotelier for monetary consideration;

(ii) the activity of providing, stocking, wending, distributing or supplying of luxuries;"

(ii) in clause (cc), after the words "purposes of this Act", the words "and includes Additional Commissioner of Luxury Tax" shall be inserted;

(iii) after clause (e), the following clause shall be inserted, namely:—

"(ee) 'luxuries' means commodities or services specified in the Schedule, ministering the enjoyment, comfort or pleasure extraordinary to necessities of life;"

(iv) in clause (j), after the words "provided in a hotel", the words "and value of stock of other luxuries provided" shall be inserted;

(v) after clause (l), the following clause shall be inserted, namely:—

"(ll) 'Schedule' means the Schedule appended to this Act;"

(vi) after clause (m), the following clauses shall be inserted, namely:—

"(mm) 'stock of luxuries' means the quantity of luxuries being the own stock of the stockist or stock entered in the records or account of the stockist or the quantity of luxuries the stockist receives or procures during any year for stocking, wending or distributing or supplying to a wholeseller, intermediary, retailer, or any person but shall not include any quantity of luxuries held in stock on the day or the date of commencement of the Goa Tax on Luxuries (Amendment) Act, 2001;

(mmm) 'stockist' means a person who has in his possession or custody or in his control the stock of luxuries procured in any manner, or manufacture made or processed by him in the course of business in the State or produced or caused to be produced by him into the State, either in his own account or of any others, from any place outside the State, for stocking, wending or supplying such luxuries;"

(vii) in clause (n), after the words "luxuries provided in a hotel" and before the words "payable under this Act", the words "and on other luxuries" shall be inserted.

(viii) in clause (p), after the words "luxuries provided in a hotel during a given period", the words "and value of stock of luxuries in case of other luxuries provided" shall be inserted;

(ix) after clause (p), the following clauses shall be inserted, namely:-

"(pp) 'turnover of stocks of luxuries' in relation of stockist in respect of any year means the aggregate of the value of stock of luxuries;"

"(ppp) 'value of stock of luxuries' means,—

(i) in respect of stockist being a manufacturer of any of the luxuries, the value of luxuries calculated at the ex-factory price;

(ii) in respect of any other stockist, the value of such luxuries calculated at the price thereto as per the bill, invoice or consignment note or other document of like nature of any person within the State or outside the State from whom such luxuries are received;

Explanation:— In respect of any stockist mentioned in sub-clause

(i) and (ii), the value of stock of luxuries shall include,—

(a) excise duty, countervailing duty paid or payable on such luxuries by a manufacturer or importer thereof as the case may be; and

(b) transport charges, insurance charges, packing charges, forwarding and handling charges, if any, for carrying such luxuries to any premises, godown, warehouse or any other place of the stockist;"

4. *Amendment of section 5.*— In sub-section (2) of section 5 of the principal Act, for clause (a), the following clause shall be substituted, namely:—

"(a) Where the charge for luxury provided a in hotel exceeds Rs.1500/-;	12% of the charge per day of luxury provided."
--	--

5. *Insertion of new section 5A.*— After section 5 of the principal Act, the following section shall be inserted, namely:—

"5A. *levy of tax on luxuries.*— (1) Subject to the provisions of this Act, there shall be levied and collected a tax on the turnover of stock of luxuries, in respect of luxuries mentioned in column (2) of the Schedule, at the rate specified in the corresponding entry in column (3) of the Schedule.

(2) The tax levied under sub-section (1) shall be paid by every registered stockist or a stockist liable to get himself registered under this Act.

(3) Notwithstanding anything contained in sub-section (1), but subject to the production of proof as may be prescribed, no tax shall be leviable on the value of stock of luxuries, -

(i) despatched to places outside the State;

(ii) on which tax under this Act has been paid or has become payable."

6. *Amendment of section 7.*— In section 7 of the principal Act, after the words "Where a hotel" and before the words "is owned", the words "or business" shall be inserted.

7. *Amendment of section 9.*— In section 9 of the principal Act, in sub-section (1),

(i) after the word and figure "section 5" and before the words and figures "or under sub-section (6)", the words and figures "or under section 5A" shall be inserted;

(ii) after the word 'accommodation' and before the words "by way of business", the words 'or other luxuries' shall be inserted.

8. *Substitution of word 'hotelier'.*— In the principal Act, for the word "hotelier", wherever it occurs, except in section 5, the expression "hotelier or stockist, as the case may be", shall be substituted.

9. *Insertion of Schedule.*— After section 46 of the principal Act, the following Schedule shall be inserted, namely:—

"SCHEDULE
(See sections 5(A) and 2(ee))

Sr. No.	Description of luxuries	Rate of tax.
(1)	(2)	(3)
(1)	Chewing tobacco including gutka.	25%
(2)	Tobacco products excluding those covered under (1) above but other than biddies and snuff.	5%."

Statement of Objects and Reasons

Tobacco including chewing tobacco, gutka are known to contain carcinogenicous substances which causes cancer. To control it's consumption, gutka was made taxable under the Goa Sales Tax Act, 1964 (Act 4 of 1964), at the rate of 100%.

The Supreme Court of India in Kothari Products Ltd. v/s Government of Andhra Pradesh has held that gutka is a tobacco that is covered by an entry in the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957, and the branded gutka is liable for tax thereunder. Under the said Goa Sales Tax Act, 1964, tobacco as described from time to time in column 3 of the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957, is exempt from Tax. With the result, the levy of 100% tax on gutka under the Goa Sales Tax Act, 1964, shall have to be withdrawn, which will defeat the purpose for which it was introduced.

With the introduction of luxury tax on turnover of Stock of luxuries as defined in the proposed Bill, the price of this commodity will be comparatively unaffordable to the common man which indirectly will control consumption of gutka and other tobacco products in the State.

The Bill also seeks to amend section 5 of the Goa Tax on Luxuries (Hotels and Lodging Houses) Act, 1988 (Act 17 of 1988), so as to provide rate of 12% where the charge of luxury provided in a hotel exceeds Rs.1500/- per day.

Other amendments are of consequential nature.

This Bill seeks to achieve the above objects.

Panaji, Goa.
18 January, 2001.

MANOHAR PARRIKAR
Chief Minister.

Financial Memorandum

No financial implications are involved towards implementation of the provisions of this Bill since no additional expenditure will be incurred on account of the proposed amendments.

Memorandum Regarding Delegated Legislation

Clause (3) of proposed new section 5A provides for framing of rules as regards the production of proof to show that no tax shall be leviable on the value of stock of luxuries, as specified therein.

Assembly Hall,
Porvorim, Goa.
18 January, 2001.

R. KOTHANDARAMAN
Secretary (Legislature)

Governor's recommendation under Article 207 of the Constitution.

In pursuance of article 207 of the Constitution of India, I, Mohd. Fazal, the Governor of Goa hereby recommend to the Legislative Assembly of Goa the introduction and consideration of the Goa Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Bill, 2001.

ANNEXURE

Extract of The Goa Tax on Luxuries (Hotels and Lodging Houses) Act, 1988.

Section 1. Short title, extent and commencement.— (1) This Act may be called the Goa Tax on Luxuries (Hotels and Lodging Houses) Act, 1988.

(2).....

(3).....

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

(a).....

(b) 'business' includes the activity of providing residential accommodation and any other service in connection with, or incidental or ancillary to, such activity of providing residential accommodation, by a hotelier for monetary consideration;

(c).....

(cc) 'Commissioner' means the person appointed to be the Commissioner of Luxury Tax under section 3 for the purposes of this Act;

(d).....

(e).....

(f).....

(g).....

(h).....

(i).....

(j) 'receipt' means the amount of monetary consideration received or receivable by a hotelier or by his agent for any luxury provided in a hotel;

- (k).....
(l).....
(m).....

(n) 'tax' means the tax levied on luxuries provided in a hotel payable under this Act;

(o).....

(p) 'turnover of receipts' means the aggregate of the amounts of monetary consideration received or receivable by a hotelier or by his agent in respect of the luxuries provided in hotel during a given period;

(q).....

Section 3.....

Section 4.....

Section 5. Incidence and levy of tax.—

(1).....

(2) There shall be levied a tax on the turnover of receipts at the following rates, namely:—

- | | |
|--|---|
| (a) Where the charges for luxury provided in a hotel exceeds Rs. 1500/- on any day in a year. | ... 12% |
| (b) Where the hotel providing luxury is classified or recognized as per three star and above by the Department of Tourism, Govt. of India. | ... 12% of the charge per day of luxury provided. |
| (c) In any other case | ... 8% of the charge per day of luxury provided. |

Note: Where the luxuries provided in a hotel are under Time-share Agreement or under the Package deal Agreement or under any such system, the rate of tax for the charge of the luxuries provided shall be in accordance with clause (c) above.

Provided that where the charges are levied otherwise than on daily basis, then the charges for determining the tax liability under this section shall be computed proportionately for a day and based on the total period of occupation of the accommodation for which the charges are made.

- (3).....
(4).....
(5).....
(6).....

Section 6.....

Section 7. **Liability of firms as hoteliers.**— Where a hotel is owned, managed or run by a firm, then the firm and each of the partners of the firm shall be jointly and severally liable for payment of tax;

Provided that where any partner retires from the firm, he shall be liable to pay the tax, penalty or interest payable under this Act, if any, remaining unpaid at the time of his retirement, and any tax due upto the date of his retirement, even if assessment of tax including penalty (if any) is made at a later date.

Section 8.....

Section 9. **Registration of hoteliers.**— (1) No hotelier liable to pay the tax under section 5 or under sub-section (6) of section 8 shall provide accommodation by way of business, unless he possesses a valid certificate of registration as provided by this Act:

Provided that, it shall be lawful for the hotelier to provide or continue to provide accommodation by way of busi-

ness, if the hotelier has applied for registration within the prescribed time.

(2).....

(3).....

(4).....

(5).....

(6).....

Assembly Hall,
Porvorim, Goa.
18 January, 2001.

R. KOTHANDARAMAN
Secretary (Legislature)