

THE DELHI TAX ON LUXURIES (AMENDMENT) ACT, 2012

[DELHI ACT 08 OF 2012]
(No. F.14(5)/LA-2012/cons2law/83, dt. 22-6-2012)

NOTIFICATION

[No. F. 12(1)/Fin. (Rea-D/2012-13, dt. 1-8-2012]

In exercise of the powers conferred by Sub-section (3) of section 1 of the Delhi Tax on Luxuries (Amendment) Act, 2012 (Delhi Act 08 of 2012), the Lieutenant Governor of the National Capital Territory of Delhi, hereby appoints the **9th day of August, 2012**, as the date on which the said Act shall come into force.

The following Act of the Legislative Assembly of the National Capital Territory of Delhi received the assent of the Lt. Governor of Delhi on 19th June, 2012 and is hereby published for general information:—

As passed by the Legislative Assembly of the National Capital Territory of Delhi on the 6th June, 2012.

An Act to further amend the Delhi Tax on Luxuries Act, 1996.

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

1. Short title and commencement

- (1) This Act may be called Delhi Tax on Luxuries (Amendment) Act, 2012.
- (2) It extends to the whole of the National Capital Territory of Delhi.
- (3) It shall come into force on such date as the Government may by notification in the Official Gazette, appoint.

2. Amendment of section 2

In the Delhi. Tax on Luxuries Act, 1996 (hereinafter referred to as the principal Act), in section 2,—

- (i) After clause (a), the following clause shall be inserted, namely:—
"(aa) "banquet hall" means any premises, garden or farm house, or any part thereof where accommodation or space is provided for marriage, reception or functions related therewith, seminar, convention, banquets, party, meeting, or exhibition-cum-sale and such other hall as may be specified by the Commissioner, irrespective of the fact whether on regular or periodical or occasional basis;"
- (ii) For clause (b), the following clause shall be substituted, namely:—
"(b) "business" includes activity of providing any luxury and any other service in connection with, or incidental or ancillary thereto for monetary consideration;"

- (iii) For clause (e), the following clause shall be substituted, namely:—

"(e) "concessional rate" in relation to a luxury provided in a hotel, means a rate lower than the normal rate fixed for such luxury by the proprietor or lower than that fixed by any Government, authority or under law for the time being in force"
- (iv) After clause (e), the following clauses shall be inserted, namely:—

"(ea) "customer" means an individual or group or company or corporate availing any luxury;

(eb) "establishment" means a banquet hall or a gymnasium/health club or a hotel or a spa where luxury is provided to a customer by way of business;"
- (v) After clause (f), the following clause shall be inserted, namely:—

"(fa) "gymnasium or health club" means a premises or hall or building or place equipped for gymnastics and other physical exercising equipment(s) for providing facilities and activities such as wellness, aerobics or body building or body sculpting etc.";
- (vi) The clause (h) shall be omitted;
- (vii) For clause (i), the following clause shall be substituted, namely:

"(i) "luxury" means use of goods, services, property, facilities, etc. for enjoyment or comfort or pleasure or consumption by any customer extraordinary to the necessity of life, that is to say:—

 - (i) Accommodation or space provided in a banquet hall which includes air cooling, air conditioning, chairs, tables, linen,1 utensils and vessels, shamiyana, tent, pavilion, electricity, water, fuel, interior or exterior decoration, music, orchestra, live telecast and the like;
 - (ii) Services provided in a gymnasium or health club, which includes services of trainer or personal trainer, steam, sauna and the like;
 - (iii) Accommodation and other services provided in a hotel, the rate or charges for which, including the charges for air cooling, air conditioning, radio, music, extra beds, television and the like, is seven hundred fifty rupees per room per day or more whether such charges are received collectively or separately per room per day;
 - (iv) Facilities or services provided in a spa which includes beauty treatment, manicure, pedicure, facial, laser treatment, massage shower, hydrotherapy, steam bath, saunas or cuisine, medispa and the like;"
- (viii) After clause (1), the following clause shall be inserted, namely:—

"(la) "proprietor" means the owner of an establishment, jointly or severally, and includes partners, management, trust, company, firm or anybody who is for the time being in charge of the management of the establishment;"
- (ix) For clause (m), the following clause shall be substituted, namely:—

"(m) "receipt" means the amount of monetary consideration received or receivable by a proprietor or by his agent for any luxury provided in the establishment"

- (x) For clause (n), the following clause shall be substituted, namely:—
 "(n) "receipt" means the amount of monetary consideration received or receivable by a proprietor or by his agent for any luxury provided in the establishment;"
- (xi) For clause (n), the following clause shall be substituted, namely:—
 "(n) "registered proprietor" means a proprietor registered under section 8 of this Act;"
- (xi) After clause (o), the following clause shall be inserted, namely:—
 "(oa) "spa" means a building or part of building or space where facilities or services for beauty treatment or manicure or pedicure or facials or laser treatment or massage or shower or hydrotherapy or steam bath or saunas or cuisine or medispa or the like is provided;"
- (xii) For clause (p), the following clause shall be substituted, namely:—
 "(p) "tax" means the tax levied or leviable on turnover of receipts of an establishment and payable under this Act including any penalty, interest, fine, composition money, sum forfeited or any other charge levied or leviable under this Act;"
- (xiii) For clause (q), the following clause shall be substituted, namely:—
 "(q) "tariff" means the charges levied or leviable by a proprietor for providing any luxury;"
- (xiv) For clause (r), the following clause shall be substituted, namely:—
 "(r) "turnover of receipts" means the aggregate of amount of valuable consideration received or receivable by a proprietor in respect of any luxury;"

3. Amendment of section 3

In the principal Act, for section 3, the following shall be substituted, namely:—

"3. Incidence and levy of tax

(1) Subject to other provisions of this Act, every proprietor,—

(a) registered under this Act; or

(b) required to be registered under this Act;

shall be liable to pay tax on his turnover of receipts calculated in accordance with this Act, at the time and in the manner provided in this Act.

(2) There shall be levied a tax on the turnover of the receipts of a proprietor at a rate not exceeding fifteen percent to be notified by the Government from time to time and different rates may be notified for different class of luxuries:

PROVIDED that, where the charges are levied otherwise than on daily basis or per room then the charges for determining the tax liability under this section shall be computed proportionately for a day and per room based on the total period of occupation of the accommodation for which the charges are made according to rules or practice of the hotel.

(3) In case, in addition to the charges for providing luxury, service charges are levied and appropriated by the proprietor and not paid to the staff, then, such charges shall be deemed to be part of the turnover of receipts for the purpose of levy of tax under this Act. -

(4) In case luxury provided in a hotel to any person (not being an employee of the proprietor) is not charged at all, or is charged at a concessional rate,

nevertheless there shall be levied and collected the tax on such luxury, at the rate specified in sub-section (2), as if full charges for such luxury were paid to the proprietor.

(5) The tax shall not be levied and payable in respect of turnover of receipts for supply of food, drinks and goods such as cosmetics, medicines, nutritional supplements etc, on the sale of which the proprietor is liable to pay tax under the Delhi Value Added Tax Act, 2005.

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

4. Amendment of section 8

In the principal Act, in section 8, sub-section (1) shall be renumbered as sub-section (7), the following sub-section shall be inserted as sub-section (1), namely:—

"(1) Every proprietor whose turnover of receipts for providing any luxury and charges incidental thereto, calculated from the commencement of any year first exceeds, within such year the threshold value as specified below, against the respective luxury, shall from the very next day, be required to get himself registered under this Act:

| <i>S. No.</i> | <i>Luxury</i> | <i>Threshold Value (in rupees)</i> |
|---------------|--|--|
| 1. | Banquet Hall facilities | Five lacs |
| 2. | Gymnasium/Health Club | Five lacs |
| 3. | Hotel accommodation with tariff Rs. 750/- per day per room or more | Nil |
| 4. | Spa | Five lacs |

PROVIDED that a proprietor, who is engaged in business of providing any luxury, other than that of accommodation in a hotel having tariff of rupees one thousand or more per room per day, and whose turnover in the previous year or in the year of commencement of the Delhi Tax on Luxuries (Amendment) Act, 2012 before the date of commencement, exceeds the threshold values specified above shall be liable for registration from the date of commencement of the aforesaid Act.

5. Substitution of the word "hotel"

In the principal Act, for the words "hotel", "a hotel" and "hotels" wherever they occur, except in section 2, section 3 and sub-section (1) of section 8 the words "establishment", "an establishment" and "establishments" shall be substituted, respectively.

6. Substitution of the word "hotelier"

In the principal Act, for the word "hotelier", wherever it occurs, except in section 2, section 3 and sub-section (1) of section 8, the word "proprietor" shall be substituted.

NOTIFICATION

*No. F.12 (3)/Fin(Rev-I)/2012-13, dt. 1-8-2012***RATE OF TAX ON THE TURNOVER OF RECEIPTS OF THE PROPRIETOR
LEVIABLE UNDER THE ACT**

In exercise of the powers conferred by sub-section (2) of section 3 of the Delhi Tax on Luxuries Act, 1996, (Delhi Act 10 of 1996), the Lieutenant Governor of National Capital Territory of Delhi, hereby notifies the rate of tax to be levied on the turnover of receipts of the proprietor in respect of luxury provided in establishments, as under:—

| <i>S. No.</i> | <i>Establishment</i> | <i>Rate of Tax</i> |
|---------------|--|--------------------|
| 1. | Luxury provided in Banquet Hall being run and managed by DDA, MCD, NDMC and Delhi Cantonment Board | Zero |
| 2. | Luxury provided in Banquet Hall other than mentioned at S. No. 1 above | Three percent |
| 3. | Luxury provided in Gymnasium/Health Club | Three percent |
| 4. | Luxury provided in Hotel having tariff of Rs. 750/- or above but less than Rs. 1000/- per room per day | Three percent |
| 5. | Luxury provided in Spa | Three percent |

2. The notifications No. F. 12(6)/Fin.(T&E) /2008-09 /jsfin / 248, dated 22-6-2009 and F. 14(12)/ LA-2010 /lclaw/323, dated 10-9-2010 shall remain in force in respect of hotel having tariff of Rs. 1000/- per room per day and above.

3. This notification shall come into force with effect from 9th August, 2012.

THE DELHI TAX ON LUXURIES ACT, 1996

(Delhi Act No. 10 of 1996)

[As amended by the Delhi Tax on Luxuries (Arndt.) Act, 2012 (8 of 2012), dt. 19-6-2012, zv.e.f. 9-8-2012 vide Noti. No. F. 12(1)Fin. (Rev.-D/2012-13, dt. 1-8-2012.]

An Act to provide for the levy and collection of a tax on luxuries and for matters connected therewith in the National Capital Territory of Delhi.

Be it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Forty Seventh year of the Republic of India as follows:-

1. Short title, extent and commencement

- (1) This Act may be called the Delhi Tax on Luxuries Act, 1996.
- (2) It extends to the whole of the National Capital Territory of Delhi.
- (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint in this behalf and different dates may be appointed for different provisions of this Act.

2. Definition

In this Act, unless the context requires otherwise:—

- (a) "appointed day" means the day appointed by the Government under sub-section (3) of section 1;
- ¹[(aa) "banquet hall" means any premises, garden or farm house, or any part thereof where accommodation or space is provided for marriage, reception or functions related therewith, seminar, convention, banquets, party, meeting, or exhibition-cum-sale and such other hall as may be specified by the Commissioner, irrespective of the fact whether on regular or periodical or occasional basis;]
- ²[(b) "business" includes activity of providing any luxury and any other service in connection with, or incidental or ancillary thereto, for monetary consideration;]
- (c) "club" includes both an unincorporated and unincorporated association of persons, by whatever name called;
- (d) "Commissioner" means the person appointed to be the Commissioner of Luxury Tax for the purposes of this Act and includes an Additional Commissioner, if any, appointed under section 7;
- ²[(e) "concessional rate" in relation to a luxury provided in a hotel, means a rate lower than the normal rate fixed for such luxury by the proprietor or lower than that fixed by any Government, authority or under law for the time being in force;]
- ¹[(ea) "customer" means an individual or group or company or corporate availing any luxury;

¹ Inserted by the Delhi Tax on Luxuries (Amdt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

² Substituted, *ibid*.

- (eb) "establishment" means a banquet hall or a gymnasium/health club or a hotel or a spa where luxury is provided to a customer by way of business;]
- (f) "Government" means the Government of National Capital Territory of Delhi;
- ¹[(fa) "gymnasium or health club" means a premises or hall or building or place equipped for gymnastics and other physical exercising equipment(s) for providing facilities and activities such as wellness, aerobics or body building or body sculpting etc.;)
- (g) "establishment" includes a residential accommodation, a lodging house, an inn, a club, a resort, a farm house, a public house or a building or part of a building, where a residential accommodation is provided by way of business;
- ²[(h) "*hotelier*" means the owner of the establishment and includes the person who for the time being is in charge of the management of the establishment;]
- ³[(i) "luxury" means use of goods,, services, property, facilities etc. for enjoyment or comfort or pleasure or consumption by any customer extraordinary to the necessity of life, that is to say:—
 - (i) accommodation or space provided in a banquet hall which includes air cooling, air conditioning, chairs, tables, linen, utensils and vessels, shamiyana, tent, pavilion, electricity, water, fuel, interior or exterior decoration, music, orchestra, live telecast and the like,
 - (ii) services provided in a gymnasium or health club, which includes services of trainer or personal trainer, steam, sauna and the like,
 - (iii) accommodation and other services provided in a hotel, the rate or charges for which, including the charges for air cooling, air conditioning, radio, music, extra beds, television and the like, is seven hundred fifty rupees per room per day or more, whether such charges are received collectively or separately per room per day,
 - (iv) facilities or services provided in a spa which includes beauty treatment, manicure, pedicure, facial, laser treatment, massage shower, hydrotherapy, steam bath, saunas or cuisine, medispa and the like;]
- (j) "person" includes any company, club or association or body of individuals whether incorporated or not, and also a Hindu undivided family, a firm, a local authority, a State Government and the Central Government;
- (k) "place of business" includes an office, or any other place which is used by a person for the purpose of his business or where he keeps his books of accounts;
- (1) "prescribed" means the prescribed under this Act or the rules framed under this Act;
- ¹[(lal) "proprietor" means the owner of an establishment, jointly or severally and includes partners, management, trust, company, firm or anybody who is for the time being in charge of the management of the establishment;]

¹ Inserted by the Delhi Tax on Luxuries (Amndt.)-Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

² Omitted, *ibid*.

³ Substituted, *ibid*.

1[(m) "receipt" means the amount of monetary consideration received or receivable by a proprietor or by his agent for any luxury provided in the establishment;]

1[(n) "registered proprietor" means a proprietor registered under section 8 of this Act;]

(o) "rules" means rules made under this Act;

1[(oa) "spa" means a building or part of building or space where facilities or services for beauty treatment or manicure or pedicure or facials or laser treatment or massage or shower or hydrotherapy or steam bath or saunas or cuisine or medispa or the like is provided;]

1[(p) "tax" means the tax levied or leviable on turnover of receipts of an establishment and payable under this Act including any penalty, interest, fine, composition Trioney, sum forfeited or any other charge levied or leviable under this Act;]

1[(q) "tariff" means the charges levied or leviable by a proprietor for providing any luxufy;]

1[(r) "turnover of receipts" means the aggregate of amount of valuable consideration received or receivable by a proprietor in respect of any luxury;]

(s) "year" means the financial year.

¹[3. Incidence and levy of tax

(I) Subject to other provisions of this Act, every proprietor,—

(a) registered under this Act; or

(b) required to be registered under this Act,

shall be liable to pay tax on his turnover of receipts calculated in accordance with this Act, at the time and in the manner provided in this Act.

(2) There shall be levied a tax on the turnover of the receipts of a proprietor at a rate not exceeding fifteen percent to be notified by the Government from time to time and different rates may be notified for different class of luxuries:

PROVIDED that, where the charges are levied otherwise than on daily basis or per room then the charges for determining the tax liability under this section shall be computed proportionately for a day and per room based on the total period of occupation of the accommodation for which the charges are made according to rules or practice of the hotel.

(3) In case, in addition to the charges for providing luxury, service charges are levied and appropriated by the proprietor and not paid to the staff, then, such charges shall be deemed to be part of the turnover of receipts for the purpose of levy of tax under this Act.

(4) In case luxury provided in a hotel to any person (not being an employee of the proprietor) is not charged at all, or is charged at a concessional rate, nevertheless there shall be levied and collected the tax on such luxury, at the rate specified in sub-section (2), as if full charges for such luxury were paid to the proprietor.

(5) The tax shall not be levied and payable in respect of turnover of receipts for supply of food, drinks and goods such as cosmetics, medicines, nutritional supplements

¹ Substituted by the Delhi Tax on Luxuries (Amdt.) Act, 2012, dt. 19-6-2012, w.e.t. 9-8-2012.

etc. on the sale of which the proprietor is liable to pay tax under the Delhi Value Added Tax Act, 2005.

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

4. Liability of '[proprietor]

(1) Subject to the provisions of this Act and the rules made thereunder there shall be paid by every '[proprietor] who is liable to pay tax under this Act, the tax or taxes payable in accordance with the provisions of this Act.

(2) If a person other than the owner (including part-owner) is for the time being in charge of the business, then such person and the owner (including part-owner) shall jointly and severally be liable to pay the tax.

5. Liability of firms as ²[proprietors]

Where a business is owned, managed or run by a firm, then the firm and each of the partners of the firm shall be jointly and severally liable for payment of tax:

PROVIDED that, where any partner retires from the firm, he shall be liable to pay the tax, if any, remaining unpaid at the time of his retirement, and any tax due upto the date of his retirement, even if assessment of tax is made at a later date.

6. Special provision regarding liability to pay tax including any penalty or interest in certain cases

(1) If a '[proprietor], liable to pay tax under this Act, dies, then:—

- (a) if the business carried on by the '[proprietor] is continued after his death by his legal representative or any other person such legal representative or other person shall be liable to pay the tax due from such '[proprietor] under this Act in the like manner and to the same extent as the deceased '[proprietor]; or
- (b) if the business carried on by the '[proprietor] is discontinued, whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, in the like manner and to the same extent as the deceased ¹[proprietor] would have been liable to pay if he had not died, the tax due from such '[proprietor] under this Act, whether such tax has been assessed before his death but has remained unpaid or is assessed after his death.

Explanation: For the purpose of this sub-section, the expression "legal representative" has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908 (V of 1908).

(2) Where a ¹[proprietor] liable to pay tax under this Act is a Hindu undivided family and the joint family property is partitioned amongst the various members or group of members then each member or group of members shall be jointly and severally liable to pay the tax due from the '[proprietor] under this Act upto the time of partition whether such tax has been assessed before partition but has remained unpaid or is assessed after partition.

(3) Where a '[proprietor], liable to pay tax under this Act is a firm and the firm is dissolved, then every person who was a partner shall be jointly and severally liable to pay to the extent to which he is liable under section 5, the tax due from the firm under

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Amndt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

² Substituted for "hoteliers", ibid.

this Act upto the time of dissolution, whether such tax has been assessed before such dissolution but has remained unpaid or is assessed after dissolution.

(4) Where a '[proprietor], liable to pay tax under this Act, transfers or otherwise disposes of his business in whole or in part or effects any change in the ownership thereof, in consequence of which he is succeeded in the business or part thereof by any other person, then the '[proprietor] and the person succeeding shall jointly and severally be liable to pay the tax due from the '[proprietor] under this Act upto the time of such transfer, disposal or change, whether such tax has been assessed before such transfer, disposal or change but has remained unpaid, or is assessed thereafter.

(5) Where a '[proprietor], liable to pay tax under this Act—

- (a) is the guardian of a ward on whose behalf the business is carried on, or
- (b) is the trustee who carries on the business under a trust of a beneficiary, then, if the guardianship or trust is terminated the ward or, as the case may be, the beneficiary shall be liable to pay the tax due from the '[proprietor] upto the time of termination of the guardianship or trust, whether such tax has been assessed before the termination of the guardianship or trust, but has remained unpaid or is assessed thereafter.

(6) Where a '[proprietor], liable to pay tax under this Act, is succeeded in the business by any person in the manner described in clause (a) of sub-section (1) or in sub-section (4), then such person, unless he already holds a certificate of registration, shall, within thirty days thereof, apply for registration.

7. Authorities under the Act

(1) (a) For carrying out the purposes of this Act, the Government shall, by notification, appoint an officer to be the Commissioner of Luxury Tax.

(b) To assist the Commissioner in the discharge of his functions under this Act the Government may appoint one or more officers to be Additional Commissioners of Luxury Tax, and such number of Deputy Commissioners of Luxury Tax, Assistant Commissioners of Luxury Tax and Luxury Tax Officers and such other officers with such designations as the Government may think necessary.

(2) The Government may, by notification in Official Gazette, specify the powers and functions which an officer appointed under clause (b) of sub-section (1) may exercise and discharge.

(3) The Commissioner shall have jurisdiction over whole of the National Capital Territory of Delhi and the other officers appointed under clause (b) of sub-section (1) shall have jurisdiction either over the whole of the National Capital Territory of Delhi or such areas or ²[establishments] as the Commissioner may specify by notification in official Gazette.

(4) The superintendence and control for the proper execution of the provisions of this Act and the rules made thereunder relating to the levy and the collection of tax shall vest in the Commissioner.

1 Substituted for "hotelier" by the Delhi Tax on Luxuries (Arndt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

2 Substituted for "hotels", *ibid*.

8. Registration

¹(1) Every proprietor whose turnover of receipts for providing any luxury and charges incidental thereto, calculated from the commencement of any year first exceeds, within such year the threshold value as specified below, against the respective luxury, shall, from the very next day, be required to get himself registered under this Act:

| <i>Sl. No.</i> | <i>Luxury</i> | <i>Threshold Value (in rupees)</i> |
|----------------|--|--|
| 1.. | Banquet Hall facilities | five lacs |
| 2. | Gymnasium/Health Club | five lacs |
| 3. | Hotel accommodation with tariff Rs. 750/- per day per room or more | nil |
| 4. | Spa | five lacs |

PROVIDED that a proprietor, who is engaged in business of providing any luxury, **other than** that of accommodation in a hotel having tariff of rupees one thousand or more per room per day and whose turnover in the previous year or in the year of commencement of the Delhi Tax on Luxuries (Amendment) Act, 2012 before, the date of commencement, exceeds the threshold values specified above shall be liable for registration from the date of commencement of the aforesaid Act.]

(2) Every ²[proprietor] required to possess a certificate of registration shall apply in the prescribed form to the Commissioner within thirty days from the date on which the ²[proprietor] first becomes liable to pay the tax.

(3) If the Commissioner, after such inquiry as he deems fit, is satisfied that an application for registration is in order, he shall register the applicant and issue to him a certificate of registration in the prescribed form.

(4) The Commissioner may, after considering any information furnished or otherwise called for or received under any provision of this Act, amend from time to time the certificate of registration.

(5) Where a registered ²[proprietor] discontinues, transfers or otherwise disposes of his activity of providing accommodation by way of business or where he ceases to be liable to pay the tax and he applies in the prescribed form to the Commissioner, on receipt of such application, the Commissioner shall, after making such inquiry as may be necessary, cancel the certificate of registration with effect from such date as he may fix in accordance with the rules.

(6) Where the Commissioner is satisfied that any registered ²[proprietor] has discontinued, transferred or otherwise disposed of his business and has failed to apply under sub-section (5) for cancellation of certificate of registration, the Commissioner may, after giving the ²[proprietor] a reasonable opportunity of being heard, cancel the certificate of registration with effect from such date as he may fix to be the date from which the said activity has been discontinued, transferred or otherwise disposed of:

PROVIDED that, the cancellation of certificate of registration whether on an application of the ²[proprietor] or otherwise shall not affect the liability of the

¹ Inserted by the Delhi Tax on Luxuries (Amdt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

² Substituted for "hotelier", *ibid*.

'[proprietor] to pay the tax due for any period upto the date of cancellation whether such tax is assessed before or after the date of cancellation.

²[(7)] No '[proprietor] liable to pay the tax under this Act shall conduct or cause to be conducted business, unless he possesses a valid certificate of registration as provided by this Act:

PROVIDED that, it shall be lawful for the ¹[proprietor] to conduct or cause to conduct business, if the ¹[proprietor] has applied to registration as provided by this Act.

9. Non-transferability of registration certificate

Save as otherwise provided in section 11, a certificate of registration shall be personal to the '[proprietor] to whom it is granted and shall not be transferable.

10. Information to be furnished regarding tariff, changes in business, etc.

(1) If a '[proprietor] liable to pay tax-under this Act:—

- (a) sells or otherwise disposes of his business or any part thereof, or effects or makes any other change to his knowledge in the ownership of the business, or
- (b) discontinues his business, or changes the place thereof or opens a new place of business, or
- (c) changes the name or nature of his business, or
- (d) enters into a partnership or other association in regard to his business, he shall within the prescribed time, inform the Commissioner or prescribed authority accordingly.

(2) Where any such '[proprietor], dies, his executor, administrator or other legal representative or where any such '[proprietor] is a firm and there is a change in the constitution of the firm or the firm is dissolved, every person who was a partner thereof, shall, in like manner, inform the Commissioner or the said authority of such death, change in the constitution, or as the case may be, dissolution.

(3) Every '[proprietor] liable to pay tax under this Act shall, within thirty days from the coming into force of this Act, communicate in the prescribed form to the Commissioner the rates of tariff:

PROVIDED that if the rates of tariff charged are revised, the revised rates shall be communicated by the '[proprietor] to the Commissioner within fifteen days of such revision.

11. Certificate of registration to continue in certain circumstance

Where a registered '[proprietor]—

- (a) effects change in the name of his business, or
- (b) is a firm; and there is a change in the constitution of the firm without dissolution thereof, or
- (c) is a trustee of a trust, and there is change in the trustees thereof, or
- (d) is a guardian of a ward, and there is change in the guardian, then merely by reason of any of the circumstances aforesaid, it shall not be necessary for the '[proprietor], or the firm with the changed constitution, or the new trustees, or new guardian, to apply for a fresh certificate of registration

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Amdt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

² Existing sub-section (1) re-numbered as sub-section (7), *ibid*.

and on information being furnished in the manner required by section 10, the certificate of registration shall be amended.

12. Returns

(1) Every registered '[proprietor]' shall furnish returns for such period, by such dates, and to such authority, as may be prescribed:

PROVIDED that, the Commissioner may, subject to such terms and conditions as may be prescribed, exempt any such '[proprietor]' from furnishing such returns or permit any such '[proprietor]':

- (a) to furnish them for such different period; or
- (b) to furnish a consolidated return relating to all or any of the places of business of the ¹[proprietor] in the National Capital Territory of Delhi for such period, or for such different periods,

to such authority, as he may direct.

(2) If any '[proprietor]', having furnished return under sub-section (1), discovers any omission or incorrect statement therein, he may furnish a revised return before the expiry of three months next following the last date prescribed for furnishing the original return and if the revised return shows a higher amount of tax due, then the amount shown in the original return, it shall be accompanied by the receipts showing payment of the additional tax due.

(3) Every registered ¹[proprietor] required to furnish return in accordance with sub-section (1) shall pay in such manner as may be prescribed the full amount of tax due from him under this Act according to such return.

(4) Every return under this section shall be verified in the prescribed manner by the registered ¹[proprietor] or any other person duly authorized by him in this behalf.

13. Assessment of Tax

(1) The amount of tax due from a ¹[proprietor] liable to pay tax shall be assessed separately for each year during which he is so liable:

PROVIDED that, the Commissioner may, subject to such conditions as may be prescribed, assess the tax due from any '[proprietor]' during a part of a year.

(2) If the Commissioner is satisfied that the returns furnished by a registered '[proprietor]' in respect of any period are correct and complete he shall assess the amount of tax due from the '[proprietor]' on the basis of such returns.

(3) If the Commissioner is not satisfied that the returns furnished by a registered ¹[proprietor] in respect of any period are correct and complete, and he thinks it necessary to require the presence of the ¹[proprietor] or the production of further evidence, he shall serve on such '[proprietor]' a notice of not less than fifteen days or a shorter period in case assessment is getting time barred 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 returns, or to produce such evidence as is specified in the notice. On the date specified in the notice, or as soon as may be thereafter, the Commissioner shall, after considering all the evidence which may be produced, assess the amount of tax due from the '[proprietor]'.

(4) If a registered '[proprietor]' fails to comply with the terms of any notice issued under sub-section (3), the Commissioner shall assess, to the best of his judgment, the amount of tax due from him.

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Amdt.) Act, 2012, di 19-6-2012, w.e.f. 9-8-2012.

(5) Where all the returns are filed by a registered ¹[proprietor] for any year ending on or after the appointed day by the prescribed dates, or on or before the date prescribed for filing the last return of that year, no order of assessment under sub-section (3) or (4) in respect of that year shall be made after the expiry of three years from the end of the said year, and if for any reason such order is not made within the period aforesaid, then the returns so filed shall be deemed to have been accepted as correct and complete for assessing the tax due from such '[proprietor]':

PROVIDED that, where a fresh assessment is to be made in view of any order made in appeal under this Act or by the High Court or by the Supreme Court or any other competent authority such assessment shall be made within twelve months from the date of receipt of such order:

PROVIDED FURTHER that, in computing any period of limitation laid down in this sub-section the time during which the assessment remained stayed under the order of the High Court or of the Supreme Court or any other competent authority shall stand excluded.

(6) If a registered '[proprietor]' does not furnish return in respect of any period by the prescribed date, the Commissioner shall, at any time within three years from the end of the year in which such period occurs, after giving the ¹[proprietor] a reasonable opportunity of being heard, proceed to assess, to the best of his judgment, the amount of the tax (if any) due from him.

(7) If the Commissioner has reason to believe that a '[proprietor]' is liable to pay tax in respect of any period, but has failed to apply for registration or failed to apply for registration within time as required by section 8, the Commissioner shall, at any time, within four years from the end of the year in which such period occurs, after giving the '[proprietor]' a reasonable opportunity of being heard, proceed to assess, to the best of his judgment, the amount of tax (if any) due from the '[proprietor]' in respect of that period, and any period or periods subsequent thereto.

(8) Notwithstanding anything contained in the foregoing provisions of this section, where the Commissioner is not satisfied about the correctness or the completeness of the accounts of a '[proprietor]', or where no method of accounting has been regularly employed by a '[proprietor]', the Commissioner may, after giving the '[proprietor]' a reasonable opportunity of being heard, assess to the best of his judgment, the amount of tax (if any) due from him.

(9) Any assessment made under this section shall be without prejudice to any penalty, or prosecution of an offence, under this Act.

14. Applicability of the provisions of this Act to persons liable to pay tax under section 6

Where in respect of any tax due from a '[proprietor]' under this Act, any other person is liable for payment thereof under section 6, then such other person shall be deemed to be a '[proprietor]' for the purpose of this Act, and all the relevant provisions of this Act shall in respect of such liability apply to such person also, as if he were the '[proprietor]'.

15. Reassessment of turnover escaping assessment, under-assessed

(1) If a '[proprietor]' has been assessed under section 13 for any year or part thereof and where for any reason the whole or any part of the turnover of receipts in respect of that year or part thereof has escaped assessment, or has been under-assessed or assessed

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Amdt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

at a lower rate, or any deduction has been wrongly made, then the Commissioner may, at any time within three years of the end of that year, etc. after giving the '[proprietor]' a reasonable opportunity of being heard, proceed to assess or reassess, to the best of his judgment, the amount of tax due from such '[proprietor]':

PROVIDED that, the amount of tax shall be assessed at the rates at which it would have been assessed had there been no under-assessment or escapement:

PROVIDED FURTHER that, where in respect of such turnover of receipts an order has already been passed in appeal or revision under this Act, the Commissioner shall make a report to the appropriate appellate or revising authority under this Act, which, shall thereupon after giving the '[proprietor]' concerned a reasonable opportunity of being heard, pass such orders as it deems fit.

(2) Nothing in sub-section (1) shall apply to any proceeding (including any notice issued) under section 38 or 41.

(3) Nothing in section 38 or 41 shall affect any proceeding under this section.

16. Imposition of penalty and levy of interest

(1) If, while assessing or reassessing the amount of tax due from a '[proprietor]' under any provisions of this Act or while passing any order **in** any appeal, revision, review or rectification proceedings, it appears to the Commissioner that such '[proprietor]' has:—

- (a) failed to apply for registration as required by section 8 or has carried on business, without being registered, in contravention of section 8;
- (b) failed to disclose any transaction or receipt or has failed to furnish return by the prescribed date or has failed to show in the return the appropriate liability to pay tax or has failed to disclose fully and truly all material facts necessary for the proper and correct quantification of the tax liability, then the Commissioner may, after giving the '[proprietor]' an opportunity of being heard, by order in writing impose upon the '[proprietor]' by way of penalty, in addition to any tax assessed or reassessed or found due in the appeal or revision or rectification proceedings, as the case may be:
 - (i) in the case covered by clause (a), a sum not exceeding the amount of the tax payable by the ¹[proprietor] for the period during which he carried on business, without being registered, in contravention of section 8;
 - (ii) in the case covered by clause (b), a sum not exceeding the amount of tax found payable under the said clause.

(2) If a ¹[proprietor]:—

- (a) does not pay the tax within the time he is required by or under the provisions of this Act to pay if, or
- (b) is found liable to pay tax under the provisions of clause (b) of sub-section (1),

then, without prejudice to the provisions of sub-section (1), he shall be liable to pay simple interest at the rate of two per cent of the amount of such tax for each month after the last day by which he should have paid such tax:

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Amdt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

PROVIDED that, the Commissioner or any appellate authority may, for reasons to be recorded in writing, remit the whole or any part of the interest payable in respect of any period.

17. Imposition of penalty for contravening certain provisions

(1) If any person—

- (a) (i) Not being a ¹[proprietor] liable to pay tax under this Act, collects any sum by way of tax, or
- (ii) being a registered ¹[proprietor], collects any amount by way of tax in excess of the tax payable by him, or
- (iii) otherwise collects tax in contravention of the provisions of section 27, or
- (b) being a ¹[proprietor] liable to pay tax under this Act, or being a ¹[proprietor] who was required so to do by the Commissioner by a notice, served on him, fails in contravention of sub-section (1) of section 29 to keep a true account of his turnover of receipts or fails when directed so to do under that section to keep any accounts or record in accordance with the direction,

he shall be liable to pay, in addition to any tax for which he may be liable, a penalty of an amount as follows:

- (A) where there has been contravention referred to in sub-clause (i) or (iii) of clause (a), a penalty of an amount not exceeding twenty thousand rupees or double the sum collected by way of tax, whichever is less.
- (B) where there has been a contravention referred to in sub-clause (ii) of clause (a) or in clause (b), a penalty of an amount not exceeding twenty thousand rupees,

and in addition any sum collected by the person by way of tax in contravention of section 27 shall be forfeited to the Government.

(2) If the Commissioner, in the course of any proceeding under this Act or otherwise, has reason to believe that any person has become liable to a penalty or forfeiture or both penalty and forfeiture of any sum under sub-section (1), he shall serve on such person a notice in the prescribed manner requiring him on a date and at a place specified in the notice to attend and show cause why a penalty or forfeiture or both penalty and forfeiture of any sum as provided in sub-section (1) should not be imposed on him.

(3) The Commissioner shall thereupon hold an inquiry and shall make such order as he thinks fit.

(4) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(5) When any order of forfeiture is made, the Commissioner shall publish or cause to be published a notice thereof for the information of the persons concerned giving such details and in such manner as may be prescribed.

18. Payment of Tax

(1) Tax shall be paid in the manner herein provided, and at such intervals as may be prescribed.

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Amdt.) Act, 2012, dt. 19-4.2012, w.e.f. 9-8-2012.

(2) A registered ¹[proprietor] furnishing return as required by sub-section (1) of section 12, shall first pay in the prescribed manner the whole of the amount of tax due from him according to such return alongwith the amount of any penalty or interest payable by him under section 16.

(3) A registered '[proprietor] furnishing a revised return in accordance with sub-section (2) of section 12, and revised return shows that a larger amount of tax than already paid is payable, shall first pay the additional tax due as may be prescribed.

(4)(a) The amount of tax:—

- (i) due where returns have been furnished without full payment thereof, or
- (ii) assessed or reassessed for any period under section 13 or section 15 less any sum already paid by the '[proprietor] in respect of such a period, or
- (b) the amount of interest or penalty (if any) levied under section 16 or 17, and
- (c) the sum (if any) forfeited to the Government under section 17, and
- (d) the amount of the fine (if any) imposed under sub-section (3) of section 34, shall be paid by the '[proprietor] or the person liable therefor by such date as may be specified by the Commissioner for this purpose, being a date not earlier than thirty days from the date of the notice, and
- (e) the Commissioner may, in respect of any particular '[proprietor] or person, and for reasons to be recorded in writing, allow the '[proprietor] or the person liable therefor to pay the tax, by instalments. However, on such payment on instalments simple interest shall be leviable at the rate of two per cent of the amount due per month.

(5) Any tax which remains unpaid after the date specified in the notice for payment, and any instalment not duly paid, shall be recoverable as c'arrear of land revenue.

(6) Notwithstanding anything contained in this Act or in any other law for the time being in force, where any sum collected by a person by way of tax in contravention of section 27, is forfeited to the Government under section 17 and is recovered from him, such payment or recovery shall discharge him of the liability to refund the sum to the person from whom it was so collected. A refund of such sum or any part thereof can be claimed from Government by the person from whom it was realized by way of tax, provided that an application for such claim is made by him in writing in the prescribed form to the Commissioner, within one year from the date of the order of forfeiture. On receipt of any such application, the Commissioner shall hold such inquiry as he deems fit, and if the Commissioner is satisfied that the claim is valid and admissible and that the amount so claimed as refund was actually paid to Government or recovered, he shall refund the sum or any part thereof, which is found due to the person concerned within such period as may be specified failing which simple interest shall be paid on delayed payment at the rate of one per cent per month.

19. Rounding of the tax, etc.

The amount of tax, or any other sum payable under the provisions of this Act, shall be rounded off to the nearest rupee **and, for** this purpose, where such amount contains

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Amdt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee, and if such part is less than fifty paise, it shall be ignored:

PROVIDED that nothing in this section shall apply for the purpose of collection by the ¹[proprietor] of any amount by way of tax under this Act.

20. Special powers of authorities for recovery of tax as arrear of land revenue

(1) For the purpose of effecting recovery of the amount of tax, due and recoverable from any ¹[proprietor] or other person by or under the provisions of this Act, as arrears of land revenue:—

- (i) the Deputy Commissioner appointed under section 7 shall have and exercise all the powers and perform all the duties of the Collector under the Delhi Law Reforms Act, 1954;
- (ii) the Assistant Commissioner appointed under section 7 shall have and exercise all the powers (except the powers of arrest and confinement of a defaulter in a civil jail) and perform **all** the duties of the Assistant or Deputy Collector under the said Act.

(2) Every notice issued or order passed in exercise of the powers conferred by sub-section (1) shall, for the purpose of sections 35, 36, 37, 38 and 41 be deemed to be notice issued or an order passed under this Act.

21. Special mode of recovery and certain recovery proceedings

(1) Notwithstanding anything contained in any law for the time being **in** force, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the ¹[proprietor] at his last address known to the Commissioner, require:—

- (a) any person from whom any amount of money is due, or may become due to a ¹[proprietor] on whom notice has been served under sub-section (4) of section 18, or
- (b) any person who holds or may subsequently hold money for or on account of such ¹[proprietor],

to pay to the Commissioner, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (but not before the money becomes due or is held as aforesaid) so much of the money as is sufficient to pay the amount due by the ¹[proprietor] in respect of the arrears of tax, or the whole of the money when it is equal to or less than that amount.

Explanation : For the purpose of this section, the amount of money due to a ¹[proprietor] from, or money held for or on account of a ¹[proprietor] by any person, shall be calculated after deducting therefrom such claims (if any) lawfully subsisting, as may have fallen due for payment by such bank.

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

- (3)(a) 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 ¹[proprietor], and the receipt of the Commissioner shall constitute a good and sufficient discharge of the liability of such person, to the extent of the amount referred to **in** the receipt.

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Arndt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

- (b) Any person discharging any liability to the '[proprietor]' 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 '[proprietor]' for tax, whichever is less.
- (c) 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 '[proprietor]', or that he does not hold any money for or on account of the '[proprietor]', 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.
- (d) Any amount of money which a 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 an arrear of land revenue.

(4) Where any notice of demand in respect of any tax (hereinafter in this section referred to as "Government" dues) is served upon a '[proprietor]' or the person liable therefor under sub-section (4) of section 18, and any appeal or other proceeding is filed or taken in respect of such Government dues then—

- (a) where such Government dues are enhanced in such appeal or proceedings, the Commissioner shall serve upon the '[proprietor]', or person, as the case may be, another notice only in respect of the amount by which such Government dues are enhanced and any recovery proceedings in relation to such Government dues are covered by the notice or notice of demand served upon him before the disposal of such appeal or proceedings may, without the service of any fresh notice, be continued from the stage at which such proceedings stood immediately before such disposal;
- (b) where such Government dues are reduced in such appeal or proceedings—
 - (i) it shall not be necessary for the Commissioner to serve upon the '[proprietor]' or person a fresh notice;
 - (ii) the Commissioner shall give intimation of the fact of such reduction to him;
 - (iii) any recovery proceedings initiated on the basis of the notice or notices of demand served upon him before the disposal of such appeal, or proceedings may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal;
- (c) no recovery proceedings in relation to such Government dues shall be invalid by reason only that no fresh notice of demand was served upon the proprietor or person after the disposal of such appeal, or proceedings or that such Government dues have been enhanced or reduced in such appeal, or proceedings:

PROVIDED that, where any Government dues are reduced in such appeal or proceedings and the ¹[proprietor] or person is entitled to any refund thereof, such refund shall be made in accordance with the provisions of section 23.

(5) For the removal of doubts, it is hereby declared that no fresh notice of demand shall be necessary in any case where the amount of Government dues is not varied as a result of any order passed in appeal, revision or other proceedings under this Act.

22. Exemption

(1) Subject to such conditions as it may impose, the Government may, if it is necessary to do so in public interest, by notification in the Official Gazette, exempt any specified class of luxuries provided in ²[an establishment] or class of [establishments] for a specific period to be notified from payment of the whole or any part of the tax payable under the provisions of this Act and such exemption shall take effect from the date of publication of the notification in the Official Gazette or such other date as may be mentioned therein.

(2) Where a ¹[proprietor] or person has availed of such exemption and any of the conditions subject to which such exemption was granted are not complied with, for any reason whatsoever, then such ¹[proprietor] or person shall be liable to pay luxury tax on the luxury provided in ²[an establishment], in accordance with the other provisions of this Act.

(3) If the Commissioner has reasons to believe that any person is liable to pay tax under sub-section (2), the Commissioner shall, after giving him a reasonable opportunity of being heard, assess the amount of tax so due.

23. Refund of Excess Payments

(1) The Commissioner shall refund to a person the amount of tax (if any) paid by such person in excess of the amount due from him. The refund may be either by cheque or at the option of the person, by deduction of such excess from the amount of tax due in respect of any other period:

PROVIDED that the Commissioner shall first apply such excess towards the recovery of any amount due in respect of which a notice under sub-section (4) of section 18 has been issued, and shall then refund the balance (if any).

(2) Where any refund is due to any ¹[proprietor] according to the return furnished by him for any period, such refund may provisionally be adjusted by him against the tax due and payable as per the returns furnished under section 12 for any period:

PROVIDED that the amount of tax due from, and payable by, the ¹[proprietor] on the date of such adjustment shall first be deducted from such refund before making adjustment.

24. Interest on delayed refunds

(1) Where an amount required to be refunded by the Commissioner to any person by virtue of an order issued under this Act is not so refunded to him within ninety days of the date of the order, the Government shall pay such person simple interest at a rate of twelve per cent per annum on the said amount from the date immediately following the expiry of the period of ninety days to the date of the refund.

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Amdt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

² Substituted for "a hotel", *ibid*.

³ Substituted for "hotels", *ibid*.

Explanation : If the delay in granting the refund within the period of ninety days 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 interest is payable.

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

25. Power to withhold refund in certain cases

(1) Where an order giving rise to a refund is the subject-matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the authority competent to grant such refund is of the opinion that the grant of the refund is likely to adversely affect the revenue, such authority may, with the previous approval of the Commissioner, withhold the refund till such time as the Commissioner may determine.

(2) Where a refund is withheld under sub-section (1), the Government shall pay interest in accordance with the provisions of section 24 on the amount of refund ultimately determined to be due to the person as a result of the appeal or further proceeding, for the period from the date immediately following the expiry of ninety days from the date of the order referred to in sub-section (1) to the date of refund.

26. Remission of tax

The Commissioner may, in such circumstances and subject to such conditions as may be prescribed, remit the whole or any part of the tax payable, in respect of any period, by any '[proprietor]':

PROVIDED that, if the amount to be remitted exceeds two thousand rupees, the remission of the excess shall not be made without the previous sanction of the Government.

27. Prohibition against collection of the tax in certain cases

(1) No person shall collect any sum by way of tax in respect of this business to the extent that he is not liable to pay it under the Act.

(2) No person, who is not a registered '[proprietor]' and liable to pay tax in respect of luxury provided in any ²[establishment], shall collect any sum by way of tax from any other person and no registered '[proprietor]' shall collect any amount by way of tax in excess of the amount of tax payable by him under the provisions of this Act:

PROVIDED that, this sub-section shall not apply where a person is required to collect such amount of the tax separately in order to comply with the conditions and restrictions imposed on him under the provisions of any law for the time being in force.

28. Bill or cash memorandum to be issued to customer

A registered '[proprietor]' shall issue to the customer or customers a bill or cash memorandum serially numbered, signed and dated by him or his servant, manager or agent and showing therein such other particulars as may be prescribed. He shall keep a counterfoil or duplicate of such bill or cash memorandum duly signed and dated, and preserve it for a period of not less than five years from the date of the transaction.

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Amdt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-9-2012.

² Substituted for "hotel", *ibid*.

29. Accounts

(1) Every¹ [proprietor] liable to pay tax under this Act, and every¹ [proprietor] who is required so to do by the Commissioner by notice served on him in the prescribed manner, shall keep a true account of the luxury provided by him in the² [establishment].

(2) If the Commissioner considers that the accounts kept are not sufficiently clear or intelligible to enable him to determine whether or not a¹ [proprietor] is liable to tax during any period, or are so kept as not to enable a proper scrutiny of the returns or the statement furnished, the Commissioner may require such¹ [proprietor] by notice in writing to keep such accounts in such form or manner as in his opinion is necessary for the purpose of proper assessment and as he may, subject to anything that may be prescribed in that behalf, in writing direct.

(3) The Commissioner may, subject to such conditions or restrictions as may be prescribed in this behalf, by notice in writing direct any '[proprietor]', or by notification in the Official Gazette, direct any class of³ [proprietors] to maintain accounts and records showing such particulars regarding their business in such form, and in such manner, as may be specified by him.

(4) Every registered '[proprietor]' shall ordinarily keep all his accounts, registers and documents relating to his business at the place or places of business specified in his certificate of registration or, with the previous approval of the Commissioner, at such other place as may be approved by the Commissioner.

30. Production and inspection of accounts and documents and search of premises

(1) The Commissioner may, subject to such conditions as may be prescribed, require a ny¹ [proprietor] to produce before him any accounts or documents, or to furnish any information, relating to his business, or any other information as may be necessary for the purpose of this Act.

(2) All accounts, registers and documents relating to the busi ess of any¹ [proprietor] and cash kept in any place of business of any¹ [proprietor] shall at all reasonable time be open to inspection by the Commissioner, and the Commissioner or any person authorised by him may take or cause to be taken such copies or extracts of the said accounts, registered or documents and such inventory of cash found as appear to him necessary for the purpose of this Act.

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

(4) For the purposes of sub-section (2) of sub-section (3), the Commissioner may enter and search any place of business of any '[proprietor]', or any other place where the Commissioner has reason to believe that the¹ [proprietor] keeps or is for the time being keeping any account, registers or documents of his business.

(5) Where any books of accounts, other documents or money are found in the possession or control of any person in **the** course of search, it shall be presumed, unless

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Arndt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

² Substituted for "hotel", *ibid*.

³ Substituted for "hoteliers", *ibid*.

the contrary is proved that such books of account, other documents or money belong to such person.

31. ¹[Proprietor] to declare the name of owner

Every ¹[proprietor], who is liable to pay tax, and who is a Hindu undivided family, or an association or club or society or firm or company, or who carries on business as the guardian or trustee or otherwise on behalf of another person, shall within the period prescribed send to the business authority prescribed, a declaration in the manner prescribed stating the name of the person or persons who is the owner or who are the owners of the ²[establishment]. Such declaration may be revised from time to time.

32. Power to collect statistics

(1) If the Government considers that for the purposes of the better administration of this Act, it is necessary so to do, it may, by notification in the Official Gazette, direct that statistics be collected relating to any matter dealt with by or under this Act.

(2) Upon such direction being made, the Government or any person or persons authorised by it in this behalf may, by notification in the Official Gazette, and by notice in any newspaper or in such other manner as in its or his opinions is best calculated to bring the notice to the attention of ³[proprietors], call upon all ³[proprietors] or any class of ³[proprietors] to furnish such information or returns as may be stated therein relating to any matter in respect of which statistics are to be collected. The form in which, the person to whom or, the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be such as may be prescribed.

33. Determination of certain dispute

(1) If any question arises, otherwise than in proceeding before a Court, or before the Commissioner has commenced assessment or reassessment of a ¹[proprietor] under section 13 or 15, about the interpretation or the scope of any provisions of this Act, the Commissioner shall make an order determining such question.

Explanation : For the purposes of this sub-section, the Commissioner shall be deemed to have commenced assessment or reassessment of a ¹[proprietor], when the [proprietor] is served with a notice under section 13 or 15, as the case may be.

(2) The Commissioner may direct that the determination shall not affect the liability of any person under this Act, as respects the period prior to the determination.

(3) If any such question arises from any order already passed under this Act, no such question shall be entertained for determination under this section, but such question may be raised in appeal against or by way of revision of such **order**.

34. Powers of Commissioner

(1) In discharging his functions by or under this Act, the Commissioner shall have all the powers of a Civil Court for the purpose of:—

- (a) proof of facts by affidavit;
- (b) summoning and enforcing the attendance of any person, and examining him on oath or affirmation;
- (c) compelling the production of documents; and
- (d) issuing commissions for the examination of witness.

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Amdt.) Act, 2012, dt. 19-b-2012, w.e.f. 9-8-2012.

² Substituted for "hotel", *ibid*.

³ Substituted for "hoteliers", *ibid*.

(2) In the case of any affidavit to be made for the purposes of the Act, any officer appointed by the Commissioner may administer the oath to the deponent.

(3) Without prejudice to the provisions of any other law for the time being in force, where a person, to whom a summon is issued by the Commissioner either to attend to give evidence or produce books of accounts, registers or other documents at a certain place and time, intentionally omits to attend or produce the documents at the place and time, the Commissioner may impose on him such fine not exceeding one thousand rupees as he thinks fit; and the fine so levied may be recovered in the manner provided in this Act for recovery of arrears of tax:

PROVIDED that before imposing any such fine, the person concerned shall be given a reasonable opportunity of being heard.

(4) If any documents are produced by a person on whom a summon was issued by the Commissioner, and the Commissioner has reason to believe that any ¹[proprietor] has evaded or is attempting to evade the payment of any tax due from him and the documents produced are necessary for establishing the case against such '[proprietor]', the Commissioner may, for reasons to be recorded in writing, impound the documents and shall grant a receipt for the same and shall retain the same for so long as may be necessary in connection with the proceedings under this Act, or for a prosecution.

35. Bar to certain proceedings

Save as is provided elsewhere in this Act, no assessment made and not order passed under this Act or the rules made thereunder by the Commissioner or any officer or person subordinate to him shall be called in question in any court, and save as is provided by section 36 no appeal shall lie against any such assessment or order.

36. Appeals

(10) An appeal from every original order, not being an order mentioned in section 37, passed under this Act or the rules made thereunder shall lie:—

- (a) if the order is made by a Luxury Tax Officer, or any other officer subordinate to him, to the Assistant Commissioner;
- (b) if the order is made by an Assistant Commissioner, to the Deputy Commissioner;
- (c) if the order is made by a Deputy Commissioner, to the Additional Commissioner or Commissioner;
- (d) if the order is made by Additional Commissioner or Commissioner to an authority to be notified by Government.

(2) In the case of an order passed in appeal by an Assistant Commissioner or by a Deputy Commissioner, a second appeal shall lie to the Commissioner.

(3) Every order passed in appeal under this section, subject to the provisions of sections 38 and 41, be final.

(4) Subject to the provisions of section 40, no appeal shall be entertained unless it is filed within sixty days from the date of the communication of the order appealed against.

(5) No appeal against an order or assessment with or without interest or penalty or against an order levying an interest or penalty or both or against an order deducting the forfeiture of any tax collected by a '[proprietor]' shall ordinarily be entertained by an appellate authority, unless such appeal is accompanied by a satisfactory proof of the

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Amdt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

payment of tax with or without interest or penalty or both or, as the case may be, of the payment of the interest or penalty or both and the amount forfeited in respect of which the appeal has been preferred:

PROVIDED that the appellate authority may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order:—

- (a) without payment of the tax with interest or penalty, (if any) or, as the case may be, or the interest or penalty, or both and the sum forfeited, on the appellant furnishing in the prescribed manner security for such amount as it may direct, or
- (b) on proof of payment of such smaller sum, with or without security for such amount of tax, interest or penalty or sum forfeited which remains unpaid, as it may direct:

PROVIDED FURTHER that no appeal shall be entertained by the appellate authority unless it is satisfied that such amount of tax as the appellant may admit to be due from him has been paid.

(6) Subject to such rules of procedure as may be prescribed every appellate authority (both in the first appeal and the second appeal) shall have the following power:—

- (a) in an appeal against an order of assessment, it may confirm, reduce, enhance or annul the assessment; or it may set aside the assessment and refer the case back to the assessing authority for making a fresh assessment in accordance with direction given by it and after making such further inquiry as may be necessary; and the assessing authority shall thereupon proceed to make such fresh assessment and determine, where necessary, the amount of tax payable on the basis of such fresh assessment;
- (b) in an appeal against an order levying interest or penalty, the appellate authority may confirm or cancel such order or vary it so as either to enhance or to reduce the interest or penalty;
- (c) in any other case the appellate authority may pass such orders in the appeal as it deems just and proper:

PROVIDED that the appellate authority shall not enhance an assessment of interest or penalty unless the appellant has had a reasonable opportunity of showing cause against such enhancement.

37. Non Appellable Orders

No appeal shall lie against—

- (1) a notice issued under this Act calling upon a '[proprietor]' for assessment or asking a '[proprietor]' to show cause as to why he should not be prosecuted for an offence under this Act, or notices issued under any of the provisions of section 20 of this Act, or
- (2) an order pertaining to the seizure or retention of account books, registers and other documents; or
- (3) an order sanctioning a prosecution under this Act, or
- (4) an order transferring any proceeding under section 47.

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Amdt.) Act, 2012, dt, 19-6-2012, w.e.f. 9-8-2012.

38. Revision and Review

(1) Subject to any rules which may be made in this behalf, the Government or any other authority specified in this behalf by it by a general or special order and within such time as may be prescribed in such general or special order may, of its own motion, call for and examine the record of any order passed (including an order passed in appeal) under this Act or the rules made thereunder by any officer or person subordinate to it and pass such order thereon as it thinks just and proper:

PROVIDED that, no notice shall be served on the assessee under this sub-section after the expiry of three years from the date of the communication of the order sought to be revised and no order in revision shall be made by it hereunder after expiry of five years from such date.

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

(3) No proceeding for revision shall be commenced until after—

- (i) the expiry of the period of limitation for an appeal or second appeal, as the case may be, or
- (ii) the disposal of the appeal, where such appeal or the second appeal has been preferred.

(4) An application for revision shall be dealt with in the same manner as if it were an appeal under this Act.

(5) The Government may, at any time, either on its own motion or otherwise, review any order passed under this Act, when new material which could not be made available at the time of passing the order under review and which has the effect of changing the nature of the case, has come or has been brought, to its notice.

(6) Before any order is passed under sub-section (5) which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

39. Court fee on appeal and certain other applications

An appeal preferred under section 36 and any other application when presented to any authority under this Act for a prescribed purpose shall bear a court fees stamp of such value as provided in the Court Fees Act, 1870.

40. Application of sections 4, 5 and 12 of the Limitation Act

In computing the period laid down under section 36 the provisions of sections 4, 5 and 12 of the Limitation Act, 1963 (36 of 1963) shall, so far as may be, apply.

41. Rectification of mistakes

(1) The Commissioner may at any time within two years from the date of any order passed by him, 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 unless the Commissioner has given notice in writing to such person of his intention to do so and has allowed such person a reasonable opportunity of being heard.

(2) The provisions of sub-section (1) shall apply to the rectification of a mistake by an appellate authority under section 36 as they apply to the rectification of mistake by the Commissioner.

(3) Where any such rectification has the effect of reducing the amount of the tax, the Commissioner shall, in the prescribed manner, refund any amount due to such person.

(4) Where any such rectification has the effect of enhancing the amount of the tax, the Commissioner shall recover the amount due from such person in the manner provided for in section 18.

42. Offences and penalties

(1) Whoever, knowingly furnishes a false return shall, on conviction be punished—

- (i) in case where the amount of tax, which could have been evaded if the false return had been accepted as true, exceeds ten thousand rupees with rigorous imprisonment for a term which may extend to three years and with fine;
- (ii) in any other case, with rigorous imprisonment for a term, which may extend to one year and with fine.

(2) Whoever, knowingly keeps false account of the receipts in contravention of section 29, shall, on conviction, be punished with rigorous imprisonment for a term which may extend to one year and with fine.

(3) Whoever—

- (i) willfully attempts, in any manner whatsoever, to evade any tax leviable under this Act, or
- (ii) willfully attempts, in any manner whatsoever, to evade any payment of any tax under this Act, shall on conviction, be punished:
 - (a) in case where the amount involved exceeds fifty thousand rupees during the period of a year, with rigorous imprisonment for a term which may extend to three years and with fine;
 - (15) in any other case, with rigorous imprisonment for a term which may extend to one year and with fine.

(4) Whoever aids or abets any person in commission of any act specified in sub-sections (1) to (3) shall, on conviction, be punished with rigorous imprisonment which may extend to one year and with fine.

(5) Whoever—

- (a) carries on business without keeping registered in willful contravention of section 8, or
- (b) falls, without sufficient cause, to furnish any information required by section 10, or
- (c) falls, without sufficient cause, to furnish any return as required by section 12 by the date and in the manner prescribed, or
- (d) contravenes without reasonable cause, any of the provisions of section 27, or
- (e) fails, without sufficient cause, to issue a bill or cash memorandum as required under section 28, or
- (f) fails, without sufficient cause, when directed under section 29 to keep any accounts or record, in accordance with such direction, or
- (g) fails, without sufficient cause, to comply with any requirements made of him under section 30, or
- (h) voluntarily obstructs any officer making inspection or search or seizure under section 30,

shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine.

(6) Whoever commits any of the Acts specified in sub-sections (1) to (5) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punished with a daily fine of not less than rupees two hundred during the period of the continuance of the offence, in addition to the punishment provided under this section.

(7) Notwithstanding anything contained in sub-sections (1) to (6), no person shall be proceeded against under these sub-sections for the acts referred to therein, if the total amount of tax evaded or attempted to be evaded is less than two hundred rupees during the period of a year.

(8) Whoever, when required to furnish any information or return under section 32—

- (a) willfully refuses or without lawful excuse neglects to furnish such information or return, or
- (b) willfully furnishes or causes to be furnished any information or return which he knows to be false,

shall, on conviction, be punished with fine which may extend to five hundred rupees and in case of a continuing offence to a further fine which may extend to fifty rupees for each day after the first offence during which the offence continues.

(9) Whoever, when engaged in connection with the collection of statistics under section 32, willfully discloses any information or the contents of any return given or made under that section, otherwise than in execution of his duties under that section or for the purposes of the prosecution of an offence under this Act or under the Indian Penal Code (XLV of 1860), shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

(10) Save as provided in sub-section (2) of section 43 any servant of the Government discloses any of the particulars referred to in sub-section (1) of that section, he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both.

(11) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed by the Commissioner under any provisions of this Act.

43. Disclosure of Information by any public servant

(1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceeding under this Act (other than a proceeding before a Criminal Court), or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall save as provided in sub-section (2), be treated as confidential.

(2) Nothing contained in this section shall apply to the disclosure—

- (a) of any such particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code (XLV of 1860) or the Prevention of Corruption Act, 1988, or this Act, or any other law for the time being in force; or

- (b) of any such particulars to the Government or to any person acting in the execution of this Act, for the purpose of carrying out the object of this Act; Or
- (c) of any such particulars when such disclosure is occasioned by the lawful employment under this Act of any process for the service of any notice for the recovery of any demand; or
- (d) of any such particulars to a Civil Court in any suit, to which the Government is a party, which relates to any matter arising out of any proceeding under this Act; or
- (e) of any such particulars to any officer appointed to audit receipt or refunds of the tax imposed by the Act; or
- (f) of any such particulars where such particulars are relevant to any inquiry into the conduct of an official of the Government to any person or persons appointed by Commissioner under the Public Servants (Inquiries) Act, 1850 (XXXVII of 1850) or to any officer otherwise appointed to hold such inquiry or to a Public Service Commission established under the Constitution when exercising its functions in relation to any matter arising out of such inquiry; or
- (g) of such facts to an officer of the Central Government or a State Government or Government as may be necessary for the purpose of enabling that Government to levy or realize any tax or duty imposed by it; or
- (h) of any such particulars, when such disclosure is occasioned by the lawful exercise by a public servant of his powers under the Indian Stamps Act, 1899 (II of 1899) to impound an insufficiently stamped document; or
- (i) of any such particulars where such particulars are relevant to any inquiry into a charge of misconduct in connection with proceedings under this Act against a legal practitioner, tax practitioner or chartered accountant, to the authority empowered to take disciplinary action against members practicing the profession of a legal practitioner, tax practitioner or chartered accountant, as the case may be; or
- (j) of any such particulars to the Director, Bureau of Economics and Statistics or any officer serving under him or to any person or persons authorized under section 32 as may be necessary for enabling the Director or such person or persons to work out the incidence of tax on any particular class of receipts or on receipts generally.

(3) No information of any individual return and no part of any individual return with respect to any matter given for the purposes of section 32 shall without the previous consent in writing of the owner for the time being or his authorised agent be published in such manner as to enable any particulars to be identified referring to a particular ¹[proprietor] and no such information shall be used for the purpose of any proceeding under the provisions of this Act.

(4) Except for the purpose /5f prosecution under this Act, or under the Indian Penal Code (XLV of 1860), no person who is not engaged in the collection of statistics under section 32 or in the administration of this Act shall be permitted to see or have access to any information of any individual return referred to in that section.

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Amdt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

(5) Notwithstanding anything contained in this Act, if the Government is of opinion that it is necessary or expedient in the public interest to publish or disclose the names if any ¹[proprietor] or other persons and any other particulars relating to any proceedings under this Act in respect of such ²[proprietors] and persons, it may publish or disclose or cause to be published or disclosed such names and particulars in such manner as it thinks fit.

(6) No publication or disclosure under this section shall be made in relation to any tax on interest levied or penalty imposed or any conviction for any offence connected with any proceedings under this Act, until the time for presenting an appeal to the appropriate appellate authority has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation : In the case of a firm, company or other association of persons, the names of the partners of the firm, the directors, managing agents, secretaries, treasurers or managers of the company or the members of the association, as the case may be, may also be published or disclosed, if, the opinion of the Government, the circumstances of the case justify it:

44. Offences by companies

(1) Where an offence under this Act has been committed by a company, every person who at the same time offence was committed, was in charge of, and was responsible to, the company for the conduct of the 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 in 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 contained in sub-section (1), where an 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 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 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 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.

45. Investigation of offences

(1) Subject to such conditions as may be prescribed, the Commissioner may authorise either generally or in respect of a particular case or class of cases any officer or person subordinate to him to investigate all or any of the offence, punishable under this Act.

(2) Every officer so authorised shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1973 (Act No. 2 of 1974) upon an officer in charge of a police station for the investigation of a cognizable offence.

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Arndt.) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

² Substituted for "hoteliers", *ibid*.

(3) Notwithstanding anything contained in any other law all offences under this Act shall be non-cognizable and bailable.

(4) No court shall take cognizance of any case under this Act without the sanction of the Government.

46. Compounding of offence

(1) The Commissioner may, either before or after the institution of proceedings for any offence punishable under section 42 or under any rules made under this Act, accept from any person charged with such offence by way of composition of the offence based on an application from the ¹[proprietor] with prior approval of Government a sum not exceeding two thousand rupees or where the offence charged is under sub-sections (1), (2), (3), (4) or clauses (a), (b), (c), (d), (g) or (h) of sub-section (5) of section 42, a sum not exceeding double the amount of tax which would have been payable on the receipt or turnover of receipts to which the said offence relates, whichever is greater.

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

47. Power to transfer proceedings

The Commissioner may, after recording reason by order in writing transfer any proceedings or class of proceedings under any provision of this Act, from himself to any other officer and he may likewise transfer any such proceedings from any officer to any other officer or to himself.

Explanation: In this section, the word "proceedings" in relation to any ¹[proprietor] whose name 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 ¹[proprietor].

48. Appearance before any authority in proceedings

(1) Any person, who is entitled or required to attend before any authority in connection with any proceedings under this Act, may attend—

- (a) by a person authorised by him in writing in this behalf, being a relative or a person regularly employed by him; or
- (b) by a legal practitioner or chartered accountant or cost accountant, who is not disqualified by or under sub-section (2); or
- (c) by a luxury tax practitioner who possesses the prescribed qualifications and is entered in the list which the Commissioner shall maintain in that behalf and who is not disqualified by or under sub-section (2).

If such relative, person employed, legal practitioner, chartered accountant, cost accountant or luxury tax practitioner is authorised by such person in the prescribed form, such authorization may include the authority to act on behalf of such person in such proceedings.

(2) The Commissioner may, by order in writing and for reasons to be recorded therein, disqualify for such period as is stated in the order from attending before any such authority any legal practitioner, chartered accountant, cost accountant or luxury tax practitioner-

¹ Substituted for "hotelier" by the Delhi Tax on Luxuries (Arndt) Act, 2012, dt. 19-6-2012, w.e.f. 9-8-2012.

- (i) who has been removed or dismissed from Government service; or
- (ii) who being a legal practitioner or chartered accountant or cost accountant is found guilty of misconduct in connection with any proceedings under this Act by an authority empowered to take disciplinary action against the members of the profession to which he belongs; or
- (iii) who being a luxury tax practitioner is found guilty of such misconduct by the Commissioner.

(3) No order of disqualification shall be made in respect of any particular person unless he has been given a reasonable opportunity of being heard.

(4) Any person against whom any order of disqualification is made under this section may, within one month of the date of communication of such order, appeal to the Lieutenant Governor to have the order cancelled.

(5) The order of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred, until the appeal is decided.

(6) The Lieutenant Governor may at any time *suo motu* or on an application made to him in this behalf, revoke any order made against any person under sub-section (2) and thereupon such person shall cease to be disqualified.

49. Persons appointed under section 7 to be public servant

The Commissioner and all officers and persons appointed under section 7 shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code [XLV of 1860].

50. Indemnity

No suit, prosecution or other legal proceeding shall lie against any servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

51. Power to make rules]

(1) The Government may make rules by notification in the Official Gazette 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—

- (i) sub-ordination of officers and persons appointed under section 7 amongst themselves;
- (ii) the periods within which, the manner in which and the authority to which application for registration shall be made under section 8;
- (iii) the procedure for, and other manners incidental to the registration of ¹[proprietors] and the granting of certificates of registration and the form of such certificates under section 8 and the manner in which application for cancellation of registration shall be made and the date from which cancellation of registration shall take effect;
- (iv) the authority to which, and the time within which, information shall be furnished under section 10;
- (v) the period for which and the date by which and the authority to which, the return shall be furnished under section 12 and the terms and

¹ Substituted for "hoteliers" by the Delhi Tax on Luxuries (Arndt.) Act, 21112, dt. 19-y-2012, w.e.f. 9-8-2012.

conditions for purposes of the proviso to sub-section (1) of the said section 12;

- (vi) procedure to be followed for assessment under section 13;
- (vii) the intervals at which, and the manner in which, the tax shall be paid under section 18 and the conditions subject to which interest may be remitted under section 16;
- (viii) the manner in which a notice under sub-section (3) of section 13 may be served, and the details to be mentioned in the notice published under sub-section (6) of section 13;
- (ix) the circumstances in which, and the conditions subject to which, tax may be remitted under section 26;
- (x) the other particulars under section 28;
- (xi) the accounts and forms thereof required by the Commissioner to be kept under section 29 and the conditions or restrictions subject to which the accounts and records shall be maintained under section 29;
- (xii) the conditions subject to which the production of accounts or documents or the furnishing of information may be required under section 30;
- (xiii) the period within which, the authority to which and the manner in which a declaration shall be sent under section 31;
- (xiv) the form in which, the authority to which, and the intervals in which, information or returns shall be furnished under section 32: and the particulars to be specified in such information and returns.
- (xv) the procedure for, and other matters (including fees) incidental to appeals and revision under sections 36 and 38;
- (xvi) the forms of authorization for the purpose of clauses (a), (b) and (c) of sub-section (1) and the conditions and the qualifications for the purposes of clause (c) of sub-section (1) of section 48;
- (xvii) the manner in which, and the time within which the applications shall be made, information furnished and notices served, under this Act;
- (xviii) the fees payable (in court fees stamps) in respect of an application—
 - (a) for a certified copy of an order of assessment or any order passed or document produced or filed in any proceedings under this Act;
 - (b) for determination of any question under section 33;
- (xix) the fees payable and mode of payment for making and supplying a duplicate or certified copy of any order or document under this Act or the rules made thereunder, the extra fees payable if the copy is required urgently and the deposit to be made to cover the cost of such fees;
- (xx) any other matter which is required to be or may be prescribed.

(3) Any rules made under this Act may provide that a contravention thereof shall be punishable with fine which may extend to twenty thousand rupees, and in the case of a continuing contravention, with an additional fine which may extend to two hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(4) Every rule made under this section shall be laid as soon as may be after it is made before the Legislative Assembly of 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 successive sessions, and if, before the expiry of the session in which it is so laid or session immediately following, the Assembly agrees in making any modification in the rule or agrees that the rules should not be made and notify such decision in the Official Gazette, the rules shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case maybe; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

52. Removal of Difficulties

If any difficulty arises in giving effect to the provision of this Act, the Government may, by the order published in the Official Gazette, make such provision or give such direction as appears to it to be necessary for removing the difficulty:

PROVIDED that no such order be made by the Government after the expiry of a period of one year from the appointed day.