

THE UTTAR PRADESH TAX ON ENTRY OF GOODS INTO LOCAL AREAS (AMENDMENT) ACT, 2008

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English Translation of the Uttar Pradesh Sthaniya Kshetra Men Mal Ke Pravesh Par Kar (Sanshodhan) Adhiniyam, 2008 (Uttar Pradesh Adhiniyam Sankhya 7 of 2008) as passed by the Uttar Pradesh Legislature and assented to by the Governor on 4th March, 2008:

THE UTTAR PRADESH TAX ON ENTRY OF GOODS INTO LOCAL AREAS (AMENDMENT) ACT, 2008

(U.P. Act No. 7 of 2008)

(As passed by the Uttar Pradesh Legislature)

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ACT

Further to amend the Uttar Pradesh Tax on Entry of Goods into Local Areas Act, 2007.

It is hereby enacted in the Fifty-ninth year of the Republic of India as follows:

STATEMENT OF OBJECTS AND REASONS

With a view of introducing Value Added System of taxation for the levy and collection of tax on sale and purchase of goods in the State, the Uttar Pradesh Value Added Tax Ordinance, 2007 (U.P. Ordinance No. 37 of 2007) was promulgated by the Governor on 20th December, 2007 and was enforced with effect from 1st January, 2008. Since the Uttar Pradesh Trade Tax Act, 1948 was repealed by the said Ordinance, it had become necessary to change the references of the said Act and its sections by the said Ordinance and its relevant sections in the Uttar Pradesh Tax on Entry of Goods into Local Areas Act, 2007 with effect from the date of commencement of the said Ordinance i.e. 1st January, 2008. It was therefore, decided to amend the said Act for the said purpose.

Since the State Legislature was not in session and immediate legislative action was necessary to implement the aforesaid decision, the Uttar Pradesh Tax On Entry of Goods into Local Areas (Amendment) Ordinance, 2008 (U.P. Ordinance No. 1 of 2008) was promulgated by the Governor on January 11, 2008.

This Bill is introduced to replace the aforesaid Ordinance.

1. Short title and commencement- (1) This Act may be called the Uttar Pradesh Tax on Entry of Goods into Local Areas (Amendment) Act, 2008.

(2) It shall be deemed to have come into force on 1st January, 2008.

2. Amendment of Section 2 of U.P. Act No. 30 of 2007 - (1) In Section 2 of the Uttar Pradesh Tax on Entry of Goods into Local Areas Act, 2007, hereinafter referred to as the principal Act, in sub-section (2) for the words and figure “the Uttar Pradesh Trade Tax Act, 1948” the words and figure “the Uttar Pradesh Value Added Tax Ordinance, 2007” shall be substituted.

3. Amendment of Section 3 – (1) In Section 3 of the principal Act-

(a) in sub-section (1)-

(i) In Clause (a) for the words “The Commissioner of Trade Tax, Special Commissioner of Trade Tax, Additional Commissioner of Trade Tax and Joint Commissioner of Trade Tax, of the Trade Tax Department” the words “the Commissioner, special Commissioner, Additional Commissioner and Joint Commissioner of the Department of Commercial Taxes” shall be substituted;

(ii) In Clause (b) for the words and figure “the Uttar Pradesh Trade Tax Act, 1948” the words and figure “the Uttar Pradesh Value Added Tax Ordinance, 2007” shall be substituted;

(iii) In Clause (c) for the words “in the Department of the Trade Tax” the words “in the Department of Commercial Taxes” and for the words “all Trade Tax Officers posted in the Department of Trade Tax” the words “all Commercial Taxes Officers posted in the Department of Commercial Taxes” shall be substituted;

(iv) For Clause (d), the following clause shall be substituted namely-

“(d) any Officer not below the rank of a Commercial Taxes Officer, posted in a Commercial Tax Circle either by the State Government or the Commissioner, Officers authorised by the State Government or the Commissioner to exercise powers under Sections 45, 46 and 48 of the Uttar Pradesh Value Added Tax Ordinance, 2007 and the Officers, not below the rank of Commercial Taxes Officers, posted at a Check Post established under Section 49 of the Uttar Pradesh Value Added Tax Ordinance, 2007, shall exercise the powers of the Assessing Authority under this Act;

(b) in sub-section (2), for the words “Commissioner of Trade Tax” the words “Commissioner of Commercial Taxes” and for the words and figure “the Uttar Pradesh Trade Tax, 1948” the words and figure “the Uttar Pradesh Value Added Tax Ordinance, 2007” shall be substituted.

4. Amendment of Section 4 – In Section 4 of the principal Act, in sub-section (5) for the words “the aggregate value of such goods is less than two lakh rupees in the case of manufacturers and three

lakh rupees in case of other dealers” the words "the aggregate value of such goods is less than five lakh rupees” shall be substituted.

5. Amendment of Section 6 – In Section 6 of the principal Act, for the words and figure “the Uttar Pradesh Trade Tax Act, 1948” the words and figure “the Uttar Pradesh Value Added Tax Ordinance, 2007” shall be substituted.

6. Amendment of Section 8 – In Section 8 of the principal Act -

- (a) in sub-section (1), in the first proviso for the words and figure “the Uttar Pradesh Trade Tax Act, 1948” the words and figure “the Uttar Pradesh Value Added Tax Ordinance, 2007” shall be substituted;
- (b) in sub-section (3), for the words, figures and letters “provisions of sub-sections (1-A), (1-B), (1-C), (1-D), (2), (3) and (4) of Section 8-A of the Uttar Pradesh Trade Tax Act, 1948” the words and figures “provisions of Section 17 of the Uttar Pradesh Value Added Tax Ordinance, 2007” shall be substituted

7. Amendment of Section 11 - In Section 11 of the principal Act, in sub-section (1) for the words, figure and letter “as defined under Clause (c) of Section 2 of the Uttar Pradesh Trade Tax Act, 1948” the words, figure and letter ‘as defined under Clause (h) of Section 2 of the Uttar Pradesh Value Added Tax Ordinance, 2007” shall be substituted.

8. Amendment of Section 12 – In Section 12 of the principal Act, in sub-section (5) for the words, figure and letter “under Section 8-D of the Uttar Pradesh Trade Tax Act, 1948” the words and figures “under Section 34 of the Uttar Pradesh Value Added Tax Ordinance, 2007” and for the words and figures “under sub-section (1) of Section 8 of the said Act” the words and figures “under sub-section (2) of Section 33 of the said Ordinance” shall be substituted.

9. Amendment of Section 13 – For Section 13 of the principal Act, the following section shall be substituted namely –

“13. The following provisions of the Uttar Pradesh Value Added Tax Ordinance, 2007, shall mutatis mutandis apply to all dealers and proceedings under this Act –

(i)	Section 9 –	Liability of firm, association of persons and Hindu Undivided Family;
(ii)	Section 10 –	Tax due from deceased person payable by his representatives;
(iii)	Section 11 –	Tax liability in case of minor or incapacitated person;
(iv)	Section 12 –	Liability in case of Court of wards;
(v)	Section 16 –	Burden of Proof;

(vi)	Section 19 –	Security in the interest of revenue;
(vii)	Section 21 –	Account and documents to be maintained by dealers;
(viii)	Section 29 –	Assessment of tax of turnover escaped from assessment;
(ix)	Section 30 –	Rounding off of turnover and tax;
(x)	Section 31 –	Rectification of mistakes;
(xi)	Section 32 –	Power to set aside ex party order of assessment or penalty;
(xii)	Section 33 –	Payment and recovery of tax;
(xiii)	Section 36 –	Recovery or refund of petty amounts to be ignored;
(xiv)	Section 39 –	Power to grant instalments;
(xv)	Section 40 –	Refund and adjustment;
(xvi)	Section 43 –	Procedure for disbursement of amount wrongly realised by dealer as tax;
(xvii)	Section 45 –	Power to order production of accounts, documents and power of entry, inspection, search and seizure;
(xviii)	Section 48 –	Power to seize goods;
(xix)	Section 49 –	Establishment of check posts and barriers;
(xx)	Section 50 –	Import of goods into the State by road against declaration;
(xxi)	Section 51 –	Import of goods into the State by rail, air, post, river or rope-way;
(xxii)	Section 52 –	Issue of authorisation for transit of goods through the State;
(xxiii)	Section 53 –	Power to seek assistance from police;
(xxiv)	Section 54 –	Penalties in certain cases;
(xxv)	Section 55 –	Appeal;
(xxvi)	Section 56 –	Revision by the Commissioner;
(xxvii)	Section 57 –	Tribunal;
(xxviii)	Section 58 –	Revision by High Court in special cases;
(xxix)	Section 59 –	Determination of disputed question by the Commissioner;
(xxx)	Section 60 –	Orders against which no appeal or revision shall lie;

(xxxii)	Section 66 -	Objections relating to jurisdiction;
(xxxiii)	Section 67 -	Indemnity;
(xxxiv)	Section 68 -	Bar to certain proceedings;
(xxxv)	Section 69 -	Certain information to be confidential;
(xxxvi)	Section 71 -	Facility for sick industrial unit;
(xxxvii)	Section 72 -	Fees in certain cases;
(xxxviii)	Section 73 -	Transfer to defraud revenue void;
(xxxix)	Section 74 -	Power to issue notifications;
(xl)	Section 75 -	Information to be furnished regarding change of business;

Any reference to turnover of purchase or of sale or of both, as the case may be, under the provisions of the Uttar Pradesh Value Added Tax Ordinance, 2007 shall be deemed reference to value of the scheduled goods under this Act.

10. Repeal and Saving - (1) The Uttar Pradesh Tax on Entry of Goods into Local Areas (Amendment) Ordinance, 2008 (U.P. Ordinance No. 1 of 2008) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the Principal Act as amended by the Ordinance referred to in sub-section (1) shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Act as if the provisions of the Act were in force at all material times.
