

THE MAHARASHTRA TAX ON SALE OF ELECTRICITY ACT, 1963.

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MAHARASHTRA ACT No. XXI OF 1963
[THE MAHARASHTRA TAX ON SALE OF ELECTRICITY ACT, 1963.]

[24th April 1963]

(This Act received assent of the Governor on the 21st April 1963; assent was first published in the *Maharashtra Government Gazette*, Part IV, Extraordinary, on the 24th April 1963.)

Amended by Mah. 51 of 1965.

- “ ” ” 32 of 1974 (7-9-1974)*
- “ ” ” 75 of 1975 (1-1-1976)*
- “ ” ” 9 of 1988.
- “ ” ” 8 of 1993 # (1-1-1994)*
- “ ” ” 9 of 1997 @
- “ ” ” 21 of 1998 @@ (1-5-1998)*
- “ ” ” 25 of 1999.
- “ ” ” 50 of 2000 ** (1-10-2000)*
- “ ” ” 21 of 2004 \$ (5-4-2004)*
- “ ” ” 5 of 2008 (22-2-2008)*
- “ ” ” 15 of 2008.

An Act to levy a tax on the sale of electricity in the State of Maharashtra, and to provide for the creation of a Fund therefrom for the improvement and development of power supply in the State.

WHEREAS, it is expedient to levy a tax on the sale of electricity in the State of Maharashtra and to provide for the creation of a Fund therefrom for the improvement and development of power supply in the State; It is hereby enacted in the Fourteenth Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra Tax on Sale of Electricity Act, 1963.
- (2) It extends to the whole of the State of Maharashtra.
- (3) It shall be deemed to have come into force on the 1st day of January 1963.

Short title, extent and commencement.

²[2. In this Act, unless the context otherwise requires,—

Definitions.

54 of 1948.

(a) “ Board” means the State Electricity Board constituted under sub-section (1) of section 5 of the Electricity (Supply) Act, 1948 and functioning as such at the commencement of the Electricity Act ;

36 of 2003.

(b) “Electricity Act” means the Electricity Act, 2003 ;

(c) “power utility” shall include the Board, a generating company, a licensee and a person generating electricity primarily for his own use and for the use of his associates ;

(d) “prescribed” means prescribed by rules made under this Act ;

(e) “tax” means a tax imposed under this Act ;

(f) words and expressions used but not defined herein shall have their respective meanings as assigned to them under the Electricity Act.]

1. For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1963, Part V., P. 11.
 * This indicates the date of commencement of Act.
 # This Act came into force on 1-1-1994, vide, G. N., F. D., No. MSC. 1092/CR-1137/NRG-2, dated the 4th April 1994.
 @ Maharashtra Ordinance No. 12 of 1996 was repealed by Mah. 9 of 1997, s. 48.
 @@ Maharashtra Ordinance No. 6 of 1998 was repealed by Mah. 21 of 1998, s. 30.
 ** Maharashtra Ordinance No. 18 of 2000 was repealed by Mah. 50 of 2000, s. 8.
 \$ Maharashtra Ordinance No. 15 of 2004 was repealed by Mah. 21 of 2004, s. 10.
 2. This section was substituted by Mah. 21 of 2004, s. 2.

Incidence of tax. ¹[3. Subject to the provisions of this Act, there shall be levied and paid, at such rate and from such date, either prospective or retrospective, as may be specified by the State Government, by notification in the *Official Gazette*, a tax not exceeding fifty *paise* per unit, ²[in respect of all sales of electricity to a consumer by a power utility :]

³[Provided that, no tax shall be levied and collected or paid on the electricity sold by one power utility to another power utility.]

Payment of tax. 4. Every ⁴[power utility] shall pay to the State Government at the time or times and in the manner, prescribed, the amount of tax payable under this Act.

¹²[Utilisation of proceeds of tax.] ⁵[5. (1) The proceeds of the tax (together with any interest payable under section 9) recovered under this Act, shall first be credited to the Consolidated Fund of the State, and under appropriation duly made by law in this behalf,—

(a) an amount of tax equivalent to ⁶[eight *paise*] per unit paid by power utility to the State Government in respect of sale of electricity to commercial and industrial consumers shall be transferred to the Maharashtra Energy Development Agency established under the Societies Registration Act, 1860 or its successor, for executing schemes of generation of renewable and non-conventional sources of energy; and

(2) Any amount transferred to the Maharashtra Energy Development Agency ⁸[* * *] under sub-section (1) shall be charged on the Consolidated Fund of the State.]

Licensee to keep books of account and submit returns. 6. Every ¹⁰[power utility] who is required to pay tax shall keep books of account in the prescribed form, and submit to the State Government or to an officer authorised by that Government in this behalf, returns in such form, and at such times, as may be prescribed, showing the units of energy sold by him and the amount of tax payable thereon and the amount of tax already paid by him.

Power to exempt. 7. Subject to such conditions (if any) as it may, impose, the State Government may, if it considers it necessary in the interest of the development of power supply so to do, by notification in the *Official Gazette*, exempt the sale of energy ¹¹[by any class of power utility or to consumers] from the payment of the whole or any part of the tax payable under this Act.

Inspecting officers. 8. (1) The State Government may, by notification in the *Official Gazette*, appoint any persons, having the prescribed qualifications to be Inspectors for the purposes of this Act.

(2) Every Inspector shall perform such duties and exercise such powers, as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Recovery of tax. 9. ¹²[Any sum due on account of the tax, if not paid at the time and in the manner prescribed, shall be deemed to be in arrears; and thereupon, interest on such sum shall be payable at the rate of 18 per cent. per annum for the first three months immediately

1. This section was substituted by Mah. 50 of 2000, s. 3.

2. These words were substituted for the words "on every unit of energy sold by a generating licensee", by Mah. 21 of 2004, s. 3(a).

3. This proviso was added by Mah. 21 of 2004, s. 3(b).

4. These words were substituted for the words "generating licensee", *ibid.*, s. 4.

5. Section 5 was substituted, *ibid.*, s. 5.

6. These words were substituted for the words "four *paise*" by Mah. 15 of 2008, s. 2.

7. Clause (b) was deleted by Mah. 5 of 2007, s. 9(a).

8. The words "and the State Electricity Fund" were deleted, *ibid.*, s. 9(b).

9. Section 5A was deleted, *ibid.*, s. 10.

10. These words were substituted for the words "generating licensee", *ibid.*, s. 7.

11. These words were substituted for the words "to any class of licensees or consumers", *ibid.*, s. 8.

12. This portion was substituted for the portion beginning with the words "Any sum due" and ending with the words "payable on such sum;" by Mah. 75 of 1975, s. 2.

13. This marginal note was substituted for the original by Mah. 5 of 2008, s. 9 (c).

after the time such sum has become due and thereafter, at the rate of 24 per cent. per annum till such sum is paid;] and the sum together with the interest thereon, shall be recoverable either through a civil court or as an arrear of land revenue at the option of the State Government, or any officer authorised by the State Government in this behalf.

10. The State Government may by rules prescribe that in such circumstances, and subject to such conditions (including any period of limitation) as may be specified in the rules, a refund of the whole or any part of the tax may be granted to the [power utility.] Refund of tax.

11. If any person— Penalties.

(a) fails to keep books of account, or to submit returns, in accordance with the provisions of section 6 and the rules made in that behalf, or

(b) wilfully obstructs an Inspector in the exercise of the powers conferred, or in the discharge of duties imposed, upon him by or under this Act, or

(c) contravenes any rule,

he shall, on conviction, be punished with fine which may extend to one thousand rupees.

12. (1) Where an offence under this Act has been committed by a company, every person who at the time the 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 : Offences by companies.

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 purposes 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.

13. (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the time or times and the manner of payment of tax under section 4;

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(c) prescribe the form of books of account to be kept and the times at which and the form in which, the returns required by section 6 shall be submitted;

1. These words were substituted for the words “generating license” by Mah. 21 of 2004, s. 9.

2. Clause (b) was deleted by Mah. 32 of 1974, s. 4.

- (d) prescribe the qualifications, the powers and duties of Inspectors under section 8;
- (e) prescribe the circumstances in which, and conditions subject to which, refund may be granted under section 10;
- (f) provide for giving effect to the provisions of this Act.

(3) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication.

(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature 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 the session immediately following, both Houses agree in making modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date of publication of a notification in the *Official Gazette* of such decision have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.