



## The Sikkim Sales Tax Act, 1983

Act 4 of 1983

**Keyword(s):**

**Business, Dealer, Declared Goods, Manufacture, Place of Business, Registered Dealer**

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**THE SIKKIM SALES TAX ACT, 1983****(ACT NO.4 OF 1983)****AN ACT**(3. 3. 83)

to consolidate and amend the law relating to the levy of tax on the goods in the State of Sikkim.

Be it enacted by the Legislature of Sikkim in the Thirty-fourth year of the Republic of India as follows:

**CHAPTER 1****PRELIMINARY**

1. (1) This Act may be called the Sikkim Sales Tax Act, 1983.

*Short title, extent and commencement.*

(2) It extends to the whole of Sikkim.

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

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

*Definitions.*

(a) "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture carried on with or without a motive for profit whether or not . any profit accrues from such activities and any transaction ancillary or incidental to or in connection with such trade, commerce or manufacture or adventure or concern;

(b) "commissioner" means the Commissioner of Commercial Taxes appointed under sub-section (1) of Section 3 ;

(c) "dealer" means any person who carries on business of buying and selling of goods for commission, remuneration or otherwise and includes any firm, Hindu Undivided Family, company, corporation, a department of Government. society, club or association, the incorporation of such society, club or association

*Explanation 1.*-A factor, broker, commission-agent, del-credere agent, auctioneer or any other mercantile agent, by whatever name called, who carries on the business of

buying or selling of goods and who has, in the course of his business, authority to sell goods belonging to their owners, shall be deemed to be a dealer for the purposes of this Act;

*Explanation 2.*- The manager or agent of a dealer residing outside the State, and who sells or purchases goods in the State, shall in respect to such business, be deemed to be a dealer for the purpose of this Act;

(d) "declared goods" means the goods declared by section 14 of the Central Sales Tax Act, 1956 to be of special importance in inter-State trade or commerce;

74 of 1956.

(e) "goods" means all kinds of movable property in solid, liquid or gaseous form, and includes all materials, commodities, articles and also electricity but does not include newspapers, actionable claims, stocks, shares and securities;

*Explanation.-Materials*, commodities and articles attached to or forming part of immovable property which are agreed to be severed under the contract of sale, shall be deemed to be goods within the meaning of this clause;

(f) "manufacture" with all its grammatical variations and cognate expressions, means producing, making, extracting, altering, ornamenting, finishing or otherwise processing or adopting, any goods but does not include such manufacture or manufacturing process as may be prescribed;

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

(h) "place of business" includes

(1) in the case of any dealer who carries on business through an agent (by whatever name called), the place of business of such agent;

(2) a warehouse, godown or other place where a dealer stores his goods; and

(3) a place, where a dealer keeps his books. of accounts;

(i) "prescribed" means prescribed by rules this made under Act;

(j) "prescribed authority" means such authority as may be prescribed;

(k) "registered dealer" means a dealer registered section under 10;

(l) "rules" means the rules made under this Act;

2 [(m) "sale" with its grammatical variations and cognate expressions means any transfer of property in goods by one person to another for cash or for deferred payment or for any other valuable consideration and includes the "transfer, delivery or supply of goods by one person to an other person in any of the following ways, namely:

(a) the transfer, otherwise than in pursuance of a contract, of property in any goods' for cash, deferred payment or other valuable consideration;

(b) the transfer for property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(c) the delivery of goods on hire-purchase or any system of payment by instalments;

(d) the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(e) the supply of goods by any unincorporated association, or body of persons to a member thereof for cash, deferred payment or other valuable consideration;

(f) the supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or ether valuable consideration,

does not include a mortgage or hypothecation of or a pledge on goods."]

3 [Explanation 1.- Transfer of goods on hire-purchase or other system of payment by instalments shall be deemed to be a sale if and when there is a transfer of property or goods from the seller to the buyer;]

2. Inserted by the Sikkim Sales Tax (Amendment) Act No.4 of ,1986 w.e..1/4/86  
 3. Omitted by the Sikkim Sales Tax (Amendment) Act No, 4 of 1986 w.e.f.1/4/86

4 [Explanation 1.-A barter that is, sale by exchange of goods shall be deemed to be a sale only when the exchange is based or worked out in terms of the value of the goods, exchanged.]

5 [ *Explanation 2.*-A sale of goods shall be deemed to have taken place in the State if it fulfils the requirements of the sub-section (2) of section 4 of the Central Sales Tax Act 1956; ]

74 of 1956.

(n) "sale price" means the amount payable to a dealer as consideration for the sale of goods, less any sum allowed as cash discount but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof other than the cost of freight or delivery or the cost of installation in cases where such cost is separately charged;

*Explanation 1.*- The term cash discount shall refer only to the discount allowed by the seller to the buyer for the prompt or prior or early payment of sale price according to the practice prevailing in the trade;

*Explanation 2.* - The tax levied under this Act on the transaction of sale shall not form part of the sale price for the purpose of this Act, only if it is actually leviable under this Act on the seller and is recovered by the seller from the buyer by showing it separately as such in the cash memos, invoices or other sale memoranda;

6 [*Explanation 3.*- In respect of goods delivered on hire purchase or any system of payment by instalments, the sale price on the date of such delivery shall, for the purposes of this Act, be determined in such manner as may be prescribed." ]

7 [ *Explanation 4.*- The sale price shall include the excise duty, fee or any other levies on the goods, under any Central or State law for the time being in force, made at the time of

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4. Renumbered by the Sikkim Sales Tax (Amendment) Act No.4 of 1986 w. e. f. 1/4/86
5. Renumbered by the Sikkim Sales Tax (Amendment) Act No.4 of 1986 w. e. f. 6/4/86
6. Substituted by the Sikkim Sales Tax (Amendment) Act No.4 of 1986 w e. f. 1/4/86
7. Inserted by the Sikkim Sales Tax (Amendment) Act No.4 of 1986 w. e. f. 1/4/86.

or before the delivery of the goods to the buyer whether such duty, fee or other levy is paid by the purchaser of the goods to the seller along with the consideration for the sale or directly to the Government.']

(o) "Sikkim" means the territory comprised in the State of Sikkim;

(p) "State Government" means the Government of Sikkim;

(q) "Tax" means tax payable under this Act;

(r) "turnover" used in relation to any period means the aggregate of sale price or part of sale price receivable or if a dealer so elects, actually received by the dealer during such period after deducting the amounts if any, refunded by the dealer in respect of any goods returned by the purchaser within such period as may be prescribed:

Provided that an election as aforesaid once made shall not be altered except with the permission of the Commissioner and on such terms and conditions as he may think fit to impose

*Explanation.*- The turnover of sales shall include amounts realized by a dealer by sale of surplus, unserviceable and discarded goods, fixed or other assets of the business, bye-products and subsidiary products of manufacture or processing but shall not include sales in a canteen owned and run by the dealer for the benefit of his workman or laborers;

(s) "year" means the financial year commencing on the first day of April and ending on the 31st day of March next following.

## CHAPTER II

### Taxation authorities

- 3 (1) For carrying out the purposes of this Act, the State Government may appoint a person to be Commissioner of Commercial Taxes and such other persons with such designation to assist him as may be necessary and as may be specified in this behalf by the State Government by notification.

(2) The Commissioner and other persons appointed under sub-section (1) shall exercise such powers as may be prescribed and perform such duties as are imposed upon them by this Act or rules made thereunder within such areas in the State as may be specified in this behalf by the State Government by notification.

(3) All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

*45 of 1860*

**CHAPTER III**  
**Incidence of Taxes**

4. There shall be paid by every dealer who sells 8[ goods manufactured, imported, produced or purchased by him in the State, a tax on sales made on and from the date of commencement of this Act.

*incidence of taxation.*

5. (1) The tax payable by a dealer under this Act shall be levied on taxable turnover at the following rates,

*Rate of tax.*

(a) in respect of goods specified in Schedule II, at the rate of ten paise in the rupee;

(b) in respect of declared goods, at such rate not exceeding four paise in the rupee as the State Government may, from time to time, by notification, specify;

(c) in respect of any other goods at such rate not exceeding five paise in the rupee as the State Government may, from time to time, by notification, specify;

(2) Notwithstanding anything contained in sub-section (1), the State Government may, in public interest, by notification and subject to such conditions as may be specified therein, direct that no tax or a lower rate of tax shall be payable in respect of any specified transactions or goods or class of dealers and such notification may be given such retrospective or prospective effect as may be specified therein. (3) For the purposes of this Act, the expression 'taxable turnover' means that part of dealer's gross turnover during the prescribed period in any year which remains after deducting there from

8. Inserted by the Sikkim Sales Tax (Amendment) Act No.4 of 1986 with effect from 12/5/1983.

(a) his turnover during that period on

(i) the sales, at the subsequent stages of sales, of such goods as are specified, by a notification, issued under section 6 to be subject to tax at the first point in the series of sales in Sikkim in respect of which tax due under this Act is shown to have been paid to the satisfaction of the prescribed authority;

(ii) the sales of goods exempted under section 8;

(iii) the transactions not liable to tax under section 9;

(iv) the sales of goods which are proved to the satisfaction of the Commissioner to have already been subjected to tax under this Act;

(v) the sales to a registered dealer

(a) of goods of the class or classes specified in the certificate of registration of such dealer, as being intended for use by him as raw materials in the manufacture in the State of any goods, other than goods declared as tax-free under section 8,

(1) for sale inside the State; or

(2) for sale in the course of inter-State trade or commerce, being sale occasioning or effected by transfer of documents of title to such goods during the movement of such goods from the State; or

(3) for sale in the course of export outside India being a sale occasioning the movement of such goods from the State, or a sale effected by transfer of documents of title to such goods during the movement of such goods from the State, to a place outside India and after the goods crossed the customs frontiers of India; or

(b) of the goods other than those notified under section 6 as taxable at the first point in the series of sales, of the class or classes specified in the certificate of registration of such a dealer as being intended for resale by him in the State or for sale in the course of inter-State trade or commerce or in the course of export outside India in the manner specified in item (2) or item (3) of item (a) of this sub-clause as the case may be; and



(c) of containers or other materials for the packing of goods of the class or classes specified in the certificate of registration of such dealer, other than declared goods intended for sale or re-sale:

Provided that no deduction in respect of sale referred to in sub-clause (v) shall be allowed unless a true declaration duly filled and signed by the registered dealer to whom the goods are sold and containing the prescribed particulars in the prescribed form is furnished in the prescribed manner and within the prescribed time, by the dealer who sells the goods

Provided further that where any goods are purchased by a registered dealer for any of the purposes mentioned in sub-clause (v) but are utilized by him for a different purpose, the price of the goods so purchased shall be allowed to be deducted from the gross turnover of the selling dealer but shall be included in the taxable turnover of the purchasing dealer;

(vi) such other transactions as are exempted from payment of tax by a notification issued under sub-section (2).

6. Notwithstanding anything contained in this Act, the Government may, by notification in the Official Gazette, specify the point of sale at which any goods or class of goods may be taxed.

*Powers of Government to prescribe point at which goods may be taxed.*

7. The burden of proving that the dealer is not liable to pay tax under this Act in respect of any sale effected by him, shall lie on him.

*Burden of proof.*

8. (1) No tax shall be payable under this Act on the sale of goods specified in Schedule I subject to the conditions and exceptions, if any, set out therein.

*Tax:free goods. .*

(2) The State Government, after giving by notification such previous notice as it considers reasonable of its intention so to do, may add to or omit from, or otherwise amend Schedule I and thereupon the said Schedule shall be deemed to be amended accordingly:

Provided that the said notification may be given such retrospective or prospective effect as may be specified therein.

9. Nothing in this Act or the rules -made thereunder shall be deemed to impose or authorize the imposition of tax on any sale or purchase of any goods when such sale or purchase takes place

*certain sale and purchases not liable to tax.*

(i) in the course of inter-State trade or commerce; or

(ii) outside the State: or

(iii) in the course of import of goods into. or export of goods out of, the territory of India.

#### **CHAPTER IV**

##### **Registration of dealers. etc.**

10. (1) Every dealer liable to pay tax under this Act shall apply, within 30 days of his becoming so liable, to the prescribed authority for registration under this Act.

*Registration of dealers.*

(2) No dealer liable to pay tax under this Act. shall sell or purchase goods unless he is in possession of a valid registration certificate granted to him by or on behalf of the prescribed authority or has applied for such registration within the time specified in sub-section (1) and his application has not been finally disposed of by the said authority.

(3) The prescribed authority may, on receipt of application in the prescribed form from a dealer for registration, and on being satisfied that the application is in order, grant registration from such date as may be specified, to such dealer:

Provided that the said authority granting the certificate may demand such security from the dealer as may be prescribed before the registration is granted to him:

Provided further that no application for' registration made by a dealer shall be refused, or partly granted unless he has been given a reasonable opportunity of being heard before the order is passed.

(4) If the prescribed authority is satisfied that a dealer liable to pay tax under this Act has failed to apply for and get himself registered, it may. by a notice in writing. direct the dealer to apply for and get himself registered

within 15 days of the service of the notice, failing which the dealer shall be liable to pay a penalty of rupees twenty-five for each day's delay after the expiry of the said period of 15 days:

Provided that the said authority may, on, an application by the dealer and for reasons to be recorded in writing, reduce or waive the penalty, if it is satisfied that the delay has been caused' by reasons beyond the control of the dealer.

(5) The registration certificate shall be in the prescribed form and contain such particulars as may be prescribed. The prescribed authority may on its own motion for reasons to be recorded in writing or on an application by the dealer, cancel, vary, modify, or amend any registration certificate granted under sub-section 5:

Provided that a registration certificate shall cease to be in force when the dealer has ceased to be liable to pay tax under this Act or his business has been closed:

Provided further that when the registration certificate is cancelled, varied, modified or amended otherwise than on application by dealer or when the application made by the dealer for the purpose is proposed to be rejected in whole or in part, a reasonable opportunity of being heard or to show cause against the proposed action shall be given to the dealer.

(6) The registration certificate granted to a dealer shall not be transferable and if the business to which it relates is transferred to another dealer, then that other dealer shall apply and get himself registered under subsection (1) and (2) unless he is already registered.

## CHAPTER v

### **Return, Assessment, Recovery and Refund of Tax.**

11 (1) Every registered dealer shall furnish such returns for such periods in such form, to such authority and within such time as may be prescribed:

*Returns and  
payment of tax.*

Provided that if a dealer, having furnished a return discovers any omission, error or wrong statement therein, he may furnish a revised return in such manner as may be directed by the aforesaid authority at any time before the said authority passes the order determining the amount of tax payable by the dealer for the period for which the return has been furnished:

Provided further that the said authority may, for reasons to be recorded and after giving the dealer a reasonable opportunity of being heard, refuse to take the revised return into consideration if it is satisfied that the original or the revised return was deliberately false and it was furnished with intent to defraud the State Government of its revenue.

*Explanation.*-A dealer who is granted registration from any particular date shall also be liable after the grant of such registration, to furnish return also for the period prior to such date during which he - .was liable to pay tax under this Act, in such manner and within such time as may be prescribed.

(2) The dealer shall, before furnishing any return or revised return referred to in sub-section (1) pay to the Government in such manner and within such time as may be prescribed the amount of tax due under this Act according to the return or the revised return, as the case may be, and furnish along with the return or the revised return, such proof of the payment of tax due as may be prescribed, and any such return or revised return if not accompanied by any such proof of payment shall be deemed invalid and treated as if it has not been furnished.

(3) If a registered dealer fails, without reasonable cause to furnish any valid return within the time prescribed or within such further time as may be allowed on application, by the prescribed authority, a penalty at the rate not exceeding rupees five for each day of delay shall be imposed without prejudice to any action which is. or may be taken under any of the other provisions of this Act.

12. A rebate shall be allowed at the rate of one per cent of the amount of tax paid by the dealer within the time prescribed under sub-section (2) of section 11 :

*Rebate*

(d) appear or produce or cause to be produced- evidence on the date specified under sub-section (2);

the prescribed authority shall, after giving a reasonable opportunity to the dealer of being heard, determine the taxable turnover of the dealer to the best of its judgment and assess the tax on the basis of such determination and may, in addition, impose penalty of an amount not exceeding one half of the amount of tax so assessed:

Provided that no penalty under this sub-section shall be imposed unless the prescribed authority is satisfied that the failure of the dealer was willful, deliberate or unjustified and unless a reasonable opportunity of being heard is given to the dealer:

Provided further that in .cases covered by clause (a) of this sub-section, no proceedings for assessment shall be initiated after the expiry of four years from the' expiry of the relevant period due for assessment or in cases in which the assessment is made as a result of an order in appeal, revision or review, after the expiry of two years from the date of such order.

(4) If upon information received, the prescribed authority is satisfied that a dealer liable to pay tax under this Act in respect of any period wilfully failed to apply for registration under sub-section (1) of section 10 or having applied, wilfully failed to furnish any particulars or information required for the purpose of registration or having been registered fails to furnish returns within the period prescribed under sub-section (1) of section 11, the said authority shall, after giving the dealer a reasonable opportunity of being heard, assess, according to its best judgment, the amount of tax due from the dealer for such period or any subsequent periods and in addition, may impose a penalty of an amount not exceeding one half of the amount of tax so assessed:

Provided that no proceedings under this sub-section shall be initiated after four years from the expiry of such period.

*Explanation.*-For the purpose of sub-section (3) or sub-section (4), as the case may be, the proceedings shall be deemed to have been initiated when a notice therefor is served or deemed to have been served on the dealer.

(5) If upon information which has come into possession, the prescribed authority has reason to believe that any turnover of a registered dealer in respect of any period has for any reason escaped assessment or was under-assessed or assessed at a rate or rates lower than the rate or rates correctly applicable, or any deduction from turn over had been wrongly made, it shall, within six years of the expiry of such period, serve on the dealer a notice in the prescribed Form and proceed to assess or reassess the amount of tax due from the dealer in respect of such turnover in the manner specified by or under this section:

Provided that the amount of tax shall be assessed or reassessed after allowing such deduction and applying the same rate of tax as was admissible during the said period:

Provided further that the said authority may, after giving reasonable opportunity to the dealer of being heard, impose a penalty not exceeding the amount of extra tax found leviable in the proceedings under this sub-section, if it is satisfied that the escape from assessment or underassessment had been caused by the deliberate and willful failure on the part of the dealer

(a) to disclose, at the time of original assessment the particulars of such turnover; or

(b) to furnish correct particulars.

14. (1) The tax admitted by the dealer to be due in any return or revised return furnished by him under section 11 shall be paid in the manner prescribed by or under sub-section (2) of that section.

*Procedure of payment of tax or penalty.*

(2) The amount of the tax and penalty assessed as due from the dealer under sub-section (3) of section 11 or under section 13 after deducting any amount paid by him along with the return. under sub-section (2) of section 11 shall be paid by him in such manner and within such time as may be specified in the notice. of demand in the prescribed Form issued by the prescribed authority; the date so specified

being not less than 30 days from the date of service of the said notice:

Provided that the said authority may, in its discretion and for reasons to be recorded, on application by the dealer extend the date for such payment or allow the payment to be made in such instalments as may be determined by it.

(3) If a dealer has failed, without reasonable cause, to make payment of any amount of tax together with the penalty, if any, by the date specified in the notice issued under sub-section (2) or by the date extended under the proviso thereto, interest at ten per cent per annum shall accrue and be charged on such amount from such date and such interest shall be treated as if it were tax due under this Act and shall be paid by the dealer in the prescribed manner:

Provided that interest shall not accrue or be charged on any amount the recovery of which is stayed under sub-section (5) during the period the stay operates.

(4) Any amount of tax, penalty or interest due from a dealer, which remains unpaid may be recovered on application by the prescribed authority to the Judicial Magistrate of the first class.. who shall realize it as if it were a fine imposed by him:

Provided that where, during the proceedings under this sub-section, the amount of tax, -penalty or interest due from the dealer is reduced as a result of appeal or otherwise, the prescribed authority shall inform the dealer and the authority before whom the proceedings are pending, and the amount so reduced and the reduced amount shall be deemed to be substituted for the amount originally intimated to the authority.

(5) Where an appeal against or an application for revision of the assessment of tax or .levy of penalty or interest is entertained, the appellate or the revisional authority as the case may be, may on application stay recovery of the tax, penalty or interest in whole or in part, subject to such conditions as it may impose till such date as it may direct:

Provided that the stay of recovery so granted shall stand vacated on the date the appeal or the application for revision is finally decided or on such other date as the appellate or the revisional authority may direct.

(6) No such proceedings for the recovery of tax under this section shall be commenced after the expiry of twelve years from the date on which the assessment was made:

Provided that where the assessment was under appeal or under any other proceedings under this Act, the aforesaid period of limitation shall commence from the date the appeal or other proceedings were terminated.

15. (1) No person other than a registered dealer shall collect or recover from any person any amount towards tax or purporting to be tax under this Act on the sale of goods.  
 (2) No registered dealers shall collect from any person any such amount except in a case in which, and -to the extent to which, such dealer is liable to pay tax under this Act:

*Person authorised  
to collect tax  
from purchasers.*

Provided that where a registered dealer is in doubt about his liability, he may collect and keep in deposit the tax so collected towards his anticipated liability of tax; but shall refund the deposit to the person from whom it was collected or to his successors or assignees, if any, to the extent up to which it is finally determined in the proceedings under this Act, that the dealer is held not so liable.

(3) Nothing contained in sub-section (1) or sub-section (2) shall relieve a registered dealer from his liability for the tax under this Act.

16. (1) Subject to such rules as may be made the amount of tax, penalty or interest paid in excess of the amount finally determined as payable by the dealer under this Act, shall be refunded to him, on his application within 60 days of the date on which the application is filed by him:

*Procedure  
when tax is  
paid in excess.*

Provided that such application shall not be entertained unless it is filed before the prescribed authority within twelve months from the date on which the order of assessment was passed:



Provided further that where the assessment was under appeal, revision or any other proceedings under this Act. the said period of limitation shall commence from the date on which the order in appeal, revision or other proceedings is passed:

Provided also that any dealer may, by application, request or the prescribed authority may, on its own motion, set off the refund due against any other dues of the dealer under this Act or under any other Act.

(2) Where a tax has been levied under this Act in respect of sales or purchases inside the State of any declared good and such goods are subsequently sold in the course of inter-State trade or commerce, the tax so levied shall be reimbursed to the person making such sale in the course of inter-State trade or commerce, in such manner and subject to such conditions as may be prescribed:

Provided that no such reimbursement shall be made unless an application in writing is made before the prescribed authority under this Act within twelve months of the date on which the inter-State sale is made, which period may be extended for sufficient cause by the said authority by such time as may be considered necessary by it for reasons to be recorded in writing.

9 ["(3) where any goods are delivered under any agreement of hire-purchase or of any system of payment by instalments and tax under this Act has been levied on the dealer who made the delivery of the said goods and such goods are returned to the said dealer at any time during which the agreement of hire-purchase subsists, the proportionate amount of tax levied on the unpaid instalments of sale price shall be refunded to the said dealer:

Provided that no such refund shall be admissible unless a claim therefor is filed before the prescribed authority in such manner and within such time as may be prescribed. "]

17. (l) Every dealer liable to pay tax under this Act, who is an Undivided Hindu Family, a firm, company, corporation, society, club or association shall furnish to the

*Declaration by  
the dealer.*

9. Inserted by the Sikkim Sales Tax (Amendment) Act No. 4 of 1986 w.e.f. 1/4/86.

prescribed authority in the prescribed manner and within the prescribed time, a declaration stating the name and prescribed particulars of the person who shall be deemed to be in charge of the business for the purpose of this Act.

(2) Any statement made, return furnished, accounts, registers and documents produced or evidence given by such person or any other person authorized by him or by the dealer in this behalf, in the course of any proceedings under this Act, shall be binding on and enforceable against the dealer.

## CHAPTER VI

Maintenance and production of accounts by the dealer.

18. (1) Every registered dealer shall keep a true and complete account in respect of all goods produced, raised, manufactured, processed, purchased, sold or delivered by him:

Provided that the Commissioner may, by notification, lay down the forms or registers or the manner in which the said dealers shall maintain the accounts as aforesaid as well as cash memoranda, bills, invoices etc, and the dealer shall maintain the accounts and documents accordingly.

*Liability to maintain  
and  
produce accounts  
and supply of  
information.*

(2) The prescribed authority may direct the dealer to produce accounts or any information in such manner as may be required for the purpose of assessment of tax under this Act 'if the said authority is not satisfied that the accounts maintained and produced by the dealer are sufficiently clear and intelligible for determining the correct amount of the tax payable. by the dealer.

(3) Subject to such rules as may be made by the State Government under this Act, the prescribed authority may, either before or after the assessment of tax under this Act, require any dealer, including a dealer not registered under this Act, to produce before him all or any of the accounts, registers and documents maintained by the dealer and also to furnish any information relating to financial transactions of the dealer relating to his business, including information regarding stocks of goods held, imported, produced, manufactured, processed, bought, 'sold or delivered, the sale price realized, the profit derived there from, and the dealer shall comply with such requirements.

(4) Subject as aforesaid, all accounts and documents connected with the business of the dealer, stocks of all goods purchased or kept by him for sale, the cash, or bank pass books, statements or deposit receipts kept in any place of business shall at all reasonable times, be open to inspection and search by the prescribed authority or by any person appointed to assist him under sub-section (l) of section 3 or by such other person as may be authorised by him for the purpose in writing and the dealer shall render all possible assistance to such authority or person in the search or inspection, as the case may be.

*Explanation 1.*-It shall be open to the said authority or person to take or cause to be taken such copies of, or extracts from, the aforesaid accounts, registers and documents as may be considered by it or him necessary and to require the dealer or any of his employees present at the time to authenticate or witness such copies or extracts, as the case may be.

*Explanation 2.*- The authority or person *may*, subject to such rules as may be made, break open any door, window, almirah, safe or other containers in the place of business in which he has reason to believe that the dealer has kept or is keeping any accounts, registers or documents or stocks of goods or cash relating to the business which the dealer has refused to open or produce for inspection.

(5) If the prescribed authority has reason to suspect that any dealer is attempting to evade the payment of any tax due under this Act or under the Central Sales Tax Act, 1956, such authority or person may, for reasons to be recorded in writing, seize or cause to be seized such accounts, registers or documents including bank pass books or statements, as *may* be considered necessary, and shall grant a receipt for the same. Such seized accounts, registers or documents may be retained by the said authority for so long as *may* be necessary for examination or for conducting any prosecution under section 23 and shall thereafter be returned to the dealer who shall acknowledge in writing the receipt of the same:

74 of 1956.

Provided that the seized accounts, registers and documents shall not be retained by any authority other than the prescribed authority for over 90 days save with the approval, in writing, obtained from the prescribed authority.

19. (1) Notwithstanding anything contained to the contrary in any agreement, contract or understanding, when the ownership of a business of a dealer liable to pay tax under this Act, is transferred in whole or in part, the transferor or the transferee shall be jointly or severally liable for informing the particulars of the transfer to the prescribed authority in such manner as may be prescribed and for the payment of any tax, penalty or interest, if any, payable in respect of such business and remaining unpaid at the time of such transfer:

*Liability on the  
transfer of business.*

(2) Where a dealer from whom any amount is due towards tax, penalty or interest dies, the executor, receiver manager, administrator or successors-in-interest to his estate or any other legal representative including a Court of Wards shall be liable to inform the prescribed authority in such manner as may be prescribed and to payout of the property of the deceased the amount so payable and shall also be liable and responsible to attend and participate or be represented in all proceedings under this Act pending at the time of the death of the dealer:

Provided that nothing in this sub-section shall require re-issue of notices or intimation already issued to the dealer and the proceedings pending on the date of death of the dealer shall be continued as if the said dealer is substituted by the person or persons mentioned in this sub-section.

(3) Where the dealer is a minor or is incapacitated and his business is carried on by any other person on his behalf, whether he is a guardian, trustee or agent, such person shall inform the prescribed authority and the tax shall be assessed upon and be recoverable from such person as if he were the dealer.

(4) Where the dealer is an Undivided Hindu Family, firm or other association of persons, and such family, firm or association is partitioned, dissolved or business thereof is, due to any reason, disrupted, as the case may be, the tax, penalty and interest for the period or periods upto the date of such partition, dissolution or disruption may be assessed, imposed and levied as if the partition, dissolution or disruption has not taken place and every person who was at

. the time of such partition, dissolution or disruption a member of such family, firm, or association shall be liable severally and jointly for furnishing such particulars as may be prescribed and for the payment of such tax, penalty or interest, whether the assessment, imposition or levy was made before or after such partition, dissolution or disruption.

**CHAPTER VII**

**SUITS, APPEAL, REVISION AND REVIEW.**

20. (1) No assessment made, proceedings taken or order passed under this Act shall be called into question in any court, save as provided in this Act.

*Bar to certain proceedings.*

(2) No suit, prosecution or other legal proceedings shall lie against any public servant or any person appointed under section 3 for anything done in good faith under this Act or the rules or notifications made thereunder save with the previous sanction of the State Government.

21. (1) Subject to such rules as may be made, any dealer may, in the prescribed manner, appeal to such authority as may be prescribed against any order passed under subsection (3) of section 11, section 13 and section 16 of the Act.

*Appeal, revision and review.*

(2) No such appeal shall be entertained unless

(a) it is accompanied by proof of payment, in such manner as may be prescribed, of the amount of tax admitted by the dealer to be due from him and ten per cent of the difference between such amount of tax including penalty and interest assessed; or

(b) it is filed within forty five days of the date of passing of the orders as aforesaid or 30 days from the date on which the demand, if any, for tax or penalty is served or deemed to have been served on the dealer, whichever is later:

Provided that the aforesaid authority may admit an appeal after the expiry of the said period, if on application by the dealer, it is satisfied that the dealer was prevented by sufficient cause from preferring the appeal within the aforesaid time.

(3) Subject to such rules as may be made, any order passed in appeal under sub-sections (1) and (2) may be revised by such authority as may be prescribed on an application by the dealer or by or on behalf of the State Government as the case may be:

Provided that no application for revision shall be entertained unless it is made before the 'said authority within 60 days of the date' of passing of the order under sub-section (1) or sub-section (2), as the case may be, but the said authority may, if it is satisfied, on application that there' was sufficient cause for the delay, admit the said application for revision after .condoning- the delay:

Provided further ,that the Commissioner may call for and examine the record of any proceedings under this Act in which any order other than an order passed in appeal under sub-sections (1) and (2) has been passed by any person appointed -- to assist the Commissioner for the purpose of satisfying himself as to the legality or propriety of such order and may, after such examination and after making or causing to be made such enquiry as he may deem necessary,' pass any order which he thinks fit and proper:

Provided that no action under the second proviso shall be initiated while any appeal under sub-section (1) is pending or when the time prescribed in sub-section (2) for filing the appeal has not expired and except before the expiry of four years from the date of order which is the subject of scrutiny by the Commissioner.

(4) The aforesaid appellate or revising authority may

(a) confirm, reduce, annul, enhance or otherwise modify the assessment of tax, penalty or interest;

(b) set aside any order and direct the authority which made the order, to pass a fresh order after further enquiry on specified points; *or*

(c) pass such other orders as it may deem fit and proper.

(5) No order prejudicial to any dealer shall be passed under this section without a reasonable opportunity of being heard being given to him.

(6) Subject to such rules as may be made, any authority under this Act or its successors in office may, on application or otherwise, review any order passed by it to correct any error or mistake apparent from records:

Provided that neither an application under this subsection nor the period during which it is pending shall be considered as cause for the delay, if any, in filing any appeal or application for revision

Provided further that no such review shall be made if it has the effect of enhancing the tax or penalty or both, or of reducing a refund, unless the dealer or the person who is liable to pay the tax or the penalty or both, or as the case may be, eligible to get refund, is given a reasonable opportunity of being heard.

22. The amount of fees payable for any appeal or application made under this Act shall be such as may be prescribed:

*Payment of fee.*

Provided that the amount of fees so prescribed shall not be less than a rupee and shall not exceed five hundred rupees

Provided further that no fee shall be payable for any appeal or application filed by or on behalf of the State Government.

## **CHAPTER VIII**

### **Prosecution and penalties.**

23. (1) Without prejudice to any action taken or that may be taken or any order passed or may be passed under any of the provisions of this Act, whoever-

*Offences.*

(a) being a dealer, sells or purchases goods in contravention of sub-section (2) of section 10 or fails or neglects to comply with the provisions of sub-section (1) thereof; or

(b) fails without sufficient cause, to submit any return required under section. 11 or wilfully submits a false return; or

(c) not being a registered dealer falsely represents that he is such a dealer; or

(d) fails or neglects to maintain or produce accounts under section 18 or produces false and incorrect accounts or

(e) prevents or obstructs any authority under this Act in the performance of its duties and functions under this Act; or

(f) fails to pay the tax due in accordance with section 14; or

(g) contravenes the provisions of section 15; or

(h) fails to furnish the information or particulars mentioned in section 19; or

(i) contravenes section 26; or

(j) abets any person in the commission of any of the offences specified in clauses (a) to (i);

shall be punishable with imprisonment of either description which may extend to one year or with fine which may extend to ten thousand rupees or with both and if the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period the offence continues.

(2) No court shall take cognizance of any offence under this Act or the rules made thereunder except with the previous sanction of the prescribed authority.

(3) All offences punishable under this Act shall be cognizable and bailable.

(4) Notwithstanding anything contained in sub-section (1), the prescribed authority may compound any offence under this Act or the rules made thereunder before or after the



institution of proceedings under that sub. section by accepting from the person charged with the offence a sum not exceeding twenty thousand rupees as may be determined by the said authority, in addition to the tax, penalty or interest that may be leviable under the Act, and on payment of the sum so determined together with the amount of tax, penalty or interest due, the proceedings before any court or prescribed authority under this section shall abate.

24. A dealer or any other person required to appear or to produce any accounts, documents or other records before any authority under this Act may appear, or produce as the case may be in person, or be represented by any other person in such manner as may be prescribed.

*Appearance through  
authorised agent.*

25. No particulars or information contained in any statement made, returns filed, books or documents produced by a dealer under this Act or any assessment made or order passed by any of the authorities under this Act shall be treated' as confidential and no person other than the said dealer shall be compelled to give evidence derived from any of the aforesaid records, save with the general or special previous sanction of the State Government which may give or withhold such sanction as it may deem fit:

*Secrecy of infor-  
mation given by  
dealer.*

Provided that nothing in this section shall prevent the disclosure of all or any such particulars or information to any Government servant for the purpose of

(1) investigation of any crime and prosecution of any person under this Act or under any of the laws of Central or State Governmel.1t; or

(2) audit of receipts and refunds of tax including penalty and interest and fees levied by or under this Act; or

(3) enforcing recovery of all amounts due under this Act:

Provided further that the State Government may by notification and subject to such conditions as it may impose, delegate its power under this section to any authority subordinate to it.

26. (1) The State Government may, by notification, set up and erect in such manner as it may deem fit, check posts and barriers at any place in the State, at which all persons

*Check posts.*

vehicles or other means of transporting goods intended for sale may be detained, intercepted or searched to prevent evasion of tax under this Act.

(2) Every person transporting such goods across the said check posts or barriers may be required to file such documents or other proof as may be prescribed along with a correct and complete declaration in the prescribed form before being allowed to proceed.

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

*Removal of difficulties.*

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

28. (1) The State Government may make rules for carrying out the purposes of this Act.

*Power to make rules.*

(2) The rules so made may be given effect from such date or with such retrospective effect as the State Government may specify therein.

(3) In making any rules, the State Government may direct that a breach thereof shall be punishable with a fine not exceeding rupees one thousand and when the offence is a continuing one - with a daily fine not exceeding rupees fifty during the continuance of the offence.

(4) In particular and without prejudice to the generality of the foregoing power, such rules may provide for

(a) the particulars to be contained in a declaration referred to in the proviso to sub-clause (v) of clause (a) of subsection (3) of section 5, the forms of such declarations, the manner in which, the conditions and restrictions subject to which and the authority from which such forms shall be obtainable and the manner in which such declarations are to be furnished;

(b) the authority to which the application for registration under section 10 shall be made;

(c) the procedure for, and other matters incidental to, the registration of dealers and the granting of certificates of registration and the forms of such certificates under section 10;

(d) the intervals at which, and the manner in which the tax under this Act shall be payable under section 11;

(e) the returns to be furnished under section 11; and dates by which, and the authority to which, such returns shall be furnished;

(f) the date by which returns for any period are to be furnished and the procedure to be followed for assessment under section 13;

(g) the manner in which refunds under section 16 shall be made;

(h) the accounts and forms of refunds and reimbursement under section 16;

(i) the conditions for the maintenance and production of accounts or documents or for furnishing information and the authority to which such accounts, documents or information may be furnished under section 13;

(j) the manner in which, and the authority to which appeals or revisions against any order passed under this Act may be preferred under section 21;

(k) the procedure for, the disposal of appeals and applications for revision and reviews under section 21;

(l) the amount of fees payable under section 22 for any appeal or application filed under this Act;

(m) the conditions under which, and the authority by which the offences may be compounded under section 23;

(n) the manner in which, and the time within which applications shall be made, information furnished and notices served under this Act;

(o) any other matter which may be or is required to be prescribed.

**CHAPTER IX**  
**MISCELLANEOUS**

29. (1) On and from the commencement of this Act, all laws relating to Sales Tax in force in the State, shall stand repealed.

*Repeal and  
Validation.*

(2) All collections of tax, penalty and interest, and all proceedings or assessments made, actions taken, things done or orders passed, by any authority under any law referred to in sub-section (1) are hereby, validated and shall for all purposes be deemed to have always been made, done, taken or passed in accordance with law.

(3) All proceedings pending on the commencement of this Act with regard to assessment, collection of tax, penalty or interest, or matters in appeal, revision or review shall continue and be disposed of as if this Act had not been passed.

**SCHEDULE 1**

**(See Section 8)**

1

2

1. All cereals and pulses including broken particles and husk and bran thereof
2. Wheat flour including atta and suji
3. Bread
4. Meat which has not been cured or frozen
5. Fresh fish
6. Vegetables, green or dried commonly known as sabji, tarkari or sak
7. Cooked food, other than cake, pastries, biscuits and sweetmeats
8. Gur and molasses
9. Salt

Except when sold in sealed container.

Except when sold in sealed container.

...

1	2
10. Milk	
11 Livestock, including poultry	
12. Agriculture implements	Except tractors and power tillers and spare parts accessories and component parts thereof.
13. Cotton Yarn	
14. Inferior grade of kerosene oil, that is to say, the kerosene referred to in item 7 of the first Schedule to the Central Excise and Salt Act, 1944 and having all the following characteristics also.	
(i) it is not lighter in color than solution with the following composition :	
Quarter normal aqueous solution of :	
(a) Ferric Chloride (FeCL 3. 6H 2 0),	
(b) Cobitous Chloride (C 0 CL2' 6H2 0),	
(c) Copper Sulphate (C u S04' 5H 2 0), mixed in the ratio of 6 : 3 : 1 : and	
(ii) it has flashing point below 65; 60 of centigrade thermometer.	
15. Tobacco for hookah, that is to say, tobacco paste ready for use in hookah.	
16. Texts & exercise books for educational purpose and such other sacred books as may be prescribed.	
17. Water, but not aerated or mineral waters when sold in bottles or sealed containers.	
18. Electrical energy.	
19. Raw Jute.	
20. Plain paper, commonly known as Darbar Paper Government Paper 'cartridge paper sold by Government Treasuries through the agency of licensed stamp vendors.	
21. Eggs.	
22. Sag and tapioca globules.	
23. Charkha.	
24. Cotton.	
25. Handloom Woven	

- (a) Gamchas.
- (b) Khaddar or Khadi. Except those made from silk yarn.
- (c) Garments made of khaddar or khadi referred in sub-item (b)
- (d) Handicraft goods locally produced only.

26. Mustard Oil, rape oil and mixtures of mustard and rape oil.

27. Newspapers.

28. Mustard seed and rape seed.

29. Flowers and plants.

30. Vegetable seeds.

31. Hosiery goods.

## **SCHEDULE-II**

### **(See Section 5)**

1. Motor Vehicles, including chassis of motor vehicles, motor tyres and tubes and spare parts accessories and component parts of motor vehicles.
2. Motor cycles and cycle combinations, motor scooters, motorettes and tyres, tubes and spare parts accessories and component parts, of motor cycles, motor scooters, and motorettes.
3. Refrigerators, air-conditioners, air-coolers and air-conditioning plants, and spare parts, accessories and component parts thereof.
4. Wireless reception instruments and apparatus, radios and radio-gramophones, television sets, electrical valves, transistor radios, accumulators, amplifiers and loudspeakers and spare parts accessories and component parts thereof.
5. Cinematographic equipment including cameras, projectors and sound recording and reproducing equipment and spare parts accessories and component parts thereof. lenses, films and parts and accessories required for use therewith.
6. Photographic and other cameras and enlargers and spare parts accessories and component parts thereof, lenses, films and plates paper and cloth, and other parts and accessories required for use therewith.
7. All clocks, timepieces and watches and parts thereof.
8. Iron and steel safes and almirahs.

9. All arms including rifles, revolvers and pistols, and ammunition for the same.
10. Cigarette cases and lighters.
11. Dictaphone and other similar apparatus for recording sound and parts thereof and electro-magnetic recording tapes including cassette tapes whether prerecorded or not.
12. Sound transmitting equipment including telephones and loudspeakers and spare parts thereof.
13. Typewriters, tabulating machines, calculating machines, duplicating machines and address printing machines and parts thereof.
14. Binoculars, telescopes and opera glasses.
15. Gramophones and component parts thereof and records.
16. Cushions, mattresses, pillows and other articles made wholly or partly of rubber foam.
17. Cushions, mattresses, pillows and other articles made wholly or partly of artificial or synthetic resin and plastic foam.
18. Vacuum flasks of all kinds and descriptions including refills for such flasks.
19. Articles made wholly or principally of stainless steel except tumblers, dishes and plates only such varieties of them as are commonly known as gelas, thala and rekabi, respectively.
20. Furniture made wholly or principally of iron or steel.
21. Furniture made wholly or principally of aluminum
22. Upholstered wooden furniture.
23. Perambulators including push-chairs for babies and spare parts, accessories and component parts thereof.
24. Carpets of all varieties and description except locally produced.
25. Linoleum.
26. Lifts. whether operated by electricity or steam, and spare parts, accessories and component parts thereof.
27. Exhaust fans and air circulators and spare parts. accessories and component parts thereof.
28. Electric heaters, of all varieties and descriptions.
29. Diamond.
30. Precious and synthetic stones other than diamond. real or artificial.
31. Pearls-real, artificial or cultured.

32. Golden or silver filigree.
33. Furs and articles made of fur.
34. Marble chips, marble or mosaic floor and wall tiles, and articles made of marble or mosaic.
35. Laminated sheets, like Formica, Sunmica, etc.
36. Perfumes.
37. Ornaments set with diamond or stones (real or artificial) or with pearls ( real, artificial or cultured).
38. All kinds of paints, including acrylic and plastic emulsion paints, lacquers, distempers, cement colors of paints, enamels, liquid paints, stiff paste paints, powder paints, whether ready for use or not.
39. Varnishes, vegetable paint removers and strainers of all kinds.
40. Cosmetics of all varieties, but excluding hair oil.



**SIKKIM**  
  
**GOVERNMENT GAZETTE**  
EXTRAORDINARY  
PUBLISHED BY AUTHORITY

Gangtok Tuesday, 29th September 1992

No. 119

**GOVERNMENT OF SIKKIM  
LAW DEPARTMENT  
GANGTOK**

No: 8/LD//1992.

Dated Gangtok, the 28th September, 1992

**NOTIFICATION**

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 23rd day of September 1992, is hereby published for general information;-

**THE SIKKIM SALES TAX (AMENDMENT) ACT, 1992.  
(ACT No. 8 OF 1992)  
AN  
ACT**

further to amend the Sikkim Sales Tax Act, 1983.

Be it enacted by the Legislative Assembly of Sikkim in the Forty-third year of the Republic

India as follows :-

<b>Short title</b>	1	(1)	This Act may be called the Sikkim Sales Tax (Amendment) Act, 1992.	
<b>extent and</b>		(2)	It extends to the whole of Sikkim.	<b>4 of 1993</b>
<b>commence-</b>		(3)	It shall be deemed to have come into force with effect from first day of April, 1992.	
<b>ment</b>				
<b>Amendment</b>	2.		In section 5 of the Sikkim Sales Tax Act, 1983 in sub-section (1), in clause (c), for the words "five paise" the words ten paise" shall be substituted.	
<b>of Section 5.</b>				

By order of the Governor.

B. R. Pradhan  
Secretary to the Government of Sikkim  
Law Department  
F. No. 16(71)LD/77-92.

# SIKKIM

# GOVERNMENT



# GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Gangtok Friday, 22nd April, 1994

NO. 39

GOVERNMENT OF SIKKIM  
LAW DEPARTMENT  
GANGTOK

No.21/LD/1994.

Dated Gangtok the 11th April, 1994.

## NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 29th March 1994, is hereby published for general information:-

**THE SIKKIM SALES TAX (AMENDMENT  
(ACT, NO. 3 OF 1994)**

AN

ACT

further to amend the Sikkim Sales Tax Act, 1983.

Be it enacted by the Legislature of Sikkim in the Forty-fifth Year of the Republic of India as follows :-

**Short title and commencement** 1. (1) This Act may be called the Sikkim Sales Tax (Amendment) Act, 1994-

(2) It shall come into force on 1994.

**Amendment of 2.** In Section 1 of the Sikkim Sales Tax Act, 1983 (hereinafter referred to as the principal Act)-

(a) after clause (a), the following Explanation shall be inserted, namely :

"Explanation.- Transfer, delivery, supply, sales or disposal of goods in any of the manner referred to in clause (m) shall be deemed to be included within the meaning of this expression."

(b) after clause (b) the following clause shall be inserted namely:-

"(ba) "contractor" means any dealer who undertakes any works - contract for execution and includes a sub-contractor ;"

(c) in clause (c), after Explanation 2, the following Explanation shall be inserted, namely :-

"Explanation 3. -Any person as aforesaid who transfers, delivers, supplies, sells or otherwise disposes of goods in any of the manner referred to in clause (m) for commission, remuneration or otherwise, for cash, deferred payment or other valuable consideration, shall be deemed to be a dealer for the purposes of this Act."

(d) Explanation below clause (e) shall be deleted ;

(e) in clause (r),-

(i) for the existing Explanation, the following Explanation shall be substituted, namely :-

"Explanation.- The turnover in each year shall include -

- (a) the amounts realised by a dealer by sale of surplus, unserviceable and discarded goods, fixed or other assets, of the business, by-products and subsidiary products of manufacture or processing, and  
(b) the aggregate amount for which goods are transferred, delivered,

supplied, sold or otherwise disposed of in any of in the manner referred to in clause (m) by a dealer ;  
but shall not include sales in a canteen owned and run by a dealer for the benefit of his workmen or labourers ;

(f) after clause (r), the following clause shall be inserted, namely:-  
"(ra) "works contract" means and Includes any agreement for carrying out, for cash, deferred payment or other valuable consideration, the construction, fitting out, improvement or repair of any building, road, bridge or other immovable property or the installation, fitting out, improvement or repair of any movable property.

Explanation- A sub-contract for carrying out any or all of the aforesaid works shall be deemed to be a works contract."

*Insertion of new sections 4A and 4B.* 3. After section 4 of the principal Act, the following sections shall be inserted, namely :-

4B.

*Levy of tax on transfer of property in goods involved in the execution of works contracts. or under section 5.* "4A. (1) Notwithstanding anything contained in section 4, but subject to other provisions of this Act, every dealer shall pay for each year, a tax under this Act on his taxable turnover for transfer or property in goods (whether as goods or in some other form) involved in the execution of works contract, determined at the rates and in the manner specified by works contracts. or under section 5.

(2) If a contractor proves to the satisfaction of the Commissioner that tax on the turnover of goods supplied in the course of execution of works contract has been paid by his sub-contractor the contractor shall not be liable to pay tax again on the turnover of such goods.

(3) If a sub-contractor proves to the satisfaction of the Commissioner that the tax has actually been paid by his principal contractor on the turnover of goods supplied in the course of execution of works contract, the sub-contractor shall not be liable to pay tax again on the turnover of such goods.

Explanation 1. For the purposes of this Act, the transfer of property in goods involved in the execution of a works contract shall be deemed to have taken place in Sikkim, if the goods so transferred are within that State at the time of their use, application or appropriation for the execution of the works contract, irrespective of the place, where the agreement for the works contract is made end whether the consent of the other party prior or subsequent to such use, application or appropriation has been obtained or not.

Explanation 2. The levy of tax under this section shall be made whether the works contract is executed fully or partly during a year, or abandoned or terminated before completion.

*Levy of tax on the transfer of right to use any goods.* 4B. Notwithstanding anything contained in section 4, but subject to the other provisions of this Act, every dealer shall pay for each year, a tax under this Act on his taxable turnover in respect or the right to use any goods (whether or not for a specified period) at the rates specified by or under section 5 applicable to the sales of the same goods, had they been sold otherwise than by the transfer of the right to use them:

Provided that if the transfer of the right to use any goods is made by a dealer on more than one occasion in a year to the same or different party, the tax shall be leviable on each such occasion ;

Explanation- For the purposes of this Act, the transfer of the right to use any goods for any purpose (whether or not for a specified period) shall deemed to have taken place in Sikkim, if such goods so transferred are in the State at the time of such transfer irrespective of the place where the agreement for the transfer pf right to use the goods is made,

*Amendment of section 13.* 4. In section 13 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely :—

"(4a) If a registered dealer fails to prove to the satisfaction of the prescribed authority, the correctness of the sale price of the goods transferred, delivered, supplied, sold or otherwise disposed of in any of the manner referred to in clause (m) of sections, the said authority may determine the said price according to the best of its judgement subject to such rules as may be prescribed."

*Insertion of new 5.* After section 14 of the principal Act, the following section shall *section 14A.* be inserted, namely :—

*Deduction of tax*"14A. (1) Notwithstanding anything contained in sections 14 and *at source from* the State Government may prescribe that every person or any specified *bills of contrac-* class of persons, making any payment to contractors as valuable consideration *tors.* for the transfer of property in goods, whether as goods or in some other form, involved in the execution of works contracts, shall deduct such amount, as may be prescribed, not exceeding four percentum of the said payment, towards tax payable under this Act and remit the amounts so deducted to the State Government.

(2) The manner in which the deduction under sub-section (1) shall be made, the period within which the amounts so deducted shall be remitted to the State Government, the form in which the certificate of deduction should be issued to the contractors and other incidental and ancillary matters shall be such as may be prescribed.

(3) If any person fails to deduct, or having deducted, *fails* to remit to the State Government within the prescribed time, the amount deductible under sub-section (1), he shall be liable for a penalty of a sum not exceeding twice the amount deductible.

(4) The amount deductible and actually deducted under sub section (1) and penalty levied under sub-section (3) shall be deemed to be a tax for the purpose of the Sikkim (Collection of Taxes and Prevention of Evasion of *of 7* Payment of Taxes ) Act, 1987. 1987

*Amendment of 6.* In section 18 of the principal Act, after sub-section (1), the following *section 18.* sub-section shall be inserted, namely :—

"(1a) Every registered dealer who transfers, delivers, supplies, sells or otherwise disposes of goods in any of the manner referred to in sub-clauses (b), (c) and (d) of clause (m) of section 2 shall keep and maintain in his place of business, the original copies of all the agreements or contracts entered into by him which are under operation end statement of expenditure involved in any such work contract :

Provided that the Commissioner may, on application and for reasons to be recorded, permit any such dealer to keep and maintain the aforesaid documents at any other place in the State of Sikkim or keep and maintain xerox or other copies thereof only in the place of business, the originals being made available on demand by the prescribed authority under this section.

*Amendment of 7.* In section 28 of the principal Act, in sub-section (4), after clause *section 18.*(f), the following clauses shall be inserted, namely :—

"(fa) the manner in which the price is to be determined under sub-section (4a) of section 13;

(fb) prescribing the rate of tax, the manner of its deduction, the time within which the amount is to be remitted and the form of certificate of deduction to be issued to the contractors and other incidental and ancillary matters under section 14A ;"

By order of the Governor

B.R. Pradhan  
Secretary to the Government of Sikkim,  
Law Department.  
F. No. 16(40)LD/85-94.

# SIKKIM

GOVERNMENT



GAZETTE

## (EXTRAORDINARY) PUBLISHED BY AUTHORITY

Gangtok ,

Tuesday 18<sup>th</sup> April, 2000

No . 127

### GOVERNMENT OF SIKKIM LAW DEPARTMENT GANGTOK.

No. 6/LD/2000

Dated : the 17<sup>th</sup> April , 2000

### NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 7<sup>th</sup> day of April , 2000 is hereby published for general information:-

#### **THE SIKKIM SALES TAX (AMENDMENT ) ACT ,2000 (ACT NO. 6 OF 2000) AN ACT**

Further to amend the Sikkim Sales Tax Act, 1983

BE it enacted by the Legislature of Sikkim in the Fifty –first year of the Republic of India as follows :-

**Short title, extent  
and  
commencement.**

- (1) This act may be called the Sikkim Sales Tax (Amendment) Act, 2000.  
(2) It extends to the whole of Sikkim.  
(3) It shall be deemed to have come into force on the 13<sup>th</sup> day of January, 2000.

**Amendment of  
Section**

- In the Sikkim Sales Tax Act, 1983 (hereinafter referred to as the Principal Act), in section 5, in sub-section (1),-
  - In clause (a), for the words” at the rate of ten paise in the rupee”, the words, at such rates not exceeding twenty paise in the rupee as the State Government may, from time to time by notification specify” shall be substituted;
  - In clause ©, for words’ at such rate not exceeding fifteen paise in the rupee”. The words’ at such rates not exceeding twenty paise in the rupee,” shall be substituted .

**Amendment of  
section 14 A**

3. In the principal Act, in section 14A, in Sub-section (1), for the words” not exceeding four percentum of the said payment , “ the words” not exceeding eight percent of the said payment”, shall be substituted.

**Amendment of  
Schedule I and  
schedule II**

4. In the principal Act, for the existing Schedule I and Schedule II, the following Schedules shall be substituted, namely:-

**SCHEDULE I  
(See section 8)**

1. Betel Leaves.
2. Books, Periodicals, Journals and Newspapers, exercise books , educational charts, maps and instrument, boxes, globes and other instruments used in educational institutes.
3. Unbranded bread.
4. Condoms and contraceptives.
5. Curd, Lassi and buttermilk except when sold in sealed container.
6. Fresh eggs.
7. Electrical Energy.
8. Fresh meat and fish
9. Fresh vegetable, green or dried, (Except when sold in sealed container) including chilli.
10. Jaggery.
11. Unprocessed salt
12. Unprocessed cereals and pulses including rice and wheat.
13. Fresh flowers
14. Fresh milk and pasteurized milk other than powered or condensed milk.
15. Vegetables seed- planting materials like seed, seedlings , suckers, nursery plants used for raising crops.
16. Handloom Woven
  - a) Handloom Khadi products except those made from silk yarn.
  - b) Khadi/ handloom garments.
  - c) Locally produced handicrafts
17. Khandsari.
18. Organic manure
19. Flour including atta, suji and maida.
20. Wheel chairs , crutches and such other articles used by handicapped persons.
21. Glass bangles.
22. Livestock including poultry
23. Non judicial stamps papers, cartridge paper sold by Govt, treasury through stamp vendors.
24. Raw Cotton
25. Text books

26.Exercise books for educational purposes

27.Lifesavings drugs, namely:-

**(I) ANTIDOTES**

- a) Atropine
- b) Oxime-pralidoxime  
- Obidoxime
- c) Naloxone
- d) Sodium Calcium , edentate (EDTA)
- e) Dinner Caprol (BAL)
- f) Penicillamine
- g) Amyl Nitrate and others.

**(II) CARDIAC STIMULANTS**

- a) Adrenaline
- b) Dopamine

**(III) FIBRINOLYTIC AGENTS**

- a) Streptokinase
- b) Urokinase
- c) Ateplase (PA)

**(IV) STERIODS**

- a) Dexa Methasone
- b) Hydrocortisone

**(v) ANALEPTICS**

- a) Nikethamide
- b) Doxapram

**(VI) DRUGS FOR HYPERTENSIVE EMERGENCIES**

- a) Diazodide
- b) Sodium Nitroprusside

**(VII) ANDRENERGIC CRISIS**

- a) Phentolamine
- b) Phenoxy Benzamine

**(VIII) ANTI TOXINS**

- a) Tetanus Antitoxin
- b) Gas Gangrene Antitoxin
- c) Diptheria Antitoxin
- d) Anti Snake Venom
- e) Anti-D-Immunoglobulin (Human)
- f) Anti rabies Hyperimmune Serum

**(IX) INTRA VENOUS FLUIDS**

- a) Normal Saline
- b) Dextrose – 5% , 10%, 25%
- c) Dextran
- d) Hemacael and others

**28 ANTI T.B. DRUGS**

- a) Ethambutol (Tablet)

- b) Isoinazid (Tablet/Syrup)
  - c) Refampicin (injection)
  - d) Streptomycin (injection)
  - e) Pyrizinamide (tablet)
29. Rubber and Plastic/ Chappal, Sandaland shoes withMRP ofRs. 200/- r less.
  30. Turmeric.
  31. Tamarind
  32. Sugar as defined in the Central Excises and Salt Act , 1944 (1- of 1944 ) excluding imported sugar in all forms.
  33. All varieties of cotton fabrics, man made fabrics and woolen fabrics excluding imported varieties of such fabrics.
- EXPLANATION:-** The expression “cotton fabrics” man made fabrics” and “woolen fabrics” shall have the same meanings asare respectively assigned to them in the CentralExcise and Salt Act , 1944 (1 of 1944) excluding imported varieties of such fabrics].
34. Tobacco as defined under the Central Excise and Sat Act , 1944 (1 of 1944).
  35. Renewable energy devices , and spare parts.
  36. Cooked food.
  37. Agricultural Implements.
  38. Poultry feed, Cattle feed, Pig Feed, Fish feed, including feed additives ;like nutrients, medicines or supplements of such feed.
  39. Rape seed oil and Palm/ Palmoleon oil.

## **SCHEDULE II**

### **(See Section 5)**

1. Mustard oil and mixture of mustard oil.
2. Vehicles of all types driven or operated by petrol/ diesel or electrical energy except those specified elsewhere in this Schedule.
3. Declared goods
4. Eligible oils and oil cakes other than Mustard oil, Rapeseed oil, Palm/Palmoleon oil or other than those specified elsewhere in the Schedule.
5. Processed salt, fish and meat when sold in sealed containers.
6. Cumin seeds.
7. Branded bread.
8. Bicycles.
9. Ready made garments.
10. Utensils and Kitchenwares.
11. Bone meal.
12. Chemical fertilizers, pesticides, weedicides and insecticides.
13. Ores and minerals.
14. Ice.
15. All types of Yarn.
16. Charcoal.
17. Raw wool.
18. Hosiery goods.



19. Bran oil.
20. Sponge iron.
21. HDPE packs.
22. GI-pipe
23. Starch.
24. Garlic and ginger.
25. Maize products
26. Safety matches
27. Cardamom'
28. Gingeli oil.
29. Hand pump/ water pump and oil engines.
30. Aluminium in all its forms namely : aluminium ingots , slabs,bars,rods,pipes , tubes, wires, coil sheets, plates, circles, sections, channels, angels, joists, extrusions, including aluminium scarps but excluding aluminium foils.
31. Information technology(IT) products namely: computers, computer peripherals , digital electronic equipments, communication equipments, electronic components. IT software other than those specified elsewhere in the Schedule.
32. Industrial inputs:-
  - a) Non ferrous metalviz Sulphur and Zinc
  - b) belting
  - c) bearing
  - d) all types of chemicals and intermediate chemicals including barytes , hydrogen peroxide, silicon carbide, lime, caustic soda including wax and paraffin and ferrosilicon.
  - e) Dyes and chemicals
  - f) ferro alloy and super alloy.
  - g) transformer.
  - h) polystyrene.
33. Bulk drugs other than those specified elsewhere in this schedule.
34. Blanket of all kinds , quilt , quilt cover and quilt razaigelafs.
35. Orange
36. Pollution control equipments.
37. Sand, stone chipsand stones
38. Butter and ghee
39. Fruits, vegetables and spices such as pastes, squashes, juices , pickles, jams and jellys processed or manufactured in Sikkim.
40. Sewing thread.
41. Napa slabs.
42. Kerosene
43. Vanaspati (Vegetable ghee)
44. Fire wood
45. Raw silk.
46. Beedi leaves.
47. Packing materials including HDPE bags corrugated bnoxes and containers.
48. de-oiled cake.
49. Vegetable oil

50. Solvent oil.
51. RCC sleepers.
52. Filters
53. Filters
54. Tiles
55. Caramics.
56. Suitcases
57. Cast Iron Castings
58. Surgical instruments.
59. All types of electrical goods including fans but excluding Transformers.
60. Tanned leather and leather goods.
61. Paper and paper pulp
62. Saree falls.
63. All kinds of bricks including refractory bricks
64. Printing ink
65. Electrodes
66. Sanitary ware
67. Stainless steel.
68. Milk food and milk products.
69. Sewing Machines
70. Nut powder
71. Flasks
72. Explosives.
73. Blades and razors etc.
74. Timber
75. Drugs and medicines other than life savings drugs and anti-tuberculosis drugs (as listed in S.No. 27 and 28 of Schedule 1)
76. Footware other than rubber and plastic (Chappals/ sandals and shoes with MRP of Rs. 200/- or less.
77. Magnets
78. Electric Motors
79. Nutrition food
80. Hose pipe
81. Sweet Meat
82. Plants and machinery including spare parts, components and accessories thereof.
83. Tea and coffee.
84. Toffee , chocolate , biscuits and confectionery.
85. Cake , pastries, cocoa products including chewing gums.
86. Toothpaste , tooth brush , tooth powder , mouth wash and deodorants
87. Batteries and parts therof
88. All types of furniture.
89. Champhor
90. Electrical bulbs and tube lights including vapour lamps, halogen lamps of all varieties and descriptions.
91. Photographic goods.

92. Types and tubes and flaps of types and tubes.
93. Foam.
94. Electronic goods other than those specified elsewhere in the Schedule.
95. Cooking gas (LPG).
96. Building materials such as plywood and cement.
97. Paints and colours.
98. Diesel oil.
99. Dry fruits.
100. Plastic goods other than plastic chappals, sandals, and shoes with MRP of Rs. 200/- or less.
101. Roofing light and false roofing materials including cement and asbestos sheets.
102. All types of cables and electrical wires.
103. Fire fighting equipments.
104. Cereals and pulses when sold in sealed containers including polypackets.
105. Articles of foods and drinks including sweet and sweet meat when sold:-
  - (a) In the three star, four star and five star hotels are recognized by the Ministry of Tourism, Government of India , Sikkim.
  - (b) In places other than (a) above when sold in sealed container, or packet including polythene packet.
106. Food preservatives, food colors and food flavouring essences.
107. Hardware goods specified as hardwares under the Notification No. 832/ST/11/3096 Dt. 16.12.86.
108. Jointing power and SITU mixture for laying tiles and chips and deodorants.
109. Kirana goods and spices when sold in sealed containers or polythene packets.
110. Mercury.
111. Mosquito
112. Magnesium Carbide/ Carbonate.
113. Manihari goods specified as “Manihari goods” under notification No. 832/ST/113096. dt. 16.12.86.
114. Lubricants including lubrication oil, brake oil, grease and engine oil.
115. Optical goods namely spectacles, sun glasses, goggles, lenses and frames including attachments.
116. Pipes and pipe fittings of all varieties including casing , other than GI pipe.
117. Rolling shutters and collapsible gates whether operated manually, mechanically or electrically and their parts and accessories thereof.
118. Sacks of all types.
119. Sport goods of all types.
120. Stoves, that is gas stove and kerosene stoves, gas metallic cylinder, Gas mantle, part and accessories thereof.
121. Chicory, coffee beans , seed raw or toasted.
122. Chana – choor , dalmut, fried potato chips, fried gram when sold in sealed containers including polypackets.
123. Fruits, vegetables and spices such as pastes, squashes, juices , pickles, jams and jellies processed or manufactured outside Sikkim.

124. Instant mix such as jamoon mix, ice- cream mix, jelly mix and the like-sambar and rasam powers and pastes, masala powers and pastes, curry power and pastes such as soft drink concentrates (other than soft and vegetables concentrates) whether in liquid of power or crystal form when sold in bottles , tins , cans , or in any kinds of sealed containers.
125. Water tank and storage tank of all varieties and description.
126. Toys other than electronic toys.
127. Motor parts, accessories and components thereof.
128. Stationeries including the items specified under Notification No. 832/ST/11/3096 dt. 16.12.86.
129. Glazed earthenware.
130. Chinaware including crockery.
131. Gypsum of all forms and descriptions.
132. Acids.
133. Coir products of all kinds.
134. Bulldozers , tractors, excavators, pipe layers, wheel laden scrappers, mobile cranes, powers tillers, earth movers, dumpers, dippers , dippers and parts and accessories / components thereof.
135. Items of goods not specified by name or description other than those specified in Schedule I and Schedule II and by any other Notification.
136. Weather proofing compounds.
137. Fire works.
138. Furs and skins.
139. Lifts and elevators.
140. Marble and marble tiles.
141. Sandal wood and oil.
142. Telephone including cellular and mobile phones, pagers and parts / accessories thereof.
143. Typewriters.
144. Cutlery.
145. Preserved food articles.
146. Silk and silk fabrics.
147. Vacuum cleaners.
148. T.V.,VCR and C.D. and VCP.
149. Teleprinters.
150. Transmission wires and tower.
151. Voltage stabilizer.
152. Washing machines.
153. Wireless equipments.
154. Air Conditioner.
155. Arms and ammunition.
156. Articles of Stainless steel other than those specified elsewhere in the Schedule.
157. Carpets.
158. Cushion and mattress.
159. Electronic toys.
160. Fancy leather goods.

161. Musical instruments and equipments.
162. Non alcoholic drinks , that is to say mineral water , aerated water including soda water, soft water whether or not flavoured or sweetened and whether or not containing vegetables or fruit juice or fruit pulp when sold in bottles, tins , cans or in any kind of sealed containers.
163. Hair oil.
164. Synthetic gems.
165. Calculating machines.
166. Cigarettee cases and lighters.
167. Cinematographic equipment.
168. Ivory products.
169. Air circulators and air coolers.
170. Glassware other than glass bangles.
171. Naptha.
172. Spark plugs.
173. Rubber goods other than rubber chappals, sandals and shoes with MRP of Rs. 200/- or less.
174. Cosmetic and soaps.
175. Adhesives.
176. PVC articles.
177. Laminated sheets.
178. Oxygen and gas.
179. Aeronautics.
180. Watches and clocks.
181. ACSR conductors.
182. Refrigerators.
183. Radios, spares parts, accessories and components there of.
184. Loud speakers/ public address systems.
185. Duplicating / address printing machines.
186. Binoculars and telescopes.
187. Disc Antenna, spare parts and accessories thereof.
188. Photocopiers.
189. Granite stones whether polished or unpolished, polished cuddapath stones, slabs and titles.
190. Industrial gas.
191. Petroleum products including motor sprit, aviation and turbine fuel.
192. Liquor.
193. Narcotics.
194. Molasses.
195. Rectified spirits.
196. Bullion.
197. Gold articles.
198. Precious stones.
199. Silver articles.”

**Repeal and  
Saving**

5. (1) The Sikkim States Tax (Amendment) ordinance, 2000 (ordinance No. 1 of 2000) is hereby repealed.
- (2) Notwithstanding such repeal anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

By order of the Governor,

**T.D.Rinzing ,**  
**Secretary to the Govt. of Sikkim.**  
**Law Department**  
**F.No. 16(82)LD/77-2000**

# SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

Gangtok

Monday,

12<sup>th</sup> November, 2001

No 414

GOVERNMENT OF SIKKIM  
LAW DEPARTMENT  
GANGTOK.

No. 12/LD/2001

Dated : 12. 11. 2001

## NOTIFICATION

The following Act of Sikkim Legislative Assembly Having received the assent of the Governor on 6th day of November, 2001 is hereby published for general information:

THE SIKKIM SALES TAX (AMENDMENT) ACT 2001  
ACT NO. 12 OF 2001  
AN ACT

Further to amend the Sikkim Sales Tax Act, 1983.

Be it enacted by the Legislature of the Sikkim in the Fifty –Second year of the Republic of India as following:  
Short title and commencement

1. (1) This Act may be called the Sikkim Sales Tax (Amendment) Act, 2001. (2) It shall come into force at once.

Amendment of Schedule 1

2. In the Sikkim Sales Tax Act, 1983, (hereinafter referred to as the said Act), in Schedule 1,

(1) The following shall be omitted, namebly: "36. Cooked food.

39 Rape Seed oil and Palm/Palmolion oil"

(ii) Serial numbers 37 and 38 shall be renumbered as serial numbers 36 and 37 respectively,

(ii) After serial number 37 as so renumbered, the following shall be added, namely:

38. Artificial limbs.

39. Kum Kum.

40. Hand made safety matches.

41. Indigenous Handmade Musical Instruments.

42. Plain Water.

43. Aluminium Utensils."

Amendment of Schedule II

3. In the said Act, in Schedule II, -

(i) In serial number 4, the words" other than Mustard oil" shall be omitted

(ii) In serial number 10, after the words" Utensils and Kitchenwares" the words" excluding aluminium utensils" shall be inserted,

(iii) In serial number 26, after the words" Safety matches" the words " excluding handmade safety matches " shall inserted,

(iv) For serial number 31, and the entries relating thereto, the following shall be substituted, namely:

31. Information Technology Products as follows, namely:

84. 69 Word processing machines and electronic Typewriters.  
84. 70 Electronic calculators.  
84. 71 Computer systems and peripherals, electronic diaries.  
84. 72 Parts and accessories of word processing machines, electronic calculators, electrical typewriters, computer systems and peripherals, electronic diaries,  
85. 01 DC micro motors/stepper motors of an output not exceeding 37.50 watts.  
85. 03 Parts of HSN 85.01 for items listed above.  
85. 04 Un-interrupted power suppliers (UPS) and their Parts  
85. 05 Permanent magnets and articles, intended to become permanent magnets (Ferrites).  
85. 17 Electrical apparatus for line or telegraphy including line telephone sets with cordless hand sets and telecommunication apparatus for cument line systems for digital line systems, videophones.  
85. 18 Microphones, multimedia speakers, head phones, earphones an combines of microphones/speaker sets and their Parts.  
85. 20 Telephone answering machines.  
85. 22 Parts of telephone answering machines.  
85. 23 prepared unrecorded media for sound recording similar recording of other phenomena.  
85. 24 I.T. Software on any media  
85. 25 Transmission apparatus for radio broad casting or TV broadcasting Transmission apparatus incorporating reception apparatus, digital still image video cameras.  
85. 27 Radio communication receivers, radio pagers.  
85. 29 (i) Aerials, antennas and their parts. (ii) Parts fitems at 85.27 listed above.  
85. 31 LCD Panels, LED Panels and parts thereof.  
85. 32 Electrical capacitors, fixed variable or adjustable (Pre-set) and parts thereof.  
85. 33 Electrical resistors including rheostats and potentiometers other than heating resistors  
85. 34 Printed circuits.  
85. 36 Switches, connectors and relays for upto 5 amps, at voltage not exceeding 250 volts, Electronic fuses.  
85. 40 Data/graphic display tubes, other than T.V. picture tubes and parts thereof.  
85. 41 Diodes, transistors and similar semi conductor devices, photosensitive semi conductors devices including photo voltaic cell whether or not assembled I modules or made up into panels, light emitting diodes, mounted piezo- electric crystals.  
85. 42 Electronic integrated circuits and micro assemblies.  
85. 43 Signal generators and parts thereof.  
85. 44 Optical fibre cables.  
90. 01 Optical fibre and optical fibre bundles and cables.  
90. 13 Liquid crystal devices, flat panel display devices and parts thereof.  
90. 30 Cathode ray oscilloscopes, spectrum analysers, cross-talk meters, gain measuring instruments, distortion factor meters, psophometers, net work and logic analyzer and Signal analyzer”  
(v) In serial number 161, after the words” musical instruments and equipments” the words excluding indigenous hand made musical instruments” shall be inserted,  
(vi) After serial number 199, the following serial number and the entries relating thereto shall be added, namely:  
200 Cooked Food”  
By Order,

**T. D. Rinzing,**  
**Secretary to the Govt. of Sikkim,**  
**Law Department.**  
**F. No.16 (82) LD/2001**



# SIKKIM

## GOVERNMENT GAZETTE



EXTRAORDINARY  
PUBLISHED BY AUTHORITY

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Gangtok Monday 12<sup>th</sup> January 2004 No. 4

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GOVERNMENT OF SIKKIM  
LAW DEPARTMENT  
GANGTOK

NO.12/LD/P/2004

Dated: 7.1.2004.

### NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 3rd day of January, 2004 is hereby published for general information:-

**THE SIKKIM SALES TAX (AMENDMENT) ACT, 2003**  
**(ACT NO. 12 OF 2003)**  
**AN**  
**ACT**

further to amend the Sikkim Sales Tax Act, 1983.

Be it enacted by the Legislature of Sikkim in the Fifty-fourth Year of the Republic of India as follows:-

**Short title and commencement** 1. (1) This Act may be called the Sikkim Sales Tax (Amendment) Act, 2003.

**Insertion of new section 5A**

(2) It shall come into force at once.

2. In the Sikkim Sales Tax Act, 1983 (hereinafter referred to as the said Act), after section 5, the following section shall be inserted, namely:-

**"Lump sum payment in lieu of the tax on lottery tickets"**

5A. Any dealer dealing in lottery tickets where prizes are offered on the basis of last two digit number printed on the body of the lottery ticket and the draws of such Lotteries are held either on weekly, fortnightly or monthly basis, shall be liable to pay sales tax per draw as per the rate as specified in "Schedule

**Explanation:** - A lottery shall be categorized as either weekly, fortnightly or monthly where each subsequent draws of the lottery do not exceed either seven days or fifteen days or thirty days and based on such pattern of periodic draw it shall be categorized as such".

*Insertion of  
new Schedule III*

3. In the said Act, after the existing Schedule II, the following Schedule shall be inserted, namely:-

**"Schedule**

Serial No.	Type of Draw	Rate per Draw
1.	Weekly/fortnightly/monthly draw on lotteries where prizes are offered on the basis of last two digits.	Rs. 10, 000/- (Rupees ten (thousand)

**By Order**

**T. D. RINZING,**  
**Secretary to the Govt. of Sikkim,**  
**Law Department.**  
**16(82)LD/2003**

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*Printed at Sikkim Government Press, Gangtok.*

# SIKKIM

## GOVERNMENT GAZETTE



EXTRAORDINARY  
PUBLISHED BY AUTHORITY

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Gangtok Tuesday, 26<sup>th</sup> October, 2004 No. 409

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GOVERNMENT OF SIKKIM  
LAW DEPARTMENT  
GANGTOK

NO. 6/LD/2004

Dated: 15.10.2004

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 4th day of October, 2004 is published for general information.-

**THE SIKKIM SALES TAX (AMENDMENT) ACT, 2004**  
**(ACT NO. 6 OF 2004)**  
**AN**  
**ACT**

further to amend the Sikkim Sales Tax Act, 1983.

Be it enacted by the Legislature of Sikkim in the Fifty-fifth Year of the Republic of India, as follows:

*Short title ,extent and commencement*

1. (1) This Act may be called the Sikkim Sales Tax

(Amendment) Act, 2004.

(2) It extends to the whole of Sikkim.

(3) It shall come into force at once.

*Amendment of section 2*

2. In the Sikkim Sales Tax Act, 1983 (hereinafter referred to as the principal Act, in clause (ra) of section 2, after the words "immovable property or the" and before the word "installation", the following words shall be inserted, namely: -"fabrication, manufacture, processing modification, erection, commissioning".

*Insertion of proviso to section 4A (1)*

3. In the principal Act, in sub-section (1) of section 4A, the following proviso shall be inserted, namely: -"Provided that all amounts towards labour charges and other like

charges not involving any transfer of property in goods, actually incurred in connection with the execution of works contract or such amounts calculated on the basis of thirty percent of the value of works contract, if they are not ascertainable from the books of accounts maintained and produced by a dealer before the assessing authority, shall be allowed to be deducted from gross turnover of such dealer in determining his taxable turnover".

4. In the principal Act, after section 5A, the following

*insertion of new section 5B 4A,*

*"composite tax on works* section shall be inserted, namely, :- "5B (1) Notwithstanding anything contained in section

*contract"*. section 11 and section 14A, every contractor referred to in sub-section (ba) of section 2, may, subject to such restrictions and conditions and in such manner as maybe prescribed, at his option, instead of paying tax in accordance with section 4A and section 14A, pay, on the total value of each of the works contract executed by him, a lump sum tax, by way of composition, at such rate, not exceeding fifteen percent, as the State Government may, from time to time, by notification, specify :

Provided that in case of cancellation of the permission granted for payment of lump sum tax by way of composition, the provisions of section 4A and 14A and the rules made thereunder shall apply.

(2) A contractor, exercising option under subsection (1) shall, so long as the option remains in force, not be required to maintain accounts of his business under this Act or the rules made thereunder except the records in original of the works contract, extent of their execution and payments received or receivable in relation to such works contract, executed or under execution.

(3) The State Government may prescribe that every person or any specified class of persons, making any payment to contractor who has exercised option under

this section, shall deduct towards payment of lump sum tax, by way of composition at the prescribed rate or rates from the contractor on account of the works contract executed by him and remit the amounts so deducted to the State Government.

(4) If any person fails to deduct or having deducted fails to remit to the State Government within the prescribed time, the amount deductible under sub-section (1) and sub-section (3), shall be liable for penalty of a sum not exceeding twice the amount deductible.

(5) The amount deductible and actually deducted under sub-section (3) and sub-section (4) shall be deemed to be a tax for the purpose of the Sikkim (Collection of Taxes and Prevention of Evasion of Payment of Taxes) Act, 1987 (7 of 1987).

(6) The prescribed authority may, for the purpose of ascertaining the deduction or payment of tax in appropriate manner and for evaluation thereof, require any contractor, including a contractor not registered under this Act, to produce before him any of the relevant documents maintained by the contractor and or to furnish any information connected with the works executed by such contractor, subject to sub-section (2) of this section, and the contractor shall comply with such requirements.

(7) Subject as aforesaid, the relevant documents shall, at all reasonable times, be open to inspection,

search and seizure, if need be, by the prescribed authority or any person appointed to assist him under sub-section

(1) of section 3. The provisions laid down under sub-section (5) of section 18 shall apply in case of seizure of the documents".

*Insertion of new*

*section 5C  
"information of  
awarding of  
works  
Contract".*

5. In the principal Act, after section 5B, the following

section shall be inserted, namely :-

"5C- Any person entering into any contract/letter of intent with any contractor for transfer of property in

*Amendment of  
section 10*

goods (whether as goods or some other form) involved in the execution of works contract shall furnish within fifteen days from the date of signing of the contract/letter of intent such information as may be prescribed, to the assessing authority under whose jurisdiction the contractor's place of business is situated. Failure to do so shall entail a penalty not exceeding five hundred rupees per day of default after affording such person a reasonable opportunity of being heard.

6. In the principal Act, in sub-section (4) of section 10,-
- a. for the words "penalty of rupees twenty five", the words "penalty of rupees fifty" shall be substituted;
  - b. after the first proviso the following proviso shall be inserted, namely: -

"Provided further that if the dealer has failed to pay tax for the period during which business was carried out without obtaining registration, interest at fifteen percent per annum shall accrue and be charged on the entire amount of tax determined by the assessing authority as payable from the date of commencement of the business till the day preceding the date on which the dealer's registration takes effect and such interest shall be treated as it were tax under this Act and shall be paid by the dealer in the prescribed manner".

*Amendment of  
section 11*

*Omission of  
section 12  
Amendment of  
section 14*

*Insertion of new  
section 15A*

7. In the principal Act, in sub-section (3) of section 11, for the words "not exceeding rupees five" the words "not exceeding rupees fifty" shall be substituted.

8. In the principal Act, section 12 shall be omitted.

9. In the principal Act, in sub-section (3) of section 14, for the words "ten percent per annum", the words "fifteen percent per annum" shall be substituted.

10. In the principal Act, after section 15, the following section shall be inserted, namely: - "15A (1) Notwithstanding anything contained in any other law or contract to the contrary in any person or any persons responsible to pay any sum to sale or supplies made by it to the State or Government including department of other States,

*"Deduction of tax at source specified class of from the any dealer for payment to Central dealer".*

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situated in Sikkim, any local body, any authority or corporation established by or under a statute and any State or Central Government undertaking shall, at the time of credit of such sum to the account of the dealer or at the time of payment thereof in cash or by cheque or draft or any other mode, deduct the amount of sales tax from the bills or invoices, at the rate or rates notified under this Act from time to time. The amount of sales tax so deducted shall be deemed to be the amount of sales tax collected by the dealer from the State or Central Government Departments or aforesaid organizations or authorities, as the case may be, within the meaning of section 15.

- i. While making deduction as referred to in subsection (1), the deducting authority shall
- ii. grant a certificate to the dealer in the prescribed form and shall send a copy thereof to the



concerned authority of the  
Commercial Tax  
Office within whose jurisdiction  
such sale or  
supply is made. The dealer shall  
furnish an  
authenticated copy of such  
certificate to the  
concerned assessing authority along  
with the  
returns as a proof of payment of  
sales tax. ii.  
The amount deducted from the bills  
or invoices  
shall be deposited to the credit of  
the State  
Government within fifteen days  
from the date of  
such deductions in such form or  
challan as may  
be prescribed or through book  
adjustment  
prescribed by the Department of  
Finance,  
Revenue and Expenditure,  
Government of  
Sikkim. iii. The deducting authority  
shall supply  
a copy of the form or challan or  
document of  
books adjustment, as the case may  
be, showing  
the details of deduction of sales tax,  
to the  
concerned Commercial Tax Office.  
iv. The  
remittance or deposit of deducted  
sales tax to  
the credit of the State Government  
shall be  
adjusted by the Commercial Tax  
Office towards  
the sales tax liability of the dealer  
and shall  
constitute a good and sufficient  
discharge of the  
liability of the deducting authority  
to the dealer  
to the extent of the amount remitted

or .

deposited.

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v. If any person fails to deduct, or having deducted, fails to remit to the State Government within the stipulated time, the amount deductible under sub-section (1), he shall be liable for penalty of a sum not exceeding twice the amount deductible:

Provided that no penalty under this sub-section shall be imposed unless a reasonable opportunity of being heard is given to such person.

vi. The amount deductible and actually deducted under sub-section (1) and penalty levied under sub-section (6) shall be deemed to be a tax for the purpose of the Sikkim (Collection of Taxes and Prevention of Evasion of Payment of Taxes) Act, 1987 (7 of 1987).

*Amendment of section 22.*

*Amendment of section 23.*

11. In the principal Act, in the first proviso to section 22, for the words "a rupee" the words "ten rupees" and for the words "five hundred rupees" the words "one thousand rupees" shall respectively be substituted.

*Amendment of section 27*

12. In the principal Act, in section 23, -  
a. In sub-section (1), -

*Amendment of section 28*

1. after clause (h), the following clause

shall be inserted, namely: -  
"(ha) fails,  
having opted for composite  
tax, to pay  
tax in accordance with or  
contravenes  
the provisions of section 5B,  
or"

2. for the words "ten thousand  
rupees" the  
words "twenty thousand  
rupees" and for  
the words "one hundred  
rupees" the  
words "two hundred rupees"  
shall  
respectively be substituted;

(ii) in sub-section (4), for the words  
"twenty thousand rupees" the words "thirty  
thousand rupees" shall be substituted.

13. In the principal Act, in sub-section (3) of  
section  
28 for the words, "rupees one thousand" the  
words "rupees twenty thousand" and for the  
words, "rupees fifty" the words "rupees five  
hundred" shall be substituted.
14. In the principal Act, in clause (fb) of sub-  
section  
(4) of section 28, after the words and figures  
"under section 14A" the words and figures  
" section 5B and section 15A" shall be inserted.

By Order of the Governor.

Tashi Wangdi, SSJS  
Legal Remembrancer-cum-Secretary Law.

File No. 16(82)LD/97-2004

# SIKKIM

GOVERNMENT



GAZETTE

EXTRA ORDINARY  
PUBLISHED BY AUTHORITY

Gangtok,	Thursday	19 <sup>h</sup>	May,	2005	No. 212
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GOVERNMENT OF SIKKIM  
LAW DEPARTMENT  
GANGTOK

No. 6/LD/P/2005

Dated: 15.4.2004.

## NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 9th day of March, 2005 is hereby published for general information:-

**SIKKIM SALES TAX (AMENDMENT) ACT, 2005**  
**(ACT NO. 6 OF 2005)**  
**AN**  
**ACT**

further to amend and consolidate the laws relating to the levy of tax on sale of goods in the State of Sikkim.

BE it enacted by the Legislature of Sikkim in the fifty-sixth year of the Republic of India as follows:-

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

- (1) This Act may be called the Sikkim Sales Tax (Amendment) Act, 2005.
- (2) It extends to the whole of Sikkim.
- (3) It shall come into force with effect from 1<sup>st</sup> April, 2005.

**Amendment of section 29.**

2. (4) Notwithstanding anything contained in the Sikkim Sales Tax Act, 1983 (herein after referred to as the Principal Act) the provisions of the said Act, shall in so far as they relate to the commodities/products which fall under the purview of provisions of Sikkim Value Added Tax Act, 2005 shall stand repealed. Provided further that in so far as commodities/products not covered by the provisions of Sikkim Value Added Tax Act, 2005 and are covered by the provisions of Sikkim Sales Tax Act, 1983 shall accordingly continue to be dealt with and governed by the provisions of this Act.

By Order

**R. K. PURKHAYASTA, SSJS**  
**LEGAL REMEMBRANCER-CUM-SECRETARY**  
**GOVERNMENT OF SIKKIM, GANGTOK.**  
**F. No. 16 (82) LD/2005.**