

NAGALAND ACT 4 OF 1965

[THE NAGALAND AMUSEMENT TAX ACT, 1965]

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An Act to make an addition to the public revenue of Nagaland and for that purpose to impose a tax on entertainment and other amusements.

Preamble.- WHEREAS it is necessary to make an addition to the public revenue of Nagaland and for that purpose to impose a tax on entertainments and other amusements;

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

Short title, extent and commencement.- 1. (1) This Act may be called the Nagaland Amusement Tax Act, 1965.

(2) It extends to the whole of Nagaland.

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

Definitions.- 2. In this Act, unless there is anything repugnant in the subject or context-

- (1) "Admission" includes admission as a spectator or as one of an audience and admission for the purpose of amusement by taking part in an entertainment;
- (2) "Admission to an entertainment" includes admission to any place in which the entertainment is held;
- (3) "Agriculture" includes horticulture and live-stock breeding;
- (4) "Entertainment" includes any exhibition, performance, amusement, game or sport to which persons are admitted for payment;
- (5) "Live-stock" includes animal of every description;
- (6) "Payment for admission" includes any payment made by a person who having been admitted to one part or a place of entertainment is subsequently admitted to another part thereof for admission to which a payment involving a tax or higher rate of tax is required and any payment for seats or other accommodation in a place of entertainment;
- (7) "Prescribed" means prescribed by rules under this Act;
- (8) "Proprietor" in relation to any entertainment means the owner and shall include manager, organizer and any person responsible for, or for the time being in charge of the management thereof;

- (9) “Society” includes a company, institution, club or other association of persons by whatever name called.

Taxing authorities.- 3. The State Government may, for carrying out the purpose of this Act appoint a person to be Commissioner of Taxes or empower, by notification in the Official Gazette, an official to discharge the functions of such authority.

Delegation of Commissioner’s powers.- 4. Subject to such restrictions and conditions as may be prescribed, the Commissioner may by notification in the Official Gazette, delegate any of his powers under this Act to any official and any such official shall thereupon exercise the said powers.

Tax on payments for admission to entertainments.- 5. (1) Except as otherwise expressly provide in this Act there shall as from the date on which this Act comes into force, be charged, levied and paid to the Government of Nagaland a tax hereinafter referred to as the entertainments tax, on all payments for admission to any theatre, cinematograph exhibition, or circus or any class of entertainment to which the State Government may apply this sub-section, at rates specified below:

- (a) in this case of games, sports, music or dramatic performance organized by the State body (or any other body affiliated to it) which is either registered under the Societies Registration Act, 1860 (**Act 21 of 1860**) or affiliated to an all India body constituted for similar purpose: twelve and half per centum of such payments.
- (b) in any other case where the payment for admission is:
 - (i) less than one rupee ... twenty five percentum of such payment
 - (ii) one rupees or more but ... thirty seven and a half percentum of payment.
 - (iii) two rupees or more ... fifty percentum of such payment.

Provided that there shall not be charged, levied and paid to the State Government any tax where the highest payment for admission does not exceed 25 paise.

“Explanation”- The rate of tax shall be charged and levied on the payment of admission excluding the tax and if the amount of tax so arrived at is not a multiple of five paise it shall be rounded to the next higher multiple of five paise.

(2) The State Government may on the application of a proprietor of any entertainment in respect of which the entertainments tax is payable under sub-section (1) allow the proprietor on such conditions as it may prescribe to pay the amount of the tax due by means of a

consolidated payment of fifty percentum of the gross sum received by the proprietor on account of payments for admission to the entertainment and on account of the tax.

Levy of entertainment tax on complimentary passes or tickets.- 3. The entertainments tax shall be charged, levied and paid on all free or complimentary passes or tickets by whatever name called, issued by the proprietor, exhibitor or organizer of the entertainments in respect of admissions without payment to a seat or other accommodation therein.

Liability to pay tax.- The liability to pay the entertainments tax shall be on the proprietor of the entertainments.

Additional tax on cinematograph exhibitions.- 6. (1) In the case of cinematograph exhibition in addition to the entertainments tax under section (5), there shall be levied and paid to the State Government of Nagaland for every show a tax at the rate of ten percentum of the total payment for admission received excluding the amount of tax payable under this Act or rupees five whichever is less.

(2) The tax levied under sub-section (1) shall be recoverable from the proprietor of the cinematograph exhibition.

(3) The provisions of this Act other than section 5 and 7 shall, so far as may be, apply in relation to the tax payable under sub-section (1) as they apply in relation to the tax payable under section 5.

Admission to entertainments.- 7. No person shall be admitted to any entertainment where the payment for admission is subjected to the entertainments tax, except: -

- (a) with a ticket stamped with an impressed, embossed, engraved, or adhesive stamp (not before used) issued by the State Government for the purpose of revenue and denoting that the proper entertainments tax has been paid;
- (b) in special cases with the approval of the State Government, through a barrier which, or by means of a mechanical contrivance which automatically registers the number of persons admitted, unless the proprietor of the entertainment has made arrangements approved by the State Government for furnishing returns of payments for admission to the entertainment and has given security up to an amount and in a manner approved by the State Government the payment of the entertainments tax;

Provided that the provisions of this section shall not apply to the proprietors and the officers of the Government on duty.

Penalty for non-payment of tax.- 8. If any person is admitted for payment to any place of entertainment and the provisions of section 7 are not complied with, the proprietor of the entertainment to which such person is admitted shall, on conviction before a Magistrate, be liable in respect of each such offence to a fine not exceeding five hundred rupees, and shall in addition be liable to pay any tax which should have been paid.

Section 7 and 8 not to apply in certain case.- 9. The provisions of sections 7 and 8 shall not apply to any entertainment in respect of which a consolidated payment is made under section 5, sub-section (2).

Manner of payment.- 10. (1) The entertainments tax shall be charged in respect of each person admitted for payment, and, in the case of admission by stamped ticket, shall be paid by means of the stamp on the ticket and in the case of admission otherwise than by stamped ticket, shall be calculated and paid on the number of admissions.

(2) The entertainments tax, in the case of admission otherwise than by stamped ticket, shall be recoverable from the proprietor.

(3) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or a contribution to any society, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, or for any privilege, right, facility or anything combined with the right of admission to any entertainment, or involving such right of admission without further payment or at a reduced charge the entertainment tax shall be paid on the amount of the lump sum, but where the State Government is of opinion that the payment of a lump sum or any payment for ticket represents payment for other privileges, right or purposes besides the admission to an entertainment covers admission to an entertainment during any period for which the tax has not been in operation, the tax shall be charged on such an amount as appears to the State Government to represent the right of admission to entertainments in respect of which the entertainments tax is payable.

(4) The tax referred to in sub-section (1) of section 6 shall be paid in such manner and by such time as may be prescribed.

Exemption.- 11. (1) The entertainments tax shall not be charged on payments for admission to any entertainment where the State Government is satisfied: -

- (a) that the whole of the takings thereof after deducting the actual expenses of the entertainment to a maximum of twenty five per centum of the total receipt are devoted to philanthropic, religious or charitable purpose; or

- (b) that the entertainment is of a wholly educational character (any question on that point to be determined in the case of difference by the State Government in the Department of Education); or
- (c) that the entertainment is provided for partly educational or partly scientific purposes by a society not conducted or established for profit; or
- (d) that the entertainment is provided by a society which is established solely for the purpose of promoting the interest of the industry of agriculture, or the manufacturing industry or some branch thereof or the public health, and which is not conducted for profit, and consists solely of an exhibition of the products of the industry, or branch thereof, for promoting the interests of which the society exists or of materials, machinery, appliances or food-stuff, used in production of those products, or of articles which are of material interest in connection with the questions relating to the public health, as the case may be; or
- (e) that the entertainment is provided by the management of a Tea Estate for the benefit of the Estate's labour force for which no charge for admission is made.

(2) The State Government may by general or special order exempt any entertainment or class of entertainments from liability to the entertainments tax.

Refunds in certain circumstances.- 12. Where the State Government is satisfied that the whole of net proceeds of an entertainment are devoted to philanthropic, religious or charitable purposes, and that in calculating the net proceeds not more than twenty five percent of the gross proceeds have been deducted on account of the expenses of the entertainment, they shall repay to the proprietor the amount of the entertainments tax paid in respect of the entertainment.

Recoveries.- 13. (1) Any sum due on account of the entertainments tax or tax due under section 6 shall be recoverable by the State Government as a public demand.

(2) Any fine imposed under this Act shall be recovered in the manner provided in Code of Criminal Procedure, 1898 (**V of 1898**) for the recovery of fines.

Inspection.- 14. (1) Any officer authorized by the State Government for the purpose may enter any place of entertainment while the entertainment is proceeding, in any place ordinarily used as a place of entertainment at any reasonable time, with a view to seeing whether the provisions of this Act or any rules made thereunder are being complied with.

(2) If any person prevents or obstructs the entry of any officer so authorized, he shall in addition to any other punishment to which he is liable under any law for the time being in force, be liable on conviction before a magistrate to a fine not exceeding two hundred rupees.

(3) Every officer authorized under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code 1860, [Act 45 of 1860].

Rules.- 15. (1) The State Government may make rules for securing the payment of the entertainments tax and generally for carrying into effect the provisions of this Act, and in particular;

- (a) For the supply and use of stamps or stamped tickets or for the stamping of tickets sent to be stamped; and for securing the defacement of stamps when used;
- (b) for the use of tickets covering the admission of more than one person and the calculation of the tax thereon; and for the payment of the tax on transfer from one part of a place of entertainment to another and on payments for seats or other accommodation;
- (c) for controlling the use of barriers or mechanical contrivances (including the prevention of the use of the same barrier or mechanical contrivance for payments of a different amount) and for securing proper records of admission by means of barriers or mechanical contrivances;
- (d) for the checking of admissions, the keeping of accounts and the furnishing of returns by the proprietors of entertainments to which the provisions of section 5, sub-section (2), are applied or in respect of which the arrangements approved by the State Government of furnishing returns are made under section 7;
- (e) for the renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund under this Act or under the rules made thereunder;
- (f) for the keeping of accounts of all stamps used, under, this Act;
- (g) for the presentation and disposal of application for exemption from payment of the entertainments tax, or for the refund thereof made under the provisions of this Act; and
- (h) for the rates of fees, for petitions, certificates and other matters,

(2) If any person acts in contravention of, or fails to comply with any such rules, he shall, on conviction before a Magistrate, be liable in respect of each offence to a fine not exceeding five hundred rupees; and

(3) Every rule made, under this section shall be laid, as soon as may be, after it is made before the Nagaland Legislative Assembly while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if

before expiry of the Nagaland Legislative Assembly agree in making any modification in the rule or the Nagaland Legislative Assembly agree what 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 have without prejudice to the validity of anything previously done under the rule.

Cognizance by courts.- 16. No court shall take cognizance of any offence under this Act or under the rules made thereunder except with the previous sanction of the Commissioner and, no court inferior to a first class magistrate shall try such offence.

Power to Government to delegate certain powers.- 17. The State Government may, by notification in the Official Gazette, delegate all or any of its powers under this Act except those conferred upon it by section 15 and by this section to any person or to any authority subordinate to the State Government.

Repeals and savings.- 18. The Assam amusements and Betting Tax Act, 1939 (Act VI of 1939) and the Assam Autonomous Districts (Amusements and Betting Tax) Regulation 1952 (Regulation VI of 1952) as extended to Nagaland shall stand repealed;

Provided that such repeal shall not affect-

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

Provided further that anything done or any action taken (including any appointment or delegation made, notification, instruction or direction made, certificate of registration granted under the Act or Regulation hereby repealed) shall be deemed to have been done or taken under the corresponding provision of the Act or Regulation and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.