

EXPENDITURE TAX ACT, 1987

THE EXPENDITURE-TAX ACT, 1987 ACT NO. 35 OF 1987 [14th September, 1987.] An Act to provide for the levy of a tax on expenditure incurred in certain hotels. 1*[or restaurants and for matters connected therewith or incidental thereto.] BE it enacted by Parliament in the Thirty-eighth Year of the Republic India as follows:--

1. Short title, extent and commencement.

1) This Act may be called the Expenditure-tax Act, 1987. (2) It extends to the whole of India except the State of Jammu and Kashmir. (3) It shall come into force on such date 2* as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions. In this Act, unless the context otherwise requires,--

unless the context otherwise requires,-- (1) "assessee" means a person responsible for collecting the expenditure-tax payable under the provisions of this Act; (2) "assessment year" means the period of twelve months commencing on the 1st day of April every year; (3) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963); (4) "chargeable expenditure" means the expenditure referred to in section 5; (5) "expenditure-tax" or "tax" means the tax chargeable under the provisions of this Act; (6) "hotel" includes a building or part of a building where residential accommodation is, by way of business, provided for a monetary consideration; (7) "Income-tax Act" means the Income-tax Act, 1961 (43 of 1961); (8) "person responsible for collecting" means a person who is required to collect tax under this Act or is required to pay any other sum of money under this Act and includes-- (a) every person in respect of whom any proceedings under this Act have been taken, and -----
----- 1. Ins. by Act 49 of 1991, S.113 (w.e.f. 1-10-1991). 2. 1-11-1987 vide Notification No. S.O. 919 (E) dated 14-10-1987. 320 (b) every person who is deemed to be an assessee-in-default under any provision of this Act; (9) "prescribed" means prescribed by rules made under this Act; 1*[(9A) "restaurant" means any premises, not being a restaurant situated in a hotel referred to in clause (1) of section 3, in which the business of sale of food or drink to the public is carried on and such premises, at the beginning of any month, are equipped with, or have access to, facilities for air-conditioning;] (10) "room charges" means the charges for a unit of residential accommodation in a hotel and includes the charges for-- (a) furniture, air-conditioner, refrigerator, radio, music, telephone, television, and (b) such other services as are normally included by a hotel in room rent, but does not include charges for food, drinks and any services other than those referred to in sub-clauses (a) and (b); (11) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

3. Application of the Act.

This Act shall apply in relation to any chargeable expenditure-- (1) incurred in a hotel wherein the room charges for any unit of residential accommodation at the time of incurring of such expenditure are 3*[one thousand two hundred rupees] or more per day per individual and where,-- (a) a composite charge is payable in respect of such unit and food, the room charges included therein shall be determined in the prescribed manner; (b) (i) a composite charge is payable in respect of such unit, food, drinks and other services, or any of them, and the case is not covered by the provisions of sub-clause (a), or (ii) it appears to the Assessing Officer that the charges for such unit, food, drinks or other services are so arranged that the room charges are understated and the other charges are overstated, the Assessing Officer shall, for the purposes of this clause determine the room charges on such reasonable basis as he may deem fit; and (2) incurred in a restaurant 4*[before the 1st day of June, 1992.

4. Charge of expenditure-tax

Subject to the provisions of this Act, there shall be charged on and from-- (a) the commencement of this Act, a tax at the rate of twenty per cent. 5*[ten] of the chargeable expenditure incurred in a hotel referred to in clause (1) of section 3: Provided that nothing in this clause shall apply in the case of a hotel referred to in clause (ii) of sub-section (5) of section 80-IA of the Income-tax Act during the period beginning on the 1st day of April, 1991 and ending on the 31st day of March, 2001; (b) the 1st day of October, 1991, 6*[but not after the 31st day of May 1992] a tax at the rate of fifteen per cent. of the chargeable expenditure incurred in a restaurant referred to in clause (2) of section 3.

5. Meaning of Chargeable expenditure.

For the purposes of this Act, chargeable expenditure,-- (1) in relation to a hotel referred to in clause (1) of section 3, means any expenditure incurred in, or payments made to, the hotel in connection with the provision of-- (a) any accommodation, residential or otherwise; or (b) food or drink by the hotel, whether at the hotel or outside, or by any other person at the hotel; or (c) any accommodation in such hotel on hire or lease; or (d) any other services at the hotel, either by the hotel or by any other person, by way of beauty parlour, health club, swimming pool or other services, but does not include-- (i) any expenditure which is incurred, or payment for which is made, in foreign exchange. 7*[before the 1st day of October, 1992.] (ii) any expenditure incurred by persons within the purview of the Vienna Convention on Diplomatic Relations, 1961 or the Vienna Convention on Consular Relations, 1963; (iii) any expenditure incurred in any shop or in any office which is not owned or managed by the person who carries on the business of a hotel; (iv) any expenditure by way of any tax, including tax under this Act. Explanation.- For the purposes of this clause,-- (a) expenditure incurred or any payments made in Indian currency obtained by conversion of foreign exchange into Indian currency shall in such cases and in such circumstances as may be prescribed be deemed to have been incurred or, as the case may be, made in foreign exchange; and (b) "foreign exchange" and "Indian currency" shall have the meanings respectively assigned to them in clauses (h) and (k) of

section 2 of the Foreign Exchange Regulation Act, 1973 (46 of 1973); (2) in relation to a restaurant referred to in clause (2) of section 3, means any expenditure incurred in, or payments made to, a restaurant in connection with the provision of food or drink by the restaurant, whether at the restaurant or outside, or by any other person in the restaurant, but does not include any expenditure referred to in sub-clauses (ii) and (iv) of clause (1).'] -----

----- 1. Ins. by Act 49 of 1991, S.174 (w.e.f. 1-10-1991). 2. Subs. by S. 115, ibid. (w.e.f. 1-10-1991). 3. Subs. by Act 18 of 1992, S. 105 (w.e.f. 1-6-1992). 4. Ins. by S. 105, ibid. (w.e.f. 1-6-1992). 5. Subs. by Act 32 of 1994, (w.e.f. 1-6-1994). 6. Ins. by Act 18 of 1992, S. 106 (w.e.f. 1-6-1992). 7. Ins. by S.107, ibid. (w.e.f. 1-6-1992). 321

1*[(1) Every Director General of Income-tax, Chief Commissioner of Income-tax, Director of Income-tax, Commissioner of Income-tax, Commissioner of Income-tax (Appeals), 2*[Additional Director of Income -tax, Additional Commissioner of Income-tax, Deputy Director] income-tax, Deputy Commissioner of Income-tax, Assistant Director of Income-tax, Assistant Commissioner of Income-tax, Income-tax Officer, Tax Recovery Officer and Inspector of Income-tax shall have the like powers and perform the like functions under this Act as he has and performs under the Income-tax Act, and for the exercise of his powers and the performance of his functions, his jurisdiction under this Act shall be the same as he has under the Income-tax Act.']; (2) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board: Provided that no such orders, instructions or directions shall be issued-- (a) so as to require any tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or (b) so as to interfere with the discretion of the Commissioner (Appeals) in the exercise of his appellate functions. (3) Every 1*[Assessing Officer] employed in the execution of this Act shall observe and follow the orders, instructions and directions issued for his guidance by the 1*[Director General or Director or by the Chief Commissioner or Commissioner"] -----

----- 1. Subs. by Act 26 of 1988, S.73 (w.e.f. 1-4-1988). 2. Subs. by Ac 32 of 1994, s. 58 (w.e.f. 1-6-1994). 322 or by the 1*[Additional Commissioner] of Income-tax or Deputy Commissioner within whose jurisdiction he performs his functions.