

AUTHORITATIVE ENGLISH TEXT

**THE HIMACHAL PRADESH LOCAL AREA DEVELOPMENT TAX
ACT, 2005**

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**THE HIMACHAL PRADESH LOCAL AREA DEVELOPMENT TAX
ACT, 2005**

(ACT NO. 16 OF 2005¹)

Received the assent of the Governor on 9th May, 2005, published in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 10th May, 2005, pp. 673-708.

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary) dated 4th July, 2005, pp. 327 and 344.

An Act to provide for levy and collection of tax on the entry into a local area of the State of Himachal Pradesh, of a motor vehicles for use or sale, and of other goods for use or consumption, therein and matters incidental thereto and connected therewith.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Fifty-sixth Year of the Republic of India, as follows:-

CHAPTER-I

PRELIMINARY

1. Short title and commencement.- (1) This Act may be called the Himachal Pradesh Local Area Development Tax Act, 2005.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

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

- (a) “Act” means the Himachal Pradesh Local Area Development Act, 2005;
- (b) “assessee” means a person by whom tax is payable under this Act;
- (c) “bring goods into a local area” means causing the entry of goods into a local area by bringing them inside the local area or causing the goods to be brought inside the local area from any place outside the local area;
- (d) “bring motor vehicle into a local area” means causing the entry of motor vehicle into a local area by bringing it inside the local area or causing it to be brought inside the local area from any place outside the local area;
- (e) “business” includes,-
 - (i) any trade, commerce, manufacture, works contract, leasing or any adventure or concern in the nature of trade, commerce, manufacture, works contract or leasing, whether or not, such trade, commerce, manufacture, works contractor, leasing, adventure or concern is carried on regularly and with a motive to make gain or profit and whether or not any profit accrues therefrom; and
 - (ii) any transaction in connection with or incidental or ancillary to such trade, commerce, manufacture, works contract, leasing, adventure or concern;

- (f) “Commissioner” means the Commissioner appointed under sub-section (1) of section 3 of the Himachal Pradesh Value Added Tax Act, 2005 (12 of 2005);
- (g) “entry of goods into a local area” means taking or bringing goods into a local area from any place outside the State or from any place inside any other local area in the State;
- (h) “entry of a motor vehicle into a local area” with all its grammatical variations and cognate expressions means entry of motor vehicle into a local area from any place outside it for use or sale therein;
- (i) “goods” means all kinds of movable property and includes livestock;
- (j) “goods carrier” means any kind of vehicle of transport of goods including pipeline, motor vehicle, boat, push cart, animal drawn cart, tractor-trailer and the like;
- (k) “gross turnover” used in relation to an importer with reference to a period of time means the aggregate value of goods which the importer brings or receives on the entry of such goods into a local area during the given period;
- (l) “importer” means any person who, in the course of business, whether on his own account or on account of a principal or any other person, brings any goods into or receives or is entitled to receive any goods on their entry into a local area and includes a casual importer;

Explanation.- When a consignee does not take delivery of goods upon its entry into a local area, and such goods are sold under the provisions of any law, the buyer who takes delivery of such goods upon the goods being sold shall be deemed to be the importer thereof.

- (m) “importer of a motor vehicle” means a person who brings a motor vehicle into a local area from any place outside the local area for use or sale therein and who owns the motor vehicle at the time of its entry into a local area and includes a person who owns the motor vehicle at the time of its registration in the State under the Motor Vehicles Act, 1988 (59 of 1988);
- (n) “local area” means such area within the limits of a local Authority, as the State Government may, by notification in the official Gazette, notify;
- (o) “manufacturer” means a person who carries on business of manufacturing or processing of goods, whether wholly or partly;

- (p) “motor vehicle” means any vehicle registered or liable to be registered under the Motor Vehicles Act, 1988 (59 of 1988);
- (q) “place of business” means any place where any importer is doing business and includes-
 - (i) any warehouse, godown or other place where the importer stores or processes his goods;
 - (ii) any place where the importer produces or manufactures goods;
 - (iii) any place where the importer keeps his books of accounts;
 - (iv) any place where the importer carries on business through an agent (by whatever name called), the place of business of such agent;
- (r) “prescribed” means prescribed by rules made under this Act;
- (s) “purchase value of a motor vehicle” means the value of motor vehicle as ascertained from the invoice and includes the value of accessories fitted to the vehicle, insurance, excise duty, countervailing duties, sales tax, transport fee, freight charges and all other charges incidentally levied on the purchase of a motor vehicle:

Provided that if purchase value of a motor vehicle is not ascertainable on account of non availability or non-production of invoice or when the invoice produced is proved to be false or if the motor vehicle is acquired or obtained otherwise than by way of purchase, then the purchase value of a motor vehicle shall be the market value of a motor vehicle:
- (t) “receive any goods” means to take delivery or possession of any goods, whether actual or constructive, or cause the goods to be received by any other person;
- (u) “sale tax” means the tax leviable under the Central Sales Tax Act, 1956 (74 of 1956) and the tax levied under the Himachal Pradesh Value Added Tax Act, 2005 (12 of 2005), as the case may be;
- (v) “Schedule” means a Schedule appended to this Act;
- (w) “State” means the State of Himachal Pradesh;
- (x) “State Government” means the Government of Himachal Pradesh;
- (y) “tax” means the tax leviable under this Act;
- (z) “taxable goods” means the goods other than the goods specified in Schedule;

- (za) “turnover” used in relation to any assessee means the aggregate of the value of goods which the assessee brings or receives in any local area for consumption or use therein during any given period and which is determined in accordance with the provisions of this Act and the rules made thereunder;
- (zb) “value of the goods” means the purchase value of such goods, that is to say, the purchase price at which an importer has purchased the goods inclusive of charges borne by him as cost of transportation, packing, forwarding and handling charges, commission, insurance, taxes, duties and the like, or if such goods have not been purchased by him, the prevailing market price of such goods in the local area;
- (zc) “works contract” means any agreement for-
 - (i) the construction, fitting out, improvement, maintenance or repair of any building, road, bridge or any other immovable property, or
 - (ii) manufacture, processing, fabrication, erection, installation, fitting out, improvement, modification, repair, conversion or commissioning of any movable property, for cash, deferred payment or other valuable consideration; and
- (zd) “Year” means the financial year.

CHAPTER-II

LEVY OF TAX

3. Levy of tax.- (1) There shall be levied and collected a tax on the entry into a local area, of all goods except those specified in Schedule, for consumption or use therein, at such rates not exceeding the rates of tax leviable under the Himachal Pradesh Value Added Tax Act, 2005 (12 of 2005), as may, by notification, be specified by the State Government, and different rates may be specified in respect of different goods or different classes of goods or different local areas.

(2) The tax levied under sub- section (1) shall be paid by the importer:

Provided that an importer shall not be liable to pay tax so long as the aggregate value of taxable goods, he brings into or receives on their entry into any local area does not, in a year, exceed twenty lakhs rupees or such other sum as the State Government may, by notification, specify:

Provided further that an importer who has once become liable to pay tax under this Act shall continue to be so liable until the expiry of three consecutive years during each of which the aggregate value of any taxable goods he brings into or receives on their entry into any local area does not exceed the amount specified in the first proviso.

Explanation.- Where the goods are received on its entry into a local area by a person other than an importer, the importer, if any, who further receives the goods from such person shall be deemed to have received the goods on entry into the local area.

(3) The tax shall be levied, assessed and collected in such manner, as may be prescribed.

(4) Notwithstanding anything contained in sub-section (1), no tax shall be levied on the notified goods imported by a dealer registered under the Himachal Pradesh Value Added Tax Act, 2005 (12 of 2005) who brings such goods into any local area for the purpose of re-sale in the State or during the course of inter-State trade or commerce:

Provided that if any such dealer, after importing the notified goods for the purpose of re-sale, consumes such goods in any form or deals with such goods in any other manner except reselling the same, he shall forthwith notify the assessing authority.

4. Special provisions of levy of tax on the motor vehicles.- (1) Notwithstanding anything contained in section 3 of this Act, there shall be levied and collected a tax on the entry of a motor vehicle into a local area for use or sale therein:

Provided that such motor vehicle is liable for registration or assignment of a new registration mark in the State under the Motor Vehicles Act, 1988 (59 of 1988):

Provided further that no tax shall be levied and collected in respect of a motor vehicle which was registered in any Union Territory or any other State under the Motor Vehicles Act, 1988, for a period of fifteen months or more before the date on which it is registered in the State under that Act.

(2) The tax shall be levied on purchase value of a motor vehicle at the rate equal to the difference between the sales tax rate applicable in the State and the sales tax or the central sales tax rate charged on the sale of the motor vehicle in the invoice relating to the purchase of the vehicle:

Provided that the sales tax rate applicable in the State for the purpose of this section shall be taken as on the date mentioned in the invoice relating to the purchase of the motor vehicle:

Provided further that if no invoice in respect of purchase of the motor vehicle is produced or if the invoice does not show the rate of sales tax or central sales tax, as the case may be, charged, then the tax rate applicable under this section shall be the rate of sales tax applicable in the State on the date of assessment.

5. Exemption of tax in certain circumstances.- Where any person brings a motor vehicle into a local area for his personal use within a period of fifteen months from the date of its registration in any Union Territory or any other State under the Motor Vehicles Act, 1988 (59 of 1988), and that such

entry is occasioned as a result of shifting the place of his residence from such Union Territory or State into this State, Commissioner may, by order in writing, on application made to him in this regard, exempt such person from the payment of entry tax on entry of such vehicle subject to the production of proof.

6. Registration.- Every importer, who is liable to pay tax under sub-section (2) of section 3 of this Act shall be liable to be registered under this Act, in such manner, on payment of such fee and within such period, as may be prescribed:

Provided that if such importer is registered under the Himachal Pradesh Value Added Tax Act, 2005 (12 of 2005), he shall be deemed to have been registered under this Act.

CHAPTER-III

RETURN, ASSESSMENT, PAYMENT, RECOVERY AND COLLECTION OF TAX

7. Deductions from gross turnover.- (1) In calculating the turnover liable to tax for a period, an importer may deduct from his gross turnover of goods purchased during that period,-

- (a) the value of goods specified in Schedule;
- (b) the value of goods which have, without use or consumption, been delivered outside the local area;
- (c) the value of goods which have been subjected to tax once under this Act, either as such or in some other form;
- (d) the value of goods on which sales tax has been paid or has become payable to the State;
- (e) the value of plant, machinery, equipment and tools, brought or received on lease for use in manufacture or processing of goods;
- (f) the value of goods brought or received in a local area for resale or for use or whether as such or in different form, lying with him in the local area, except when the certificate of registration issued under this Act is cancelled:

Provided that the value of goods deducted under this clause shall, except when the certificate of registration issued under this Act is cancelled, form part of the turnover for the period immediately succeeding:

Provided further that the value of plant, machinery, equipment and tools, for use in manufacture or processing of goods, if forming part of the turnover, may form part of the losing stock, if capitalised; and

(g) the value of such other goods, as may be prescribed.

Explanation.- For the purpose of this sub-section, deduction of value of only such goods shall be admissible which forms part of gross turnover of the importer and if value of certain goods have been deducted under one clause, then, it shall not be deducted under any other clause.

(2) The deductions claimed under sub-section (1) shall be subject to production of such proof in such form and in such manner, as may be prescribed. The Assessing Authority may ask for any relevant evidence to satisfy itself about the genuineness and correctness of the proof furnished.

8. The authorities and administration of tax.- Subject to the provisions of this Act and the rules made thereunder, the authorities for the time being empowered under the Himachal Pradesh Value Added Tax Act, 2005 (12 of 2005), to assess, re-assess, collect and enforce payment of tax, including any interest or penalty payable by a dealer, shall assess, re-assess, collect and enforce payment of tax including any interest or penalty payable by an importer under this Act, as if, the tax or interest or penalty payable by such importer under this Act, is a tax under the Himachal Pradesh Value Added Tax Act, 2005, and for this purpose they may exercise all or any of the powers they have under the Himachal Pradesh Value Added Tax Act, 2005, and all the provisions of that Act including the provisions relating to registration, security, payment of tax and returns, payment of interest, prohibition against collection of tax in certain cases, assessment of tax, re-assessment of tax, non-application of limitation for completion of assessment or re-assessment of tax, tax and penalty recoverable as arrears of land revenue, tax, penalty and interest to be the first charge on the property, special mode of recovery, refund, accounts, production and inspection of books, documents and accounts, survey, establishment of check-post and barrier and inspection of goods in transit, registration and submissions of returns by carrier of goods and agent of transport companies, assessee etc. permitted to attend through authorised agent, power to call for information, delegation of powers, transfer of business, liability to pay tax by a partitioned Hindu family, dissolved firms etc., liability of legal heirs to pay tax, bar of certain proceedings, appeal, revision, rectification of mistakes, revision to the High Court, powers of authorities to take evidence on oath, offences and penalties, compounding of offences, cognizance of offences, directors of defaulting companies to be liable to pay tax, disposal of certain property, indemnity, returns etc. to be confidential, persons appointed to be public servants, power to seek assistance from police and other officers and burden of proof, shall apply mutatis mutandis.

(2) Subject to the provisions of sub-section (1), in the case of an importer other than a dealer, the assessment, payment, enforcement and collection of tax shall be such as may be prescribed.

(3) All the provisions relating to offences and penalties (including provisions relating to penalties in lieu of the prosecution for an offence, or in addition to the penalties or punishment for an offence) and the provisions

relating to levy or charging of interest under the Himachal Pradesh Value Added Tax Act, 2005 (12 of 2005) shall, with necessary modifications, apply in relation to the assessment, re-assessment, collection and the enforcement of any tax required to be collected under this Act or in relation to any process connected with such assessment, re-assessment, collection or enforcement of payment, as if, the tax under this Act were a tax under the Himachal Pradesh Value Added Tax Act, 2005.

9. Power of the State Government to exempt or reduce tax.- (1)

The State Government may, if in its opinion it is necessary in the public interest so to do, by notification, subject to such restrictions and conditions and for such period as may be specified in the notification, exempt or reduce the tax payable by any class of importer under this Act.

(2) Where any restriction or condition specified in the notification issued under sub-section (1) is contravened or is not observed by an importer or where a declaration, if any, specified in the said notification for the observance of any condition or restriction imposed therein, furnished, is found to be wrong, then such importer shall, in addition to tax calculated at the full rate, notified under sub-section (1) of section 3, on the value of such goods in respect of which such contravention or non-observance has taken place or a wrong declaration has been furnished, be liable to pay interest in terms of section 8 of this Act:

Provided that before taking any action under this sub-section, the importer shall be given a reasonable opportunity of being heard.

10. Power to amend Schedule.- The State Government may, by notification, add to or, delete from or, otherwise, amend the Schedule and there upon the Schedule shall be deemed to have been amended accordingly.

11. Power to make rules.- (1) The State Government may, by notification in the Official Gazette, make rules consistent with this Act, for securing the levy and collection of tax and generally for carrying out the purposes of this Act.

(2) All rules made under this Act shall be laid, as soon as may be, after they are made, before the Legislative Assembly, while it is in session, for a total period of fifteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which they are so laid or of the session immediately following, the Assembly agrees in making any modifications in the rules or the Assembly decides that the rules should not be made, such rules shall have effect only in such modified form or be of no effect, as the case may be. However, that any such modification or annulment shall be without prejudice to the validity of anything done earlier under that rule.

SCHEDULE**[See sections 2(v), 3(1), 7(1) (a) and 10]**

Sr. No.	Goods	Conditions of exemption
1.	2.	3.
1.	Agriculture or horticulture produce, including herbs or saplings of trees sold by person or a member of his family, grown by himself or grown on any land in which he has an interest whether as owner or usufructuary mortgagee or as tenant or otherwise.	-
2.	Agricultural implements manually operated or animal driven.	-
3.	Aids and implements used by handicapped persons.	-
4.	Animal feed and feed supplements, namely processed commodity sold as poultry feed, cattle feed, pig feed, fish feed, fish meal, prawn feed, shrimp feed and feed supplements and mineral mixture concentrates, intended for use as feed supplements including grass, hay and straw.	-
5.	Articles made of bamboo-wood used for agricultural purposes.	-
6.	Baan.	-
7.	Books, periodicals and journals.	-
8.	Charkha, Ambar Charkha, handlooms, Himachali handloom articles, Himachali handloom shawls, caps and handspun yarn, and Gandhi Topi.	-
9.	Charcoal.	-
10.	Coarse grains other than paddy, rice and wheat.	-
11.	Condoms and contraceptives.	-
12.	Cotton yarn in hank and silk yarn in hank.	-
13.	Curd, lassi, butter milk and separated milk.	-
14.	Earthen pots (unglazed).	-
15.	Electric Energy.	-

16.	Fire wood.	When sold for domestic use .
17.	Fishnet, fish fabrics and fish seeds.	-
18.	Foodgrains supplied free of cost by the Government of India.	-
19.	Fresh fruits.	-
20.	Fresh milk and pasteurized milk.	-
21.	Fresh plants, sapling and fresh flowers.	-
22.	Fresh vegetables.	-
23.	Garlic, ginger, green chillies, onions, potatoes, sweet potatoes, tapioca and their seeds.	-
24.	Glass bangles (including plastic shell and lac bangles).	-
25.	Graphite pencils, writing chalk, crayons, sketch, pens, drawing colour eraser, sharpener, footrules, geometry boxes, ink tablets, exercise and drawing books of the type used in schools and takhties used by students.	-
26.	Human blood and blood plasma.	-
27.	Indigenous handmade musical instruments.	-
28.	Kumkum, bindi, alta and sindur.	-
29.	Leaf plates and leaf-cups (when not compressed).	-
30.	Meat, fish, prawn and other aquatic products when not cured or frozen, eggs and live stock and animal hair.	Except when sold in sealed containers.
31.	National flag.	-
32.	Non-Judicial stamp paper sold by Government Treasuries, postal items like envelope, postcard etc. sold by Government, rupee note when sold to the Reserve Bank of India and cheques, loose or in book form.	-
33.	Organic manure.	-
34.	Raw wool.	-
35.	Seeds.	
36.	Semen including frozen semen.	-

37.	Silk worm laying cocoon and raw silk.	-
38.	Tender green coconut.	-
39.	Toddy, Neera and Arak.	-
40.	Unbranded bread.	-
41.	Unprocessed and unbranded salt.	-
42.	Water other than –	
	(i) aerated, mineral, distilled, medicinal, ionic, battery, demineralised water, and	-
	(ii) water sold in sealed container.	-
43.	Writing slate and slate pencils.	-