

Tripura Act No. 8 of 1990.

The Tripura Tax on Luxuries in
Hotels and Lodging Houses
Act, 1990.

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**GOVERNMENT OF TRIPURA
LAW DEPARTMENT**

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Dated, Agartala, the 24th July, 1990.

The following Act of the Tripura Legislative Assembly received assent of the Governor on 16-7-1990 is hereby published for general information.

TRIPURA ACT NO. 8 OF 1990.

**THE TRIPURA TAX ON LUXURIES IN HOTELS AND LODGING
HOUSES ACT, 1990.**

AN

ACT

to provide for the levy and collection of tax on Luxuries provided in Hotels and
lodging Houses.

Be it enacted by the Legislative Assembly of the State of Tripura in the Forty first
year of the Republic of India as follows:-

1. Short title, extent and commencement-

- (1) This Act may be called the Tripura Tax on Luxuries in Hotels and Lodging Houses Act, 1990.
- (2) It extends to the whole of the state of Tripura.
- (3) It shall come into force on such date as the State Government may, by notification in the Tripura Gazette, appoint.

Definitions:

2. In the Act, unless the context otherwise requires,-
 - (a) “ appellate authority” means an appellate authority appointed under section 4;
 - (b) “ assessing authority” means an assessing authority appointed under section 4;
 - (c) “ Commissioner” means the commissioner appointed under section 4;
 - (d) “concessional rate” in relation to luxury provided in a hotel means a rate lower than the normal rate fixed for such luxury by the hotel or lower than that fixed by the Government or any other authority under any law for the time being in force;
 - (e) “ Government “means the State Government of Tripura;
 - (f) “Hotel” means a building or part of a building where residential accommodation with or without board is provided for cash or for deferred payment and includes lodging house and a club;
 - (g) “Luxury provided in a hotel” means the accommodation for residence provided in a hotel, including air-conditioning, television, radio, music, extra beds and the like but does not include the charges for food, drink and telephone calls;
 - (h) “notification” means a notification published in the Tripura Gazette and the word ‘Notified’ shall be construed accordingly,
 - (i) “ prescribed” means prescribed by rules made by the Government under this Act;
 - (j) ‘proprietor’ in relation to a hotel includes any person responsible for the management thereof;
 - (k) “ tax” means the tax levied and collected under this Act;
 - (l) ‘year’ means the twelve months ending on the 31st day of March.

3. Levy and collection of Tax.

- (1) Subject to the provisions of this Act, there shall be levied and collected from every person residing in a hotel where the rate of charge in respect of any luxury provided in a hotel to him is ¹[rupees one hundred or more per day, per person], a tax at the rate of ten percentum of such rate:

¹Substituted vide The Tripura Tax on Luxuries in Hotels & Lodging Houses (Amendment) Act, 2005 with effect from 9th December, 2005.

Provided that, where the charges are levied otherwise than on daily basis or per person, then the charges for determining the tax liability under this section shall be computed as for a day and per person based on the period of occupation of the residence for which the charges are made and the number of person actually occupying or permitted to occupy according to the rules or custom of the hotel.

(2) The tax levied under this section shall be payable by the proprietor within such period and in such manner as may be prescribed.

(3) In computing the amount of tax payable under this section, any fraction of rupee arrived at shall be rounded off to the next higher rupee.

(4) Where any proprietor fails or neglects to pay the tax within the time prescribed, such amount of tax shall be recoverable with interest calculated at the rate of two rupees for every one hundred rupees or part thereof for each month or part thereof, from the date specified, for its payment.

4. Appointment of commissioner, Assessing or Appellate Authority and their powers and functions of Assessing Authorities.

(1) The Government may by notification appoint a Commissioner for the purpose of exercising the powers conferred and performing the functions entrusted to him by or under this Act.

(2) The Government may also appoint the assessing authority, appellaite authority and such other officers as they may deem fit for the purposes of this Act, and such authorities and Officers shall perform such functions within such area or areas or the whole of the State of Tripura as they may assign to them.

(3) The Commissioner assessing authority and the appellate authority shall exercise such powers and perform such functions as may be prescribed.

5. Mode of collection of tax.

- (1) Where no separate charges for luxury provided in a hotel and for a food or drink, or telephone calls are specified, but a consolidated payment is required to be made both for luxury provided in a hotel and for food or drink, or telephone calls, then, the assessing authority may, from time to time, after giving the proprietor an opportunity of being heard, fix separate rate of charges for such luxury and for food or drink or telephone calls for the purpose of calculating the tax under this Act.
- (2) Where, in addition to the charges for luxury provided in a hotel, service charges are levied and appropriated by the proprietor and not paid to the staff over and above the wages or salaries, then such charges shall be deemed to be part of the charges for luxury provided in the hotel.
- (3) Where luxury provided in a hotel to any person (not being an employee of the hotel) is not charged at all, or is charged at a concessional rate, then the tax on such luxury shall be levied and collected as if full charges for such luxury were paid to the proprietor of the hotel.
- (4) Where luxury provided in a hotel for a specified number of persons is shared by more than the number specified, then in addition to the tax paid for the luxury provided to such specified number of persons, there shall also be levied and collected separately, the tax in respect of the charges made for the additional number of persons accommodated.
- (5) Where any proprietor fails or neglects to collect the tax payable under this Act, the tax shall be paid by the proprietor as if the tax was collected by the proprietor from the person to whom the luxury was provided and who was accordingly liable to pay the same.

(6) Returns.

- (1) Every proprietor liable to pay tax under this Act, shall furnish a monthly return in the prescribed form to the assessing authority within fifteen days after the expiry of the month to which the return relates.

- (2) Every such return shall contain such particulars as may be prescribed.
- (3) A proprietor furnishing a return as required under sub-section(1) shall first pay in such manner as may be prescribed, the full amount of the tax due from him according to such return and enclose proof of such payment with the return.
- (4) Every return shall be verified in such manner as may be prescribed.

7. Assessment and collection of tax.

(1) If the assessing authority is satisfied that the return furnished under sub-section (1) of section 6 is complete and if there is no reason to believe it to be incorrect, he shall assess the amount of tax due from the proprietor on the basis of such return.

(2)(a) If the assessing authority is not satisfied that the return furnished under sub-section (1) of section 6 is complete or it has reason to believe that is incorrect and it considers it necessary to require the presence of the proprietor or the production of further evidence it shall serve a notice on such proprietor in the manner prescribed requiring him on a date and at a place specified therein either to attend and produce or cause to be produced all evidence on which such proprietor relies in support of his return or to produce such evidence as is specified in the notice.

(b) On the date specified in the notice, or as soon as may be thereafter, the assessing authority shall, after considering all the evidence which may be produced, assess the amount of tax due from the proprietor.

(c) If the proprietor fails to comply with the terms of the notice issued to him under clause (a), the assessing authority shall assess to the best of its judgement, the amount of tax due from him.

(3) If a proprietor liable to pay tax under this Act, fails to furnish a return in respect of any period within the period specified in sub-section (1) of section 6, the assessing authority shall, after giving the proprietor a reasonable opportunity, of being heard, assess to the best of his judgement, the amount of tax, if any, due from him.

(4) The amount of tax assessed and due from the proprietor under this section shall be paid by the proprietor on receipt of the notice issued by the assessing authority in the prescribed form, within such time as may be prescribed.

(5) Any assessment made under this section shall be without prejudice to any penalty or prosecution for any offence punishable under this Act.

8. Assessment of escaped or under assessed tax.

If for any reason any tax payable under this Act, has escaped assessment or has been under assessed or assessed at a lower rate than the rate at which it is assessable, the assessing authority may at any time within four years from the expiry of the year to which the tax relates, proceed to assess or re-assess the tax, as the case may be, to the best of its judgement after issuing a notice to the proprietor concerned and after making such enquiry as it considers necessary:

Provided that the tax shall be charged at the rate at which it would have been charged if such tax had not escaped assessment or, as the case may be, had not been under assessed or assessed at a rate lower than the rate at which it was assessable.

9. Imposition of penalty in certain cases.

(1) Where any proprietor liable to pay tax under this Act:-

(a) fails without sufficient cause or neglects to furnish a return as required by sub-section (1) of section 6; or

(b) while furnishing a return under sub-section(1) of section 6 fails, without sufficient cause or neglects, to pay the whole amount of tax due from him according to such return as required by sub-section (3) of section 6; or

(c) fails, without sufficient cause, to comply with the terms of notice issued to him under clause (a) of sub-section (2) of section 7; or

(d) conceals the particulars of any transaction or deliberately furnishes inaccurate particulars of any transaction liable to tax;

the assessing authority may impose upon such proprietor by way of penalty, in addition to any tax assessed under section 7 or 8, a sum not exceeding three times the amount of tax due, where the failure or concealment is wilful and a sum not exceeding the amount of tax due, where the failure or concealment is not wilful.

(2) The amount of penalty, if any, levied under sub-section (1) shall be paid by the proprietor in such manner as may be prescribed within such time as may be specified by the assessing authority, in the notice issued by it for this purpose, not exceeding thirty days from the date of service of the notice.

10. Payment of tax, penalty and other dues payable under the Act in instalments.

(1) The Commissioner or any other Officer authorized by him may allow extension of time for payment of any tax, penalty or other amount due under this Act and may also permit the payment thereof in such instalments in appropriate cases subject to such conditions as he may specify, having regard to the circumstances of each case.

(2) Any tax, penalty, interest or any other amount due under the Act which remains unpaid on the date specified in the notice and any instalment not duly paid, shall be recoverable as an arrear of land revenue.

(3) If the tax assessed or penalty levied under this Act or any instalment thereof is not paid by the proprietor within the time specified therefor in the notice or in the order permitting payment of instalments or in any other provision of this Act or rule made thereunder, the proprietor shall pay, in addition to the amount of such tax, penalty or installment, interest at the rate of two rupees for every one hundred rupees or part thereof for each month or part thereof, from the date specified for its payment.

11. Appeal.

(1) Any proprietor aggrieved by the order of assessment made under section 7 or section 8 or by an order imposing penalty under section 9 may within thirty days from the date of receipt of the order, appeal to the appellate authority:

Provided that the appellate authority may admit an appeal preferred after the period of thirty days aforesaid, if it is satisfied that the proprietor had sufficient cause for not preferring the appeal within that period.

(2) The appeal shall be in such form and verified in such manner as may be prescribed and shall be accompanied by a fee calculated at the rate of two percent of the tax or penalty under dispute subject to a minimum of rupees fifty and maximum of rupees one thousand.

(3) On receipt of an appeal under sub-section (1) the appellate authority may, after giving the appellant a reasonable opportunity of being heard, confirm, annul or modify the assessment or penalty.

(4) Where an appeal is admitted under this section, the appellate authority may, on an application filed by the appellant and subject to such terms and conditions as he may think fit, order stay of collection of the tax or penalty under dispute pending disposal of the appeal.

12. Revision.

(1) The Commissioner may, either suo motu or on an application made to him, call for and examine the record of the assessing authority or as the case may be, of the appellate authority in respect of any proceeding to satisfy himself as to the regularity of any such proceeding or the correctness, legality or propriety of any decision taken or order passed therein and may pass such order thereon as he deems fit.

(2) No application under sub-section(1), shall be entertained if it is not made within a period of four months from the date of receipt of the order and unless it is accompanied by a fee calculated at the rate of two percent of the tax or penalty

under dispute subject to a minimum of rupees one hundred and a maximum of rupees two thousand.

(3) The powers of revision shall be exercised within such a period not exceeding four years from the date on which the order was served on the proprietor.

(4) No order which adversely affects any person shall be passed under this section, unless such person has been given a reasonable opportunity of being heard.

(5) Where the Commissioner rejects any application for revision under this section, he shall record the reasons for such rejection.

13. Court fee on appeal and application for revision.

Notwithstanding anything contained in the Court Fees Act, 1870, as in force in the State of Assam, as extended to Tripura, an appeal preferred under section 11 or any application for revision made under section 12 shall bear a Court fee stamp of such value as may be prescribed.

14. Refund of tax.

(1) If any proprietor satisfies the assessing authority that on account of any clerical or arithmetical error in calculating the amount of tax, the amount of tax paid by him or recovered from him in respect of any period exceeds the amount with which he is properly chargeable under this Act, for that period, he shall be entitled to a refund of the excess so paid, or recovered.

(2) Where as a result of an order passed under section 11 or section 12, the refund of any amount becomes due to proprietor, the assessing authority shall refund such amount to him.

(3) The assessing authority shall refund the excess amount to the proprietor, or, at the option on the proprietor, adjust such excess amount towards the tax due in respect of any other period:

Provided that the assessing authority may first apply the excess amount in respect of any period towards recovery of any amount for which a notice of demand has already been issued and shall then refund the balance, if any.

(4) If any amount liable for refund under this section is not refunded within six months from the date on which the claim is made by the proprietor, the Government shall pay the proprietor, simple interest at twelve per cent per annum on the amount directed to be refunded from the date immediately following the expiry of the period of six months aforesaid to the date of the order granting the refund.

Explanation:- If the delay in granting the refund within the period of six months aforesaid is attributable to the proprietor, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which the interest is payable.

(5) Where any question arises as to the period to be excluded for the purposes of calculation of interest under the provisions of this section, such question shall be determined by the Commissioner, whose decision shall be final.

15. Offences.

(1) Any person who being a proprietor liable to pay tax under this Act:-

- (a) furnishes or allows or causes to be furnished an incorrect or incomplete return or fails to submit the returns as required by or under the provisions of this Act;
- (b) fraudulently evades or allows to be evaded the payment of any tax due from him;
- (c) fraudulently makes or causes or allows to be made any wrong entry in, or fraudulently omits or causes or allows to be omitted any entry from, any statement furnished or any accounts or register;
- (d) knowingly collects from any person any amount by way of tax in excess of the amount of tax payable by him under the provisions of this Act; or
- (e) Wilfully acts in contravention of any of the provisions of this Act or the rules made there-under or any lawful orders passed in accordance therewith;

shall, on conviction, be liable to be punished with simple imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

(2) (a) No Court shall take cognizance of any offence punishable under sub-section (1) except upon a report in writing of the assessing authority having jurisdiction over the area concerned.

(b) No Court inferior to that of a Magistrate of the first class shall try any offence punishable under sub-section (1).

16. Offences by companies.

(1) Where an offence under this Act, has been committed by a company, every person, who at the time when the offence was committed, was in charge of and was responsible to the company, for the conduct of business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided under this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything in sub-section (1) where any offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company such director, manager, secretary or other officer, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purpose of this section:-

(a) "company" means a body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

17. Compounding of offences.

(1) Subject to such conditions as may be prescribed, the assessing authority may, either before or after the institution of proceedings for an offence under this Act, permit any person, who has committed or is suspected to have committed the offence, to compound the offence on payment of such sum not exceeding one thousand rupees or double the amount of tax to which the offence relates whichever is greater.

(2) On payment of such sum as may be determined by the assessing authority under sub-section (1), no further proceedings shall be taken against the person in respect of the same offence.

(3) Any order passed or proceeding recorded by the assessing authority under sub-section (1) shall be final and no appeal or application for revision shall lie therefrom.

18. Power to enforce attendance, etc. Central Act V of 1908.

All authorities under this Act, shall for the purpose of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of enforcing the attendance of any person and to examine him on oath or affirmation or for compelling the production of any document.

19. Maintenance of true and correct accounts and records by proprietor, etc.

Every proprietor of a hotel liable to pay tax under this Act, and every other person required so to do by the assessing authority shall keep and maintain a true and correct account promptly in any of the languages specified in the Eighth Schedule to the Constitution or in English showing such particulars as may be prescribed.

20. Powers to order production of accounts and powers of entry inspection etc.

(1) The assessing authority may, subject to such conditions as may be prescribed, require any proprietor to produce before it the working records, accounts, registers or other documents or to furnish any information relating to the luxury provided in the hotel as may be necessary for the purposes of this Act.

(2) All working records, accounts, registers or other documents relating to the luxury provided in hotel shall at all reasonable times, be open to inspection by the assessing authority and the assessing authority may take or cause to be taken such copies or extracts of such records as may be necessary for the purpose of satisfying itself regarding the accuracy of the charges for such luxury or for informing itself as to the particulars regarding which information is required for the purpose of this Act or any rules made thereunder as would appear to it necessary.

(3) If the assessing authority has reason to believe that any proprietor has evaded or is attempting to evade the payment of tax due from him, it may for reasons to be recorded in writing seize such records, accounts, registers, or other documents of the proprietor as may be necessary and shall grant a receipt for the same and shall retain the same so long only as may be necessary in connection with any proceeding under this Act or for a prosecution.

(4) For the purpose of this Act, the Commissioner or any other person authorized by him in this behalf may enter and search any hotel or any place of business of the proprietor or any other place where such authority has reason to believe that the proprietor keeps or is for the time being keeping any records, accounts, registers or other documents of his business in relation to the hotel.

21. Certain provisions of Limitation Act to apply to appeal and revision application Central Act, 36 of 1963.

The provisions of sections 4, 5 and 12 of the Limitation Act, 1963, shall as far as may be, apply in computing the period for making and appeal under section 11 or an application for revision under Section 12.

22. Bar of Jurisdiction of courts.

(1) No suit shall lie in any civil court to set aside or modify any assessment made or order passed under this Act.

(2) No suit, prosecution or other legal proceedings shall lie against the Government or an employee of the Government for anything which is done in good faith, or intended to be done in pursuance of this Act or any rule made thereunder.

23. Protection of acts done in good faith.

No suit, prosecution or other proceedings shall lie against the Government or any officer, authority or person empowered to exercise the powers and perform the functions by or under this Act, for anything which is in good faith done or intended to be done under this Act or the rules or orders made thereunder.

24. Powers to delegate.

The Commissioner may, subject to such conditions and restrictions as the Government may, by general or special order impose, by order in writing delegate to any officer or authority subordinate to him, either generally or as respects any particular matter or class of matters any of his powers under this Act.

25. Power to transfer proceedings.

The Commissioner may, after giving the parties a reasonable opportunity of being heard, wherever it is possible so to do, and after recording his reasons for doing so, by order in writing transfer any proceedings or class of proceedings under any provisions of this Act, from himself to any other officer, and he may likewise transfer any such proceedings (including a proceeding pending with any officer or already transferred under this section) from any officer, to any other officer or to himself:

Providing that, nothing in this section shall be deemed to require any such opportunity to be given where the transfer is from any officer and the offices of both are situated in the same city, locality or place.

Explanation:- In this section, the word "Proceedings" in relation to any proprietor concerned is specified in any order issued thereunder means all proceedings under this Act, in respect of any year, which may be pending on the date of such order or which may have been completed on or before such date and includes also all proceedings under this Act, which may be commenced after the date of such order in respect of any year in relation to such proprietor concerned.

26. Power to make rules.

(1) The Government may, by notification make rules for carrying out all or any of the purposes of this Act.

(2) Any rule made under this Act, may be made with retrospective effect and when such a rule is made, the reasons for so making the rule shall be specified in a statement to be laid before the Legislative Assembly of the State.

(3) Every rule made under this Act, shall immediately after it is made, be laid before the Legislative Assembly of the State if it is in session and if it is not in session in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiration of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, 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.

27. Power to remove difficulties.

If any difficulty arises in giving effect to the provisions of this Act, the Government may, by notification, make such provision not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient to remove the difficulty.

28. Power to alter the rates of tax.

(1) The Government may, by notification, alter the rate of tax specified in subsection (1) of section 3 and unless the notification in the meantime rescinded, be introduced in the Legislative Assembly following the date of the issue of notification a Bill on behalf of the Government, to give effect to the alteration of rate of tax specified in the notification and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications, but without prejudice to the validity of anything previously done thereunder:

Provided that if the notification under sub-section (1), is issued when the Legislative Assembly is in session, such a bill shall be introduced in the Legislative Assembly during that session:

Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislative Assembly the notification shall cease to have effect on the expiration of the said period of six months.

(2) Any reference to the rate of tax made under this Act, shall be construed as relating to the rate of tax as for the time being amended in exercise of the powers conferred by this section.

By order of the Governor,

N.G.Das,
Secretary, Law.