

# THE DELHI ENTERTAINMENTS AND BETTING TAX (AMENDMENT) ACT, 2012

(Delhi Act 12 of 2012, dt. 21-9-2012)

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An Act to further amend the Delhi Entertainments and Betting Tax Act, 1996.

Be it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Sixty-third Year of the Republic of India as follows:-

1. **Short title, extent and commencement**

(1) This Act may be called the Delhi Entertainments and Betting Tax (Amendment) Act, 2012.

(2) It shall be deemed to have come into force on the 1st day of April, 1998, the date from which the Delhi Entertainments and Betting Tax Act, 1996 came into force.

2. **Amendment of section 2**

In the Delhi Entertainments and Betting Tax Act, 1996, in section 2, in clause (m) for the Explanation, the following Explanations shall be substituted, namely:—

*"Explanation 1 :* Any subscription raised, contribution received or donation collected in connection with an entertainment, where admission is partly or entirely by tickets/invitation specifying the amount of admission or reduced rate of ticket shall be deemed to be payment for admission;

*E-xplanation 2 :* Any sponsorship amount paid or value of goods supplied or services rendered or benefits provided to the organizer of an entertainment programme in lieu of advertisement of sponsor's product/brand name or otherwise shall be deemed to be payment for admission."

# THE DELHI ENTERTAINMENTS AND BETTING TAX ACT, 1996

(Delhi Act 8 of 1997, dt. 8-10-1997)

[As amended by Delhi Act 12 of 2012, dt. 21-9-2012, w.r.e.f. 1-4-1998]

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As passed by the Legislative Assembly of the National Capital Territory of Delhi

## CHAPTER I PRELIMINARY

### 1. Short title, extent and commencement

- (1) This Act may be called the Delhi Entertainments and Betting Tax Act, 1996.
- (2) It extends to the whole of the National Capital Territory of Delhi.
- (3) It shall come into force on such date<sup>1</sup> as the government may, by notification in the Official Gazette, appoint.

### 2. Definitions

In this Act, unless the context otherwise require,-

- <sup>2</sup>[(a) "addressable system" means an electronic device or more than one electronic devices put in an integrated system through which television signals and value added services can be sent in encrypted or unencrypted form, which can be decoded by the device or devices at the premises of the subscriber within limits of the authorization made, on the choice and request of such subscriber, by the service provider to the subscriber;
- (aa) "admission to an entertainment" includes admission to any place in which the entertainment is held and in case of entertainment through cable service and direct-to-home (DTH) service with or without cable connection, each connection to a subscriber shall be deemed to be an admission for entertainment]
- (b) "appellate authority" means the appellate authority appointed under section 5 of this Act;
- <sup>3</sup>[(c) "assessing authority" means the Entertainment and Betting Tax Officer and includes Additional Entertainment and Betting Tax Officer and Assistant Entertainment and Betting Tax Officer;]
- (d) "backer" includes any person with whom a licensed book-maker bets;
- (c) "bet" includes 'wager';
- (f) "book-maker" means any person who, whether on his own account or as servant or agent of any other person, carries on, whether occasionally or regularly, the business of receiving or negotiating bets or who in any

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<sup>1</sup> Enforceable w.e.f. 1-4-1998.

<sup>2</sup> Substituted for existing clause (a) by the Delhi Entertainments and Betting Tax (Amendment) Act, 2009 (Delhi Act 2 of 2010), dt. 5-1-2010, w.e.f. 1-2-2010.

<sup>3</sup> Substituted, *ibid*.

manner holds himself, out or permits himself to be held out in any manner, as a person, who receives or negotiates bets, or conducts such operations, and includes a 'turf commission agent'; so, however, that a person shall not be deemed to be a book-maker by reason only of the fact that he operates, or is employed in operating, a totalizator;

"broadcaster" means any person including an individual, group of persons, public or body corporate, firm or any organization or body, who or which is providing programming services and includes his or her authorized distribution agencies;

(fb) "cable operator" means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network;]

(g) "cable service" means the transmission by cables of programme including re-transmission by cables of any broadcast television signals;

(h) "cable television network" means any system consisting of a set of closed transmission paths and associated signal generation/control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

[(ha) "direct-to-home (DTH) service" means distribution of multi-channel television and radio programmes and similar content by using a satellite system, by providing signals directly to subscriber's premises without passing through an intermediary or otherwise;]

(i) "entertainment" means any exhibition, performance, amusement, game, sport or race (including horse race) or in the case of cinematograph exhibitions, cover exhibition of news-reels, documentaries, cartoons, advertisement shorts or slides, whether before or during the exhibition of a feature film or separately, and also includes entertainment through cable service '[and direct-to-home (DTH) service];

(j) "government" means the Government of the National Capital Territory of Delhi;

(k) "licensed book-maker" means a book-maker who holds a licence under section 20;

<sup>1</sup>f(ka) "multi-system operator (MSO)" means any person including an individual, group of persons, public or body corporate, firm or any other organization or body, who or which is engaged in the business of receiving television signals and value added services from a broadcaster or his authorized agencies and distributing the same or transmitting his own programming service including production and transmission of programmes and packages, directly to the multiple subscribers or through one or more cable operators and includes its authorized distribution agencies by whatever name called;]

(1) "notification" means a notification published in the Official Gazette;

(m) "payment for admission" includes—

(i) any payment made by a person for seats or other accommodation in any form in a place of entertainment;

<sup>1</sup> Inserted by the Delhi Entertainments and Betting Tax (Amendment) Act, 2009 (Delhi Act 2 of 2010), dt. 5-1-2010, w.e.f. 1-2-2010.

- (ii) any payment for cable service;
- (iii) any payment made for the loan or use of any instrument or contrivance which enables a person to get a normal or better view or hearing or enjoyment of the entertainment, which without the aid of such instrument or contrivance such person would not get;
- (iv) any payment, by whatever name called for any purpose whatsoever, connected with an entertainment, which a person is required to make in any form as a condition of attending, or continuing to attend the entertainment, either in addition to the payment, if any, for admission to the entertainment or without any such payment for admission;
- (v) any payment made by a person who having been admitted to one part of a place of entertainment is subsequently admitted to another part thereof, for admission to which a payment involving tax or more tax is required;
- <sup>1</sup>[(vi) any payment made by a person by way of contribution, subscription, installation or connection charges or any other charges collected in any manner whatsoever for entertainment through direct-to-home (DTH) broadcasting service for distribution of television signals and value added services with the aid of any type of addressable system, which connects a television set, computer system at a residential or non-residential place of subscriber's premises, directly to the satellite or otherwise.]

<sup>2</sup>[*Explanation 1*: Any subscription raised, contribution received or donation collected in connection with an entertainment, where admission is partly or entirely by tickets/invitation specifying the amount of admission or reduced rate of ticket shall be deemed to be payment for admission;

*Explanation 2* : Any sponsorship amount paid or value of goods supplied or services rendered or benefits provided to the organizer of an entertainment programme in lieu of advertisement of sponsor's product/brand name or otherwise shall be deemed to be payment for admission;]

- (n) "prescribed" means prescribed by rules made under this Act;
- (o) "proprietor" in relation to any entertainment includes any person—
  - (i) connected with the organisation of the entertainment, or
  - (ii) charged with the work of admission to the entertainment, or
  - (iii) responsible for, or for the time being in charge of, the management thereof;
- <sup>1</sup>[(iv) having licence to provide direct-to-home (DTH) service, by the Central Government under section 4 of the Indian Telegraph Act, 1885 (13 of 1885), and the Indian Wireless Telegraphy Act, 1933 (17 of 1933) and also include service provider of cable television signals and value added services, registered or licensed under the Cable Television Network (Regulation) Act, 1995 (7 of 1995);]

<sup>1</sup> Inserted by the Delhi Entertainments and Betting Tax (Amendment) Act, 2009 (Delhi Act 2 of 2010), dt. 5-1-2010, w.e.f. 1-2-2010.

<sup>2</sup> Substituted by Delhi Act 12 of 2012, dt. 21-9-2012, w.r.e.f. 14-1998. Prior to substitution, Explanation read as under:  
*"Explanation* : Any subscription raised, contribution received or donation collected in connection with an entertainment, where admission is partly or entirely by tickets/invitation specifying the amount of admission or reduced rate of ticket shall be deemed to be payment for admission;"

- (p) "race dub" includes a body of persons, corporate or incorporate, society, club or other association—
    - (i) formed for the purpose of promoting horse racing or pony racing or for holding race /fleeting, or
    - (ii) conducting or controlling such meetings;
  - <sup>1</sup>[(pa) "set top box" means an apparatus, connected to a television set or computer system at a residential or non-residential place which receives decrypted television signals and radio services to the television set or computer set, which enables the viewers to tune into multi-channel television or radio content;
  - (pb) "service provider" includes any person licensed or registered under the Indian Telegraph Act, 1885 (13 of 1885), the Cable Television Networks (Regulation) Act, 1995 (7 of 1995), the Indian Wireless Telegraphy Act, 1933 (17 of 1933) and any other Act for providing, television and radio signals and is providing entertainment;]
  - (q) "society" includes a company, institution, dub or other association of persons by whatever name called;
  - (r) "steward" in relation to a race dub includes any person—
    - (i) connected with the organisation of the race dub, or
    - (ii) responsible for, or for the time being in charge of, the management thereof;
  - <sup>1</sup>[(s) "subscriber" means a person who receives the signals of television network and value added services from multi-system operator or from cable operator or from direct-to-home (DTH) broadcasting service at a place indicated by him to the service provider, without further transmitting it to any other person.
- Explanation I:* In case of hotels, each room or premises where signals of cable television network are received shall be treated as a subscriber.
- Explanation II :* In case of direct-to-home (DTH), every television set or computer set receiving the signals shall be treated as a subscriber;]
  - (t) "tax" means entertainment tax, betting tax or the totalizator tax, as the case may be, and includes surcharge, cess, penalty or any other charge levied under this Act;
  - (u) "ticket" means a ticket or a complimentary pass for the purposes of securing admission to an entertainment in accordance with the provisions of this Act or the rules made thereunder and a "duplicate ticket", means a ticket or set of tickets used or intended to be used otherwise than in accordance with this Act or the rules made thereunder;
  - (v) "totalizator" means a totalizator in an enclosure which the stewards controlling a race meeting have set apart for the purpose, and includes any instrument, machine or contrivance known as the totalizator, or any other instrument, machine or contrivance of a like nature, or any scheme for enabling any number of persons to make bets with one another on like principles but does not include a book-maker;

<sup>1</sup> Inserted by the Delhi Entertainments and Betting Tax (Amendment) Act, 2009 (Delhi Act 2 of 2010), dt. 5-1-2010, w.e.f. 1-2-2010.

- (w) "video cinema" means any place where exhibition of cinematograph film or moving pictures or series of pictures in public organised by playing or replaying of pre-recorded cassette by means of a video cassette player or recorder either on the screen of a television set or videoscope or otherwise is provided for commercial purposes.

## **CHAPTER II**

### **ENTERTAINMENT TAX AND BETTING TAX AUTHORITIES**

#### **3. Entertainment tax and Betting tax authorities**

(1) For carrying out the purposes of this Act, the Government shall, by notification, appoint a person to be the Commissioner of Entertainment and Betting Tax.

(2) To assist the Commissioner in the execution of his functions under this Act, the Government may appoint as many Deputy Entertainment Tax and Betting Tax Commissioners, Entertainment and Betting Tax Officers, Additional Entertainment and Betting Tax Officers, <sup>1</sup>[Assistant Entertainment and Betting Tax Officers,] Inspectors, Sub-Inspectors and such other persons with such designations as the Government thinks necessary.

(3) The Commissioner shall have jurisdiction over the whole of the National Capital Territory of Delhi and the other person(s) appointed under sub-section (2) shall have jurisdiction either over the whole of the National Capital Territory of Delhi or such areas or subjects as the Commissioner may specify.

(4) The Commissioner appointed under sub-section (1), and other officers appointed under sub-section (2) shall exercise such powers as may be conferred, and perform such duties, as may be required, by or under this Act.

#### **4. Delegation**

(1) The Government may, by notification, delegate all or any of its powers under this Act, except those under sections 3, 6, 7 and 45 to any person or authority subordinate to it.

(2) The exercise of any powers delegated under sub-section (1) shall be subject to such restrictions, limitations or conditions as maybe laid down by the Government from time to time and shall also be subject to control and revision by Government at any time.

#### **5. Appellate authority**

The Government shall as soon as may be after the commencement of this Act, appoint and notify an authority to be called the "appellate authority" to exercise the powers and discharge the functions conferred on the appellate authority by or under this Act.

## **CHAPTER III**

### **ENTERTAINMENT TAX**

#### **6. Tax on payment for admission to entertainment**

(1) Subject to the provisions of this Act, there shall be levied and paid on all payments for admission to any entertainment, other than an entertainment to which section 7 applies, an entertainment tax at such rate not exceeding one hundred per cent of each such payment as the Government may from time to time notify<sup>2</sup> in this behalf,

<sup>1</sup> Inserted by the Delhi Entertainments and Betting Tax (Amendment) Act, 2009 (Delhi Act 2 of 2010), dt, 5-1-2010, w.e.f. 1-2-2010.

<sup>2</sup> Govt. of National Capital Territory of Delhi vide Noti. No. F. 12(3)/Fin (Rev-1)/2015-16 /DSF-V1/541, dt. 15-7-2015, w.e.f. 20-7-2015, notifies that the rate of entertainment tax on payment for admission in respect of all cinematographic exhibition of films in NCT of Delhi, shall be 40 percent.

and the tax shall be collected by the proprietor from the person making the payment for admission and paid to the Government in the manner prescribed.

(2) Nothing in sub-section (1) shall preclude the Government from notifying different rates of entertainment tax for different classes of entertainment or for different payments for admission to entertainment.

(3) Where the payment for admission to an entertainment together with the tax is not a multiple of fifty paise, then notwithstanding anything contained in sub-section (1) or sub-section (2) or any notification issued thereunder, the tax shall be increased to such extent and be so computed that the aggregate of such payment for admission to entertainment and the tax is rounded off to the next higher multiple of fifty paise, and such increased tax shall also be collected by the proprietor and paid to the Government in the manner prescribed.

(4) If in any entertainment, referred to in sub-section (1), to which admission is generally on payment, any person is admitted free of charge or on a concessional rate, the same amount of tax shall be payable as if such person was admitted on full payment.

(5) Where the admission to a place of entertainment is generally on payment, and if any entertainment is held in lieu of the regular entertainment programme without payment of admission or with payment of admission less than what would have been paid in the normal course, the proprietor shall be liable to pay tax which would have been payable in a normal course at full house capacity or the tax for the programme held in lieu of the regular entertainment programme, whichever is higher.

(6) Where the payment for admission to an entertainment, referred to in sub-section (1), is made wholly or partly, by means of a lump sum paid as subscription, contribution, donation or otherwise, the tax shall be paid on the amount of such lump sum and on the amount of payment for admission, if any, made otherwise.

(7) Where in a hotel or a restaurant, or a club, entertainment is provided by way of cabarets, floor shows, or entertainment is organised on special occasion along with any meal or refreshment with a view to attract customers, the same shall be taxed at a rate to be notified under sub-section (1).

## 7. <sup>1</sup>[Tax on cable, video service and direct-to-home (DTH) service]

<sup>2</sup>[(1) Subject to the provisions of this Act, there shall be levied and paid an entertainment tax on all payments for admission to an entertainment through a direct-to-home (DTH) or through a cable television network with addressable system or otherwise, other than entertainment to which section 6 applies, at such rates not exceeding rupees six hundred for every subscriber for every year as the Government may, from time to time, notify in this behalf, which shall be collected by the proprietor and paid to the Government in the manner prescribed.]

(2) Nothing in sub-section (1) shall preclude the Government from notifying different rates of entertainment tax for household, or for different categories of hotels.

(3) Where the subscriber is a hotel or a **restaurant; the proprietor** may, in lieu of payment under sub-section (1), pay a compounded payment to the Government on such conditions and in such manner as may be prescribed and at such rate as the Government may, from time to time, notify and different rates of compounded payment may be notified for the different categories of hotels.

<sup>1</sup> Substituted for the heading "Tax on cable and video service" by the Delhi Entertainments and Betting Tax (Amendment) Act, 2009 (Delhi Act 2 of 2010), dt. 5-1-2010, w.e.f. 1-2-2010.

<sup>2</sup> Substituted, *ibid*.

(4) The proprietor of a video cinema shall be liable to pay entertainment tax at a rate to be notified by the Government from time to time in this behalf.

(5) The tax payable under this section shall be paid, collected or realised in such manner as may be prescribed.

#### 8. Information before holding entertainment

(1) No entertainment on which tax is leviable shall be held without prior information being given to the Commissioner in the manner prescribed.

(2) No proprietor of a cable television network or video cinema<sup>1</sup> [or Direct-to-Home (DTH)] shall provide entertainment unless he obtains permission from the Commissioner in the manner prescribed.

(3) Notwithstanding anything contained in this Act or any other law for the time being in force, the Commissioner, or any other officer authorised by the Government in this behalf, may after giving reasonable opportunity of hearing to the proprietor, prohibit the holding of such entertainment and may also take all reasonable steps to ensure that order of prohibition is complied with, if he is satisfied that—

- (a) the proprietor has given any false information which is likely to result in the evasion of tax;
- (b) the proprietor has failed to deposit the security due;
- (c) the proprietor has committed breach of any of the provisions of this Act or the rules made thereunder.

#### 9. Restriction of admission

Save as otherwise expressly provided by or under this Act, no person (other than a person who has some specific duty to perform in connection with the entertainment, or duty imposed upon him by law, or a person authorised by the Government in this behalf) shall be admitted to any entertainment except with a ticket in the prescribed form denoting that the proper tax payable under section 6 has been paid.

#### 10. Restriction on entry to entertainment

No person (other than a person who has some specific duty to perform in connection with the entertainment, or duty imposed upon him by law, or a person authorised by the Government in this behalf) shall enter or obtain admission to an entertainment without being in possession of a proper ticket as required under section 9.

#### 11. Manner of payment

The Government may, on such conditions as may be prescribed, require the proprietor, to pay the amount of the tax payable under section 6.

- (a) by stamping the tickets with an impressed, embossed, engraved or adhesive stamp, issued by the Government for the purpose, denoting that the proper entertainment tax payable under section 6 has been paid; or
- (b) in accordance with returns of the payments for admission to the entertainment and on account of tax; or
- (c) by a consolidated payment of a percentage, to be fixed by the Government, of the gross sum received by the proprietor on account of payments for admission to the entertainment and on account of the tax; or
- (d) in accordance with results recorded by any mechanical contrivance which authoritatively registers the number of persons admitted.

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<sup>1</sup> Inserted by the Delhi Entertainments and Betting Tax (Amendment) Act, 2009 (Delhi Act 2 of 2010), dt. 5-1-2010, w.e.f. 1-2-2010.



## 12. Refund of tax

(1) Where the Commissioner is satisfied that the proprietor has deposited tax in excess of the amount actually due, he shall grant a refund in respect of such amount or allow its adjustment against future payments to tax.

(2) When an entertainment is not completed for reasons beyond the control of the proprietor, and the Commissioner is satisfied that the proprietor has refunded the amount charged for the tickets, he shall remit the amount of tax payable in respect of such tickets and order the show to be treated as cancelled.

## 13. Deposit and forfeiture of security

(1) Every proprietor before holding an entertainment on which tax is leviable shall deposit such security and in such manner as may be prescribed. The Commissioner may deduct any arrears of tax from the security and may vary or forfeit the security in such manner as may be prescribed.

(2) No order to forfeit the security shall be made under sub-section (1) unless, after giving the proprietor reasonable opportunity of being heard, the Commissioner is satisfied for reasons to be recorded that the proprietor has evaded the tax or violated the provisions of this Act or rules made thereunder.

(3) Any person aggrieved by an order forfeiting the security may, within thirty days from the date of service of such order prefer an appeal to the appellate authority in such manner as may be prescribed and the order of the appellate authority shall be final.

## 14. Exemption

(1) The Government may, for promotion of arts, culture or sports, by general or special order, exempt any individual entertainment programme or class or entertainments from liability to pay tax under this Act.

(2) The Government may, by general or special order, exempt in public interest any class of audience or spectators from liability to pay tax under this Act.

(3) Without prejudice to the generality of the provisions of sub-section (1) where the Government is satisfied that any entertainment,—

- (a) is wholly of an educational character; or
- (b) is provided partly for educational or partly for scientific purposes by a society not conducted or established for profit; or
- (c) is provided by a society not conducted for profit and established solely for the purpose of promoting public health or the interests of agriculture, or a manufacturing industry, and consists solely of an exhibition of articles which are of material interest in connection with questions relating to public health or agriculture or are the products of the industry for promoting the interest whereof the society exists, or the materials, machinery appliances or foodstuff used in the production of such products,

it may, subject to such terms and conditions as it may deem fit to impose, grant exemption to such entertainment from payment of tax under this Act:

PROVIDED that the Government may cancel such exemption if it is satisfied that the exemption was obtained through fraud or misrepresentation, or that the proprietor of such entertainment has failed to comply with any of the terms or conditions imposed or directions issued in this behalf and thereafter the proprietor shall be liable to pay the tax which would have been payable had the entertainment not been so exempted.

(4) Where the Government is satisfied that the entertainment programme is not conducted for profit and the entire gross proceeds from payment for admission as defined in clause (1) of section 2 of an entertainment are to be devoted to philanthropic, religious or charitable purposes, without any deductions whatsoever on account of the expenses of the entertainment, it may, subject to the rules made under this Act, grant exemption to such entertainment from payment of tax under this Act on such terms and conditions as it may deem fit to impose.

(5) Where any exemption from payment of tax is granted under sub-section (4), the proprietor of such entertainment shall furnish to the Commissioner such documents and records and in such manner as may be prescribed.

(6) If the proprietor of an entertainment exempted under sub-section (4) fails to furnish the documents and records required under sub-section (5), or fails to comply with any conditions imposed or directions issued in this behalf, or if the Government is not satisfied with the correctness of such documents or records, the Government may cancel the exemption so granted and thereupon the proprietor shall be liable to pay the tax which would have been payable had the entertainment not been so exempted.

(7) The Government may for reasons to be recorded in writing grant *ipso facto* exemption from payment of entertainment tax in respect of any programme.

#### 15. Assessment of tax

(1) Where the assessing authority is satisfied that the proprietor of an entertainment—

- (a) has failed to give information or take permission as required under sub-section (1) or, as the case may be, under sub-section (2) of section 8; or
- (b) has failed to submit true and full returns in the prescribed form; or
- (c) has printed, distributed, possessed, sold or used duplicate tickets; or
- (d) has fraudulently evaded or attempted to evade, the payment of tax due in any manner whatsoever,

it shall, after giving the proprietor a reasonable opportunity of being heard, assess to the best of its judgment, the amount of the tax due from the proprietor, and may also impose a penalty not exceeding two times of the tax due.

(2) The amount of tax assessed by the assessing authority shall, together with any penalty that may be directed to be paid, be paid by the proprietor within a period of fifteen days from the date of service of notice of demand issued by the assessing authority.

(3) Any person aggrieved by an order under sub-sections (1) and (2) may, within one month from the date of service of such order, prefer an appeal to the Commissioner in such manner as may be prescribed.

(4) An appeal shall lie from an appellate order of the Commissioner passed under sub-section (3) to the appellate authority within one month from the date of service of such order, in such manner as may be prescribed, and the order of the appellate authority shall be final.

#### <sup>1</sup>[15A. Power to summon witnesses and production of documents

(1) The assessing, appellate or revising authority shall, for securing the attendance or for production of any document for the purpose of this Act, have all the powers

<sup>1</sup> Inserted by the Delhi Entertainments and Betting Tax (Amendment) Act, 2009 (Delhi Act 2 of 2010), dt. 5-1-2010, w.e.f. 1-2-2010.

conferred on a Civil Court under the provisions of the Code of Civil Procedure, 1908 (5 of 1908) for the purpose of—

- (a) summoning and enforcing the attendance of any person and examining him on oath or affirmation; and
- (b) compelling the production of any document connected with the assessment proceedings.

(2) The authority referred to in sub-section (1) shall have powers to call for such information, particulars and records as he may require, from any person, including the broadcaster, cable operator, proprietor of direct-to-home, multi-system operator or the subscriber, for any purpose under this Act.]

#### **16. Provision against resale of tickets**

(1) Notwithstanding anything contained in section 56 of the Indian Assessment Act, 1882, a ticket for admission to an entertainment shall not be resold for profit.

(2) No person shall sell, resell or purchase any ticket for admission to a cinematograph exhibition in respect whereof tax is payable under section 6, except from the enclosure set apart by proprietor for the purpose and in such manner as may be prescribed.

#### **17. Inspections**

(1) The Commissioner or any other officer authorised in this behalf by the Commissioner or by the Government, may, with such assistance as may be necessary; enter, inspect and search any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment or for keeping records connected therewith, at any reasonable time with a view to securing compliance of the provisions of this Act or the rules made thereunder.

*Explanation :* The expression "place of entertainment" in case of a cable service means the place from where the cable television network is operated.

(2) Any officer referred to in sub-section (1) may require the proprietor, society or any person involved in payment for admission to produce for inspection before him or any other officer not below the rank of sub-Inspector, all details of account and other records relating to the entertainment as such officer may consider necessary.

(3) Any officer referred to in sub-section (1) or sub-section (2) may take in his possession all such books of accounts and other records relating to the entertainment as he may consider necessary and shall give a receipt giving list of the documents and records taken in possession.

(4) The proprietor of such place of entertainment shall give every reasonable assistance to every officer referred to in sub-sections (1) and (2).

(5) Every officer referred to in sub-sections (1) and (2) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

#### **18. Suspension or revocation of authorisation certificate for entertainment**

(1) No proprietor having a licence under the Cinematograph Act, 1952 (Central Act 37 of 1952) shall charge payment for admission and collect entertainment tax without an authorisation to be called 'admission fee and tax collection authorisation certificate' from the Commissioner.

(2) The Commissioner may, by order, revoke or suspend that authorisation certificate issued under sub-section (1) if he is satisfied that the proprietor has—

- (a) admitted any person to any place of entertainment without payment of tax;
- Or**

- (b) failed to pay the tax or deposit security due from him within the time prescribed; or
- (c) fraudulently evaded the payment of any tax due under this Act; or
- (d) obstructed any officer in carrying out inspection, search or seizure of records; or
- (e) failed to produce the records required for inspection by any officer carrying out an inspection under this Act; or
- (f) contravened any other provision of this Act or the rules made thereunder or any order or direction issued under any such provision.

(3) No order to revoke or suspend the 'admission fee and tax collection authorisation certificate' under sub-section (1) shall be passed without giving the holder of such certificate a reasonable opportunity of being heard.

(4) Any person aggrieved by an order, revoking or suspending the 'admission fee and tax collection authorisation certificate' under sub-section (2) may, within one month from the date of communication of such order, prefer an appeal to the appellate authority in such manner as may be prescribed and the order of the appellate authority shall be final.

(5) Where any 'admission fee and tax collection authorisation certificate' granted under sub-section (1) has revoked or suspended under this section, the Commissioner shall have the power to prevent such entertainment and may, for this purpose, take such steps as he may consider necessary in the circumstances of the case.

## CHAPTER IV

### TOTALIZATOR AND BETTING TAX

#### 19. Tax on totalizator and payment thereof

(1) There shall be charged, levied and paid to the Government, out of all moneys paid into any totalizator by way of stakes or bets, a totalizator tax at the prescribed percentage, not exceeding twenty per cent, of every sum so paid.

(2) The stewards shall issue a ticket for each stake or bet received into the totalizator.

(3) The tax shall be collected by the stewards and shall be paid to the Government in manner prescribed.

(4) The stewards shall keep accounts-in the prescribed form of all the moneys paid into the totalizator and, at such times and in such manner as may be prescribed, forward to the Commissioner, or any other officer authorized by him in this behalf, a return stating the total amount of all the moneys paid into the totalizator.

#### <sup>1</sup>[20. Licence for book-maker

No person shall act as a book-maker unless he obtains a licence from the Commissioner in the form and manner prescribed after making payment of licence fee as notified by the Government from time to time.]

#### 21. Betting tax

(1) There shall be charged, levied and paid to the Government by the backer, a betting tax at a prescribed rate, and exceeding twenty per cent on all moneys paid or agreed to be paid to a licensed book-maker by a backer, as a bet on any race.

<sup>1</sup> Substituted by the Delhi Entertainments and Betting Tax (Amendment) Act, 2009 (Delhi Act 2 of 2010), dt. 5-1-2010, w.e.f. 1-2-2010.

(2) The betting tax shall be collected by the licensed book-maker along with the money laid by the backer with him and in case of credit bets at such time as may be prescribed.

(3) The licensed book-maker shall issue a card for each bet laid with him, denoting the amount of bet.

## **22. Accounts of book-makers and procedure for making over betting tax to Government**

(1) A licensed book-maker shall keep accounts of all sums paid or agreed to be paid to him as bets by backers in such manner as may be prescribed, and forward to the Commissioner, or any other officer authorised by him in this behalf, a return of all such sums in the form and manner prescribed.

(2) All sums retained on account of the tax by a licensed book maker shall be deposited into the Government account at such time and in such manner as may be prescribed.

## **23. Restrictions on betting**

(1) No person shall bet on the result of any race held or conducted by a race club except with a licensed book-maker and in an enclosure approved by the Commissioner and set apart for this purpose by that club.

(2) No person other than a licensed book-maker shall offer or receive bets on the result of any race held or conducted by a race club and no such bet shall be offered or received except in the enclosure referred to in sub-section (1).

## **24. Revocation, etc. of book-maker s licence**

(1) Without prejudice to any other provisions of this Act, the Commissioner may, by order, revoke, or suspend the licence granted under section 20, if the licensee is guilty of contravention of the provisions of this Act or the rules made thereunder.

(2) No order to revoke or suspend a licence shall be made under sub-section (1) without giving to the licensee a reasonable opportunity of being heard:

PROVIDED that where the Commissioner is of the opinion that the object of the action proposed to be taken would be defeated by the delay, he may, while or after commuicar\_ng to the licensee the grounds on which the action is proposed, pass an interim order suspending the licence in the meantime.

(3) Any person aggrieved by an order revoking or suspending any licence under this section may, within one month from the date of service of such order, prefer an appeal to the appellate authority in such manner as may be prescribed and the order of the appellate authority shall be final.

## **25. Refund to totalizator and betting tax**

Where any race, bets wherefore have been offered or accepted either at the totalizator or by a licensed book-maker is cancelled by the stewards, and the Commissioner is satisfied that the amount of such bets and the tax thereon, has been returned to the backers, he may remit the amount of the tax, and order the race to be treated as cancelled.

## **26. Inspection**

The officers empowered or authorised under section 17 shall have the power to make inspections to ensure compliance of the provisions of this Act and the rules made thereunder in respect of races, bookmaking, betting and the totalizator and all the provisions of the said section shall, *mutatis mutandis* apply to such inspection.

## **CHAPTER V**

### **PENALTIES AND PROCEDURE**

#### **27. Penalty for admission and entry without tickets**

(1) If any person liable to pay any tax under section 6 is admitted to a place of entertainment in contravention of the provisions of **section 9, the proprietor** of the entertainment to which such person is so admitted shall be punishable with a fine, not exceeding two thousand rupees.

(2) Any person who enters or obtains admission to an entertainment in contravention of the provisions of section 10 shall be punishable with fine not exceeding twice the amount of tax due from him in addition to the amount of tax due.

#### **28. Penalty for unauthorised sale and purchase of tickets**

(1) Any person who sells any ticket in contravention of the provisions of—

- (a) sub-section (1) of section 16 shall be punishable with a fine not exceeding two thousand rupees;
- (b) sub-section (2) of said section shall be punishable with a fine not exceeding one thousand rupees.

(2) Any person, who purchases any ticket in contravention of the provisions of section 16, shall be punishable with a fine not exceeding two times of value of the admission ticket.

#### **29. Penalty for using duplicate tickets**

**Every proprietor using or possessing a duplicate ticket shall be punishable** with a fine not exceeding ten thousand rupees.

#### **30. Penalty for unauthorised betting**

(1) Any person who bets in contravention of the provisions of sub-section (1) of section 23 shall be punishable with a fine not exceeding ten thousand rupees.

(2) Any person who offers or receives bets in contravention of the provisions of sub-section (2) of section 23 shall be punishable with a fine not exceeding ten thousand rupees.

#### **31. Penalty for obstructing inspecting officers**

**If any person prevents the entry of any officer duly authorised in this behalf or otherwise obstructs such officer in the discharge of his duties imposed by or under this Act or the rules made thereunder, such person shall be punishable with a fine not exceeding five thousand rupees.**

#### **32. Penalty for entertainment which is prohibited or when authorisation certificate thereof is revoked or suspended**

Whoever holds any entertainment while it is prohibited under sub-section (3) of section 8 or while the 'admission fee and tax collection authorisation certificate' for such entertainment remains suspended or revoked under sub-section (2) of section 18, shall be punishable with fine not exceeding five thousand rupees.

#### **33. Penalty for other offence**

Any person who contravenes any other provisions of this Act or the rules made, thereunder or fails to comply with any order or direction issued in accordance with the provisions of this Act or the rules made thereunder, shall be punishable with a fine not exceeding two thousand rupees.

**34. Enhanced penalty after previous conviction**

Whoever having been convicted of an offence punishable under sub-section (1) of section 27, or clause (a) of sub-section (1) of section 28, or section 29, or section 33 is again found guilty of an offence punishable under the same provision, shall be subject for every such subsequent offence, to a fine which may extend to two times of the amount of fine provided in such provision.

**35. Offences by companies**

(1) If the person, committing an offence under this Act is a company, the company, as well as every person in charge of, and responsible to, the company, for the conduct of its business at the time of the commission of the offence, 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 punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or that the commission of offence is attributable to any negligence on the part of any managing agent, secretary, treasurer, director, manager or any other officer of the company, such managing agent, secretary, treasurer, director, manager or other officer of the company shall also 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 any 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.

**36. Bar of jurisdiction of civil courts**

No civil court shall have jurisdiction to decide, or to deal with any question, which is by or under this Act required to be decided or dealt with, by the Government, or the Commissioner, or any other officer authorised by the Government.

**37. Compounding of offence**

(1) Any offence punishable under this Act may be compounded by the Commissioner, either before or after the institution of the prosecution in relation of such amount of composition fees, as he thinks fit, but not exceeding the maximum amount of fine fixed for the offence.

(2) The proceedings instituted in the court shall abate if the offence has been compounded under sub-section (1).

**38. Cognizance of offence**

(1) No court shall take cognizance of any offence punishable under this Act or rules made thereunder except on complaint by, or with the previous sanction in writing of, the Commissioner.

(2) No court inferior to that of a Metropolitan Magistrate shall try any offence punishable under this Act or rules made thereunder.

## CHAPTER VI

### MISCELLANEOUS

#### 1[39. Recovery of tax

(1) The amount of any tax, interest, penalty or other amount due under any provision of this Act shall, without prejudice to any other mode of recovery available to the Government under any other law for the time being in force, be recoverable as arrears of land revenue.

(2) If the tax, interest, penalty or other amount due has not been deposited within the specified time, a recovery certificate to the Collector for recovery of the same shall be issued in such manner as may be prescribed.

(3) For the purposes of recovery of any amount recoverable as arrears of land revenue under this Act, the provisions of the Delhi Land Reforms Act, 1954 (Delhi Act 8 of 1954), as to the recovery of arrears of land revenue shall, notwithstanding anything contained in that Act or in any other enactment, be deemed to be in force throughout Delhi and the provisions of the Revenue Recovery Act, 1890 (1 of 1890) shall have effect accordingly.

(4) For the purposes of recovery of any amount recoverable as arrear of land revenue under this Act,—

- (a) the Deputy Entertainment Tax and Betting Tax Commissioner shall have and exercise all the powers and perform all the duties of the Deputy Commissioner under the Delhi Land Reforms Act, 1954 (Delhi Act 8 of 1954);
- (b) the Entertainment Tax Officer and Additional Entertainment Tax Officer shall have and exercise all the powers and perform all the duties of the Revenue Assistant under the Delhi Land Reforms Act, 1954 (Delhi Act 8 of 1954);
- (c) the Assistant Entertainment Tax Officer shall have and exercise all the powers and perform all the duties of Tehsildar under the Delhi Land Reforms Act, 1954 (Delhi Act 8 of 1954).]

#### 2[39A. Special mode of recovery

(1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the person at his last known address, require,—

- (a) any person from whom any amount of money is due, or may become due, to the person (in this section called "the taxpayer") liable to pay tax, interest, penalty or any amount due under this Act; or
- (b) any person who holds or may subsequently hold money for or on account of the taxpayer, to pay to the Commissioner, either forthwith upon the money becoming due or being held so much of the money as is sufficient to pay the amount due by the taxpayer in respect of the arrears of tax, interest, penalty or any other amount under this Act, or the whole of the money when it is equal to or less than that amount.

(2) The Commissioner may amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

<sup>1</sup> Substituted by the Delhi Entertainments and Betting Tax (Amendment) Act, 2009 (Delhi Act 2 of 2010), dt. 5-1-2010, w.e.f. 1-2-2010.

<sup>2</sup> Inserted, *ibid*.



(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the taxpayer, and the receipt thereof by the Commissioner shall constitute a good and sufficient discharge of the liability of such persons to the extent of the amount specified in the receipt.

(4) Any person discharging any liability to the taxpayer after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged or to the extent of the liability of the dealer for unpaid tax, penalty and interest.

(5) Where a person to whom a notice under this section is sent, proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due to the taxpayer or that he does not hold any money for or on account of the taxpayer, then, nothing contained in this, section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Commissioner.

(6) Any amount of money which the aforesaid person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as if arrears of land revenue from the aforesaid person.

(7) The Commissioner may apply to the court in whose custody there is money belonging to the taxpayer for payment to him of the entire amount & such money or if it is more than the tax, interest and penalty, if any, due, an amount sufficient to discharge such tax, interest and the penalty.]

#### **40. Interest**

If any proprietor fails to pay tax due as required under the provisions of this Act, or the rules made thereunder, he shall, in addition to tax (including any penalty) due, be liable to pay simple interest on the amount so due at one and a half per cent per month from the date immediately following the last date for payment of tax for a period of one month, and at two per cent per month thereafter so long as he continues to make default in such payment.

#### **41. Bar on certain proceedings**

No action shall lie against the Government or any of its officers or servant for any act done or purporting to be done in good faith under this Act or the rules made thereunder.

#### **42. Revision**

The Commissioner may *suo moto* or on the application of a party to a reference call for and examine the record of any proceeding under this Act pending before, or disposed of by, any officer subordinate to him, and, if he is of opinion that the proceedings taken or order made should be modified, annulled, reversed or revised, he may pass such order thereon as he may deem fit:

PROVIDED that the Commissioner shall not under this section pass an order modifying, annulling, reversing or revising any proceeding or order of a subordinate officer and affecting the proprietor without giving such proprietor an opportunity of being heard.

#### **43. Rectification or review**

(1) The Commissioner, or any person appointed under sub-section (2) of section 3 may, at any time within one year from the date of any order passed by the Commissioner or by that person, as the case may be, on his own motion rectify any mistake apparent from the record, and shall within a like period, rectify any such mistake which has been brought to his notice by any person affected by such order:

PROVIDED that no such rectification shall be made, if it has the effect of enhancing the tax or reducing the amount of refund, unless the Commissioner or the person appointed under sub-section (2) of section 3 to assist him, as the case maybe, has given notice in writing to the person likely to be affected by the order, of his intention to do so and has allowed such person a reasonable opportunity of being heard.

(2) Save as provided and subject to such rules as may be prescribed, any assessment made or order passed under this Act or the rules made thereunder by any person appointed under section 3 or by the appellate authority may be reviewed by such person or appellate authority, as the case maybe,  *suo moto* or upon an application made in that behalf:

PROVIDED that if any order passed is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

#### 44. Repeal and saving

(1) The United Provinces Entertainments and Betting Tax Act, 1937 as extended to the National Capital Territory of Delhi is hereby repealed.

(2) Repeal of the Act referred to in sub-section (1) shall not affect any liability of any tax incurred before the date of such repeal, and proceedings pending on the said date before any competent authority or court and all proceedings instituted after the commencement of this Act and relating to any such liability as aforesaid shall be continued and disposed of, or instituted or disposed of, as the case may be, as if this Act has not been passed:

PROVIDED that all rules made, notifications published, powers conferred and other things done or purported to have been done under the said Act and in force on the commencement of this Act shall, so far as they are not inconsistent with the provisions of this Act, be deemed to have been made, published, conferred or done under this Act.

#### 45. Power to make rules

(1) The Government may 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—

(a) collection of tax and payment thereof in the Government account by the proprietor;

(b) prescription of conditions and manner of payment of compounded tax to the Government in relation to a hotel or restaurant providing video cable service and the manner of collection or realisation of such tax;

procedure for giving prior information to the Commissioner for holding entertainment on which tax is leviable and for obtaining permission for holding entertainment by the proprietor of cable television network or direct-to-home (DTH) or video cinema hall]

(d) prescription of condition regarding manner of payment of tax under section 6;

2[(da) prescribing the manner of payment of entertainment tax to the Government in respect of entertainments described in section 7;]

<sup>1</sup> Substituted by the Delhi Entertainments and Betting Tax (Amendment) Act, 2009 (Delhi Act 2 of 2010), dt. 5-1-2010, w.e.f. 1-2-2010.

<sup>2</sup> Inserted, *ibid*.

- (e) procedure for furnishing security for holding an entertainment, the manner and conditions under which the security can be forfeited or the manner in which appeal can be filed against the order of forfeiture of the security;
- (f) making of rules subject to which exemption under sub-section (4) of section 14 may be granted and prescribing the manner of furnishing documents and record of such exempted entertainments to the Commissioner;
- (g) prescription of form for submission of return under clause (b) of sub-section (1) of section 15 and the manner in which appeals may be filed against orders passed under sub-sections (1), (2) and (3) of said section;
- (h) prescribing manner under sub-section (2) of section 16 to sell, re-sell or purchase ticket for admission to a cinematograph exhibition;
- (i) making rules for inspecting and searching places of entertainment, etc. under section 17;
- (i) prescribing the manner of preferring appeal under sub-section (4) of section 18;
- (k) prescription of percentage of totalizator tax payable to the Government, the manner of collection such tax, forms for keeping accounts by stewards, intervals at which, and the manner in which accounts to be forwarded to the Commissioner under section 19;
- <sup>1</sup>[(1) prescription of form, manner and licence fee for obtaining book-makers licence;]
- (m) prescription of rate of betting tax payable to Government and intervals of collection of such tax in case of credit bets;
- (n) prescribing the manner of keeping accounts by licensed book-makers, form and manner in which return to be filed and procedure and intervals for making over betting tax to Government;
- (<sup>o</sup>) prescribing the manner of preferring appeal under sub-section (3) of section, 24 against an order of revocation or suspension of book-maker's licence;
- (p) prescription of manner in which recovery certificate to collector to be issued under sub-section (2) of section 39;
- (q) making rules for reviewing assessment made or orders passed under this Act or the rules made thereunder as referred to in sub-section (2) of section 43;
- 1(44a) prescribing the conditions for conducting special audit under section 45A;]
- (r) any other matter which is required to be, or may be, prescribed.

(3) Every rules made under this Act shall be laid, as soon as may be after it is made, before the House of Legislative Assembly of the National Capital Territory of Delhi while it is in session for a total period of thirty days which may be comprised in brie 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, the house agrees in making any modification in the rule or the House agrees 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.

<sup>1</sup> Substituted by the Delhi Entertainments and Betting Tax (Amendment) Act, 2009 (Delhi Act 2 of 2010), dt. 5-1-2010, w.e.f. 1-2-2010.

<sup>2</sup> Inserted, *ibid*.

<sup>1</sup>[45A. Power of the Commissioner to issue direction for special audit

(1) If, at any stage of the proceedings under this Act, the Commissioner, having regard to the nature of the entertainment event and complexity of the transactions made by the proprietor of the entertainment event and the interest of the revenue, is of the opinion that it is necessary to do so, he may direct the proprietor by a notice in writing to get his records including books of accounts, examined and audited by an Accountant or a panel of Accountants or any other professional or panel of professionals nominated by the Commissioner in this behalf and to furnish a report of such examination and audit in the format that he may specify, duly signed and verified by such Accountant or panel of Accountants or professional or panel of professionals and setting forth such particulars as may be prescribed.

(2) Every report under sub-section (1) shall be furnished by the proprietor of the entertainment event to the Commissioner within such period as may be specified by the Commissioner:

PROVIDED that the Commissioner may, on an application made in this behalf by the proprietor and for any good and sufficient reason, extend the said period by such further period as he thinks fit.

(3) The expenses of, and incidental to the examination and audit of records under sub-section (1) (including the remuneration of the accountant or a panel of accountants or professional or panel of professionals) shall be paid by the proprietor as determined by the Commissioner and that determination shall be final and default in such payment shall be recoverable from the proprietor as tax and in the manner provided for the recovery of arrears of tax under this Act.]

46. Powers of Commissioner to issue directions

The Commissioner shall have the power to issue from time to time directions, not inconsistent with the provisions of this Act or rules made thereunder, to proprietors of entertainments, licensed book-makers and stewards of a race club for carrying out the purposes of this Act.

47. Removal of difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty :

PROVIDED that no such order shall be made after the expiration of one year from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before the House of the Legislative Assembly of the National Capital Territory of Delhi 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, the house agrees in making any modification in the order or the House agrees that the order should not be made, the order 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 order.

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<sup>1</sup> Inserted by the Delhi Entertainments and Betting Tax (Amendment) Act, 2009 (Delhi Act 2 of 2010), dt. 5-1-2010, w.e.f. 1-2-2010.