



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**The Goa Tax on Luxuries
(Twelfth Amendment)
Bill, 2012**

(Bill No. 20 of 2012)

^{AS}
~~To be~~ introduced in the Legislative Assembly of the State of Goa

GOA LEGISLATURE SECRETARIAT,
ASSEMBLY HALL, PORVORIM, GOA
JULY, 2012

The Goa Tax on Luxuries (Twelfth Amendment) Bill, 2012

(Bill No. 20 of 2012)

A

BILL

*further to amend the Goa Tax on Luxuries Act, 1988
(Act No. 17 of 1988).*

5 BE it enacted by the Legislative Assembly of
Goa in the Sixty-third Year of the Republic of India,
as follows:-

1. Short title and commencement.— (1) This
Act may be called the Goa Tax on Luxuries (Twelfth
10 Amendment) Act, 2012.

(2) It shall be deemed to have come into force
on the 25th day of May, 2012.

2. Amendment of section 2.— In section 2 of
the Goa Tax on Luxuries Act, 1988 (Act No. 17 of
15 1988) (hereinafter referred to as the "principal
Act"),—

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

20 "(a) 'accommodation provided for
commercial purpose' means a building or part
of a building including open space with or
without tents or any enclosure erected for
giving on hire, or space where

accommodation is provided for trade fair, exhibitions, demonstrations, promotions, conferences, sales, services, etc.;

Explanation.— An accommodation provided for regular sales or any other activities mentioned hereinbefore in a mall, a bazaar or any such arrangements including accommodation on 'leave and licence' basis shall be deemed to be 'accommodation provided for commercial purpose';";

(ii) for clause (aa), the following clause shall be substituted, namely:—

"(aa) 'accommodation with luxuries provided for other purposes' means a building or part of a building or a part of any hotel, community hall, marriage and cultural halls, lawns and open spaces, or any such enclosures or mandap, but excluding Agarshala and halls attached to religious institutions, let on hire by proprietor, for holding social or cultural functions like, marriages, get togethers, parties, receptions, cultural programmes, etc., with services, including like providing furniture, entertainment, sound system, decorations, illumination, pandal, etc., but excluding services like supplying food and beverages, for monetary consideration;";

(iii) in clause (b), after sub-clause (iii), the following sub-clause shall be inserted, namely:—

"(iv) the activity of providing services in relation to health fitness and other related

services and includes services provided in beauty parlours, spa or health spa, health club, etc.;";

(iv) for clause (ee), the following clause shall be substituted, namely:—

"(ee) 'luxuries' means services specified in the Schedules, ministering the enjoyment, comfort or pleasure to its users and includes the services provided in beauty parlours, spa or health spa, health club, etc.;";

(v) for clause (ii), the following clause shall be substituted, namely:—

"(ii) 'proprietor' in relation to accommodation provided for commercial purposes or accommodation with luxuries provided for other purposes or in relation to services provided in beauty parlours, spa or health spa, health club, etc., includes person who for the time being is in-charge of the management of building or part of building or tent or enclosure or of a beauty parlour, spa or health spa, health club, etc., or of an open space provided to conduct the business, as the case may be;";

(vi) in clause (j), after the words "accommodation with luxuries provided for other purposes", the expression "or for services provided in beauty parlours, spa or health spa, health club, etc." shall be inserted;

(vii) in clause (p), before the words "during a year", the expression "or for services provided in beauty parlours, spa or health spa, health club, etc." shall be inserted.

3. Amendment of section 5.— In section 5 of the principal Act,— 5

(i) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) There shall be levied a tax on the turnover of receipts of a proprietor of a beauty parlour, spa or health spa, health club, etc., at the rates provided in Schedule IV hereto."; 10

(ii) in sub-section (7), in clause (i), in sub-clause (b), for the word "Schedule", wherever it occurs, the expression "Schedule I or Schedule IV" shall be substituted. 15

4. Amendment of Schedule II.— In Schedule II to the principal Act, under the word "Proprietor", after entry at serial number (2), the following entry shall be inserted, namely:— 20

"(3) Services provided in beauty parlours, spa or health spa, health club, etc. Rs. 2000/-."

5. Insertion of new Schedule IV.— After Schedule III to the principal Act, the following Schedule shall be inserted, namely:— 25

"SCHEDULE IV

[See sub-section (2A) of section 5]

Sr. No.	Turnover of Receipts	Rate of Tax
(i)	For providing services in beauty parlours, spa or health spa, health club, etc. having air-conditioning facility, whose turnover is above Rs. 5.00 lakhs per annum	10%

6. Repeal and Saving.— (1) The Goa Tax on Luxuries (Amendment) Ordinance, 2012 (Ordinance No. 3 of 2012) is hereby repealed.

(2) Notwithstanding the repeal of the Goa Tax on Luxuries (Amendment) Ordinance, 2012 (Ordinance No. 3 of 2012), anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Statement of Objects and Reasons

In the Budget presented in March, 2012 it was proposed to bring the space or premises being rented for being used for commercial activities like sale, fairs, bazaars, etc, under the ambit of luxury tax as provided under the Goa Tax on Luxuries Act, 1988 (Goa Act 17 of 1988) (hereinafter referred to as the "said Act"). The Bill, therefore, seeks to amend clause (a) of section 2 of the said Act to provide the same.

It was further proposed in the Budget to remove Agarshala and hall attached to religious institutions from the ambit of Luxury tax net. Hence, the Bill seeks to amend clause (aa) of section 2 of the said Act to provide for the same.

It was also proposed in the Budget to levy luxury tax at the rate of 10% of the receipts on services provided in beauty parlour and spa. The Bill seeks to amend the said Act suitably for the purpose.

The Bill also seeks to repeal the Goa Tax on Luxuries (Amendment) Ordinance, 2012 (Ordinance No. 3 of 2012) promulgated by the Governor of Goa on 25-05-2012.

The Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is involved in this Bill.

Assembly Hall,
Porvorim, Goa.
30/07/ 2012.

SHRI MANOHAR PARRIKAR
Chief Minister/Finance Minister

Assembly Hall,
Porvorim, Goa.
30/07/ 2012.

N. B. SUBHEDAR
Secretary to the
Legislative Assembly of Goa

Governor's Recommendation under Article 207 of the Constitution of India

In pursuance of Article 207 of the Constitution of India, I, Bharat Vir Wanchoo, the Governor of Goa hereby recommend the introduction and consideration of the Goa Tax on Luxuries (Twelfth Amendment) Bill, 2012, by the Legislative Assembly of Goa.

ANNEXURE

Bill No 20 of 2012

Extract of the Goa Tax on Luxuries Act, 1988 (Act 17 of 1988)

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

(a) 'accommodation provided for commercial purpose' means a building or part of a building where accommodation is provided for holding trade fairs, exhibitions, demonstrations, sales promotions, conferences, etc., and includes open space with or without tents or any enclosure erected for giving on hire space for holding the activities herebefore mentioned.

(aa) 'accommodation with luxuries provided for other purposes' means a building or part of a building or a part of any hotel, community hall, agrashala, marriage & cultural halls, lawns and open spaces, or any such enclosures or mandap let on hire by proprietor, for holding social or cultural functions like, marriages, get togethers parties, receptions, cultural programmes, etc. with services including like providing furniture, entertainment, sound system, decorations, illumination, pendal, etc., but excluding services like supplying food and beverages, for monetary consideration;

(ab) 'Additional Commissioner' means a person appointed as Additional Commissioner of Luxury Tax under sub-section (2) of section 3 of this Act.

(ac) 'appointed day' means the day on which this Act comes into force;

(b) 'business' includes.—

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

(ii) The activity of providing accommodation for commercial purpose, such as, for holding trade fairs, exhibitions, demonstrations, sales promotions, conferences, etc., for monetary consideration.

(iii) The activity of providing accommodation with luxuries for other purposes, such as, for holding marriage ceremonies, wedding receptions, get togethers, parties, cultural or social functions, etc., for monetary consideration;

(c) 'club' includes both, an incorporated as well as unincorporated association of persons, by whatever name called;

(cc) 'Commissioner' means a person appointed as Commissioner of Luxury Tax under sub-section (1) of section 3 of this Act

(d) 'hotel' includes a residential accommodation, a lodging house, an inn, a public house or a building or part of a building, a club, a boat, vessel or any place where a residential accommodation is provided by way of business;

Explanation.— A residential accommodation provided under Timeshare Agreement or under Package Deal Agreement or under any such system wherein the facility of availing residential accommodation during a given period in a year is allowed upon a lumpsum payment, shall be deemed to be a "hotel" for the purposes of this Act.

(e) 'hotelier' means the owner of the hotel and includes the person who for the time being is in charge of the management of the hotel;

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

(f) 'luxury provided in a hotel' means accommodation and other services provided in a hotel, including air conditioning, telephone, television, radio, music entertainment, extra beds and the like, and all services other than casinos, water sports, boat/river cruises and supply of food and drinks;

Explanation:— Wherever accommodation provided is under Timeshare Agreement or a Package Deal Agreement or any such system wherein only maintenance charges, by whatever name called, are collected periodically, over and above lumpsum payment made, the charges for luxuries provided shall be determined as under:-

(i) Where a hotel is having any of the following facilities, Rs. 500/- per day for the accommodation facility actually availed.

Facilities

(i) Swimming Pool. (ii) Health Club.

(iii) Tennis Courts.

(iv) Golf Courses.

(v) Shopping Arcade.

(ii) In all other cases, the charges for luxuries shall be worked out at Rs. 300/- per day for the accommodation facility actually availed.

(g) 'person' includes any company or association or body of individuals whether incorporated or not, and also a Hindu undivided family, a firm, a local authority,

a club, a corporation, any social or religious institution, a trust, or society, a State Government or the Central Government or artificial juridical person not falling within any of the preceding descriptions.;

(h) 'Place of business' includes an office, or any other place which a hotelier or a proprietor uses for the purpose of business or where he keeps his books of accounts in any media;

(i) 'prescribed' means prescribed by rules made under this Act;

(ii) 'proprietor' in relation to accommodation provided for commercial purposes or accommodation with luxuries provided for other purposes, includes person who for the time being is in-charge of the management of building or part of building or tent or enclosure or an open space provided to conduct the business, as the case may be;

(j) 'receipt' means the amount of monetary consideration received or receivable by a hotelier or a proprietor or by his agent for the luxury provided in a hotel or for the accommodation provided for commercial purposes or for accommodation with luxuries provided for other purposes;

(k) 'registered' means registered under section 9 of this Act;

(l) 'rules' means rules made under this Act;

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

(m) 'State' means the State of Goa;

(n) 'tax' means the tax levied on luxuries provided in a hotel or for accommodation provided for commercial purpose/and on other luxuries provided under this Act;

(o) 'Tribunal' means a Tribunal constituted under section 4;

(p) 'turnover of receipts' means the aggregate of the amount of monetary consideration received or receivable by a hotelier or by a proprietor or by his agent in respect of luxuries provided in a hotel or for accommodation provided for commercial purpose or for accommodation with luxuries provided for other purposes, during a year;

(q) 'year' means a financial year;

5. Incidence and levy of tax.— (1) Subject to the provisions of this Act and the rules made thereunder, there shall be levied a tax on the turnover of receipts of a hotelier.

(2) There shall be levied a tax on the turnover of receipts at the rates provided in Schedule I hereto.

(3) Where in addition to the charges for luxury provided in a hotel, service charges are levied and appropriated by the hotelier and not paid to the staff, then such charges shall be deemed to be part of the charges for luxury provided in the hotel.

(4) Where luxury provided in a hotel to any person (not being an employee of the hotel) is not charged at all, nevertheless there shall be levied and collected a tax on such luxury at one fourth of the rates specified in sub-section (2), as if full charges for such luxuries were paid to the hotelier.

(5) The tax shall not be levied and payable in respect of the turnover of receipts for supply of food and drinks, on the sale of which the hotelier is liable to pay tax under the Goa Value Added Tax Act, 2005 (Act 9 of 2005).

(6) For the purposes of this Act, tax collected separately by the hotelier shall not be considered to be part of the receipt of the turnover of receipts of the hotelier.

(7) (i) The Government may, by notification in the Official Gazette,—

(a) reduce any rate of tax;

(b) enhance any rate of tax; and may by like notification, add to, or omit from, or otherwise amend any entry, of the Schedule and thereupon the Schedule shall be deemed to have been amended accordingly.

(ii) Any notification issued under clause (i) shall take effect prospectively, either from the date of publication thereof in the Official Gazette or from such later date as may be mentioned therein.

(iii) Every notification made under clause (i) shall be laid as soon as may be after it is made on the table of Legislative Assembly while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the notification or the Legislative Assembly agrees that the notification should not be made and notify such decision in the Official Gazette, the notification shall from the date of publication of such decision 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 or omitted to be done under that notification.

SCHEDULE II

[See sections 9(2) and 9A]

Serial No.	Category of business	Amount of registration charges/renewal charges
1	2	3

Hotelier

- (1) For hotels having upto 25 rooms including rent back accommodation, tourist home and any other accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982 (Act 10 of 1982). Rs. 1,000/-
- (2) For hotels having rooms in excess of 25 but upto 50 including rent back accommodation, tourist home and any other accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982 (Act 10 of 1982). Rs. 2,500/-
- (3) For hotels having rooms in excess of 50 but upto 100 including rent back accommodation, tourist home and any other accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982 (Act 10 of 1982). Rs. 5,000/-
- (4) For hotels having rooms in excess of 100 but upto 200 including rent back accommodation, tourist home and any other accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982 (Act 10 of 1982). Rs. 10,000/-

1	2	3
(5)	For hotels having rooms in excess of 200 including rent back accommodation, tourist home and any other accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982 (Act 10 of 1982).	Rs. 15,000/-

Proprietor

(1)	Accommodation provided for commercial purposes.	Rs. 2,000/-
(2)	Accommodation with luxuries provided for other purposes.	Rs. 2,000/-