

UTTAR PRADESH ADVERTISEMENTS TAX ACT, 1981

[U.P. Act No. 16 of 1981]

(As passed by the Uttar Pradesh Legislature)

In Act to provide for the levy of tax on advertisements exhibited in cinemas and for matters connected therewith

It is hereby enacted in the Thirty-second Year of Republic of India as follows :

1. Short title and commencement.—(1) This Act may be called the Uttar Pradesh Advertisement Tax Act, 1981.

(2) It shall come into force on such date as the State Government may, by notification, appoint in this behalf, and different dates may be so appointed for different provisions of this Act, or for different areas of the State.

2. Definitions.—In this Act—

- (a) "advertisement" means the intimation or announcement of any goods, property, entertainment, trade, business or profession by means of a slide or film ;
- (b) "cinema" means a place licensed to exhibit films by means of a cinematograph under the provisions of the Uttar Pradesh Cinemas (Regulation) Act, 1955 ;
- (c) "Commissioner" means the Entertainment and Betting Tax Commissioner, Uttar Pradesh, and includes the Additional Entertainment and Betting Tax Commissioner, the Joint Entertainment and Betting Tax Commissioner, the Deputy Entertainment and Betting Tax Commissioner, and any other officer authorised by the State Government by notification to exercise all or any of his powers under this Act ;
- (d) "Proprietor" in relation to a cinema include-
 - (i) the licensee thereof, within the meaning of the U.P. Cinematograph Rules, 1951 ;
 - (ii) any person responsible for or for the time being in charge of the management thereof;
 - (iii) any person charged with the work of projecting any slide or film therein ;
- (e) "tax" means advertisement tax and includes any penalty or other charge levied under this Act.

3. Levy of tax on advertisements.—(1) On all advertisements exhibited on the screen in a cinema there shall be charged, levied and paid an advertisement tax at such rate and the State Government may from time to time notify in this behalf.

²[Provided that a proprietor may, in lieu of the tax payable under this sub-section, pay a lump sum tax on such conditions, in such manner and at such rates, as the State Government may notify in this behalf and where a proprietor elects to pay such lump sum tax he shall not be required to keep accounts and furnish returns under Section 5 for the period for which lump sum tax is paid notwithstanding anything to the contrary contained in that section.]

(2) The rate of tax referred to in sub-section (1) shall not exceed—

- (a) in the case of an advertisement short, for every forty five meters or, part thereof, twenty five rupees per week of part thereof;
- (b) in the case of trailer of film, two rupees per day;
- (c) in the case of a slide, fifty paise per slide per day;
- (d) in the case of any other advertisement, fifty paise per advertisement per day.

(3) Nothing in this section, shall preclude the State Government from notifying different rates of tax for different areas of the State or for different kinds of advertisements.

(4) In computing the tax payable under this section, the tax liability shall, whenever necessary, be rounded off to the next higher multiple of five paise.

4. Liability to pay tax.—The tax shall be charged from and paid by the proprietor in the manner prescribed but; subject to any contract to the contrary, the amount paid or payable by the proprietor in respect of the tax shall be recoverable by him from any person on whose behalf the advertisement is exhibited.

["Provided that in case of payment of a lump sum tax by a proprietor, the amount recoverable under this section by the proprietor from any person on whose behalf the advertisement is exhibited shall be equivalent to the amount of advertisement tax payable under Section 3 on such advertisement."]

5. Duty to keep books of accounts etc.The proprietor shall keep such books of account and submit such returns at such intervals in respect of the exhibition of advertisement as may be prescribed.

6. Exemptions.—(1) No tax shall be payable in respect of—

- (a) any advertisement exhibited for or on behalf of any Government or local authority ;
- (b) any slide relating to the exhibition of feature films in the cinema in which the slide is being exhibited.

(2) Where the District Magistrate, or any other officer authorised by the State Government in this behalf, is satisfied that any advertisement is exhibited for philanthropic, charitable or educational purposes without any profit, he may exempt such advertisement from payment of tax.

7. Refund of Tax.—Where the Commissioner is satisfied that the proprietor has deposited tax in excess of the amount actually due, he shall grant a refund in respect of such amount or allow in adjustment against

future payments of tax.

8. Best judgment Assessment.—(1) Where the Commissioner is satisfied that the proprietor—

- (a) has fraudulently evaded or attempted to evade, in any form whatsoever, the payment of tax due under this Act ; or

(b) has failed to prepare or to submit true and full returns within the time prescribed therefor ;

he shall, after giving the proprietor a reasonable opportunity of being heard, assess to the best of his judgment, the amount of tax due from the proprietor, and may also impose a penalty not exceeding five hundred rupees or double the amount of tax due, whichever is greater.

(2) Any person aggrieved by an Order under sub-section (1) may, within thirty days from the date of service of such order, prefer an appeal to the State Government in such manner as may be prescribed, and the order of the appellate authority on such appeal shall be final.

9. Inspections.—(1) The commissioner or any other officer authorised by him in this behalf may, with such assistance as may be necessary, enter, inspect and search any cinema or any place used or suspected to be used, for keeping records connected therewith, at any reasonable time with a view to securing compliance of the provisions of this Act, and may take in his possession or require the production of such records relating to the exhibition of advertisement, as he considers necessary.

(2) The powers of entry, search and inspection under sub-section (1) may also be exercised by the District Magistrate or an officer authorised by him, within the district to which he is for the time being posted.

(3) The proprietor shall give every reasonable assistance to the inspecting officer specified in sub-section (1) or sub-section (2).

(4) Every inspecting officer specified in sub-section (1) or sub-section (2) shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

10. Penalties.—(1) Any person who fails to pay, or evades the payment of any tax due under this Act shall, on conviction, be liable to a fine not exceeding one thousand rupees.

(2) Any person who prevents the entry of, or otherwise obstructs, any inspecting officer in the discharge of his duties under this Act or the rules made thereunder shall, on conviction, be punishable with a fine not exceeding one thousand rupees.

(3) Any person who contravenes any other provisions of this Act or the rules made thereunder, in the discharge of his duties under this Act or the rules made thereunder shall, on conviction, be punishable with a fine not exceeding five hundred rupees.

11. Offences by Companies.—(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any managing agent, secretary, treasurer, director, manager or other officer of the company, such managing agent, secretary, treasurer, director, manager or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

(a) "company" means anybody corporate, and includes a firm or other association of individuals, and

(b) "director" in relation to a firm, means a partner in the firm.

12. Sanction of prosecution.—No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the District Magistrate.

13. Compounding of offence.—(1) Any offence punishable under this Act may, subject to any general or special order of the State Government in this behalf, be compounded either before or after the institution of the prosecution, by the Commissioner on realisation of such amount of composition fee as he thinks fit not exceeding the maximum amount or fine fixed for the offence.

(2) Where the offence is so compounded—

(a) before the institution of the prosecution, the offender shall not be liable to prosecution for such offence and shall, if in custody, be set at liberty ;

(b) after the institution of the prosecution, the composition shall amount to acquittal of the offender.

14. Recovery of tax.—Any sum due on account of tax shall, without prejudice to any other mode of recovery available to the State Government under any other law for the time being in force, be recoverable as arrears of land revenue.

15. Bar of certain proceedings.—No action shall lie against the State Government or any of its officers or servants for any act done or purporting to be done in good faith under this Act or the rules made thereunder.

16. Delegation.—(1) The State Government may, by notification delegate all or any of its powers under this Act; except the powers referred to in clause (c) of Section 2, Section 3 and Section 20, to any person or authority subordinate to it and may in the like manner withdraw any power so delegated.

(2) The exercise of any powers delegated under sub-section (1) shall be subject to such restrictions, limitations or conditions, as may be laid down by the State Government from time to time.

17. Power of Commissioner to issue directions.—(1) The Commissioner shall have the power to issue directions from time to time not inconsistent with the provisions of this Act or the rules made thereunder to the proprietors of cinemas for carrying out the purposes of this Act.

18. Payments of the amount of tax to local bodies.—At the beginning of each financial year, after due appropriation has been made by law, the State Government shall withdraw from and out of the Consolidated Fund of the State an amount equivalent to the sum received by it on account of the tax in the preceding financial year after deduction charges, and transfer it to the local bodies in such manner and in such proportion as may be prescribed.

Explanation.—For the purposes of this section, the expression "local body" means a municipal board, nagar mahapalika, notified area, committee or town area committee or zila parishad.

19. Exemption from tax under other enactments.—No tax, cess, duty or other levy on advertisements exhibited on screen inside a cinema under any other Uttar Pradesh Act shall be payable where a tax is payable under this Act.

20. Power to make rules.—The State Government may, by notification, make rules for carrying out the purposes of this Act.

THE UTTAR PRADESH ADVERTISEMENTS

TAX RULES, 1983'

1. Short title and commencement.—(1) These Rules may be called the Uttar Pradesh Advertisements Tax Rules, 1983.

(2) They shall come into force with effect from March 1, 1983.

2. Definitions.—In these rules unless the context otherwise requires :

- (i) 'Act' means the Uttar Pradesh Advertisements Tax Act, 1981 ;
- (ii) 'Assessing authority' means the Commissioner as defined in clause (e) of Section 2 of the Act;
- (iii) 'Entertainment Tax Officer' means an officer authorised as such by the District Magistrate or the Commissioner ;
- (iv) 'Form' means a form prescribed under these rules;
- (v) 'Government' means the Government of Uttar Pradesh;
- (vi) 'Inspecting Officer' means the Commissioner, the District Magistrate, or any other officer authorised by the Commissioner under sub-section (1) or by the District Magistrate under sub-section (2) of Section 9 of the Act; and
- (vii) 'Treasury' means a Government treasury and includes a sub-treasury.

3. Accounting and return for payment of tax.—(1) The proprietor of every cinema liable to pay tax under Section 4 of the Act shall keep a register in Form 'A' separately for accounting of all advertisements *viz.* shorts, trailers, slides and other advertisement material received by him for exhibition on the screen, whether taxable or exempted from tax under Section 6 of the Act.

(2) The proprietor shall also prepare separately for each day a return in Form 'B' in duplicate with ball pen and double-sided carbon showing the number of each kind of advertisement material exhibited on the screen including the exempted advertisement and the amount of advertisement tax payable thereon.

(3) The account in Form 'B' shall be completed every day before the commencement of the exhibition of advertisements except in respect of the advertisement shorts for which tax payable is to be worked out weekly. In the case of advertisement shorts the amount of tax shall be entered in the Form 'B' prepared for the last day of the week.

(4) Form 'B' shall be kept readily available for inspection in the manager's office, if it is situated on the ground floor or, if there be no manager's office or where manager's office is not on the ground floor, in the booking office which shall be treated as manager's office for the purpose.

(5) No advertisement shall be exhibited unless the same has been entered in the account in Form 'B' and no new advertisement shall be exhibited after the account in Form 'B' for any day has been completed.

- (6) Where it may be necessary to make corrections in the Form 'B' no over-writing or correction in the figures shall be made and the correction shall be made only by encircling the wrong figure and writing and correct figure above it neatly under the signature of the Manager. No erasion or over-writing in the Form 'B' shall be made.
- (7) The proprietor shall, within three days from the last day of each week ending with Sunday or any other period which may be specified for the purpose by the Commissioner, submit to the District Magistrate the original Form 'B' statements as also a consolidated staternent in such form as may be specified by the Commissionei showing the total amount of tax payable for the week.

4. Payment of tax.—(1) The proprietor shall deposit the amount of tax into Government Account under the sub-head "Tax on Adv'ertisement displayed in Cinema" under the head "045—Other Taxes and Duties on Commodities and Services" in the State Bank of India conducting Government business or the Treasury, as the case may be, within three days from trre last day of each week ending with Sunday or any other period which may be specified for the purposes by the Commissioner and which shall correspond with the period prescribed under Rule 3 for submission of returns in Form 'B' :

Provided that where the third day is a public holiday under the Negotiable Instruments Act, 1881, the tax may be deposited on the next working day :

Provided further that where the payment is made: by cheque, which shall invariably be drawn on a local nationalised or Scheduled Bank, the same shall be handed over to the State Bank, or Treast-ry as the case may be, within two days from the end of the period to which the payment relates.

(2) The treasury challans for depositing the tax shall be prepared in triplicate bearing the words, 'Treasury Copy', 'Departmental Copy' and 'Depositor's Copy' and shall be presented before the Entertainment Tax Officer alongwith the statements, for verification of tax and head of account.

(3) The proprietor shall, immediately after the tax has been paid, intimate the treasury challan number and the date of deposit to the District Magistrate and shall also keep the depositor's copy of the treasury challan received back after depositing the tax alongwith the weekly statement of the period to which the payment relates in a file strictly in chronological order and shall, on demand, produce the same before an inspecting officer.

5. Slide relating to exhibition of film in the cinema.—The proprietor of a cinema shall submit to the District Magistrate a list of all slides relating to the exhibition of feature films in the cinema in respect of which no tax is required to be paid under the provisions of clause (b) of sub-section (1) of Section 6 of the Act before the proposed date of exhibition of the slide.

6. Exemption from payment of tax.—(1) Any person claiming exemption from payment of tax under sub-section (2) of Section 6 of the Act in respect of any advertisement proposed to be exhibited for or on his behalf shall submit an application in this behalf at least ten clear days before the proposed date of exhibition of such advertisement to the District Magistrate of the district in which

the cinema, where the advertisement is proposed to be exhibited, is situated. The applicant shall give full description of the advertisement in respect of which exemption is claimed and also state clearly the purpose of the advertisement. He shall also state the name of the cinema or cinemas where the exhibition of the advertisement is proposed and the exact period of exhibition. The applicant shall also certify and give a written undertaking in this behalf, if so required by the District Magistrate, that he shall not be making any profit by such advertisement.

(2) If the District Magistrate is satisfied that the advertisement in question will actually be exhibited for philanthropic, charitable or educational purposes and the applicant shall not be making any profit by such advertisement he may exempt the advertisement from liability to pay the tax and issue a certificate of exemption to the applicant in Form 'C' and endorse a copy of the same to the proprietor of every cinema in which the advertisement in question is proposed to be exhibited and also to the Commissioner.

(3) The District Magistrate or the Government or the Commissioner may, at any time, by order in writing withdraw or cancel the exemption so granted after giving a reasonable opportunity of being heard to the person obtaining the exemption if, upon information, which has come into his possession, he is, satisfied that the exemption was obtained through fraud or misrepresentation or that the person obtaining exemptions making profit from such advertisement. A copy of such order shall be issued immediately to the person, who obtained the exemption and also to the proprietor of the cinema in which the exempted advertisement is being exhibited or is proposed to be exhibited.

(4) No proprietor of any cinema shall accept any advertisement for exhibition as an exempted advertisement under sub-section (2) of Section 6 of the Act unless he receives a copy of the order of the District Magistrate exempting the advertisement.

7. Refund of tax.—(1) The proprietor claiming refund of tax under Section 7 of the Act shall submit an application in this behalf to the Commissioner giving full details of the amount of tax actually due and the amount of tax deposited into Government Account, the amount of tax deposited in excess, the name of treasury and the number of the treasury challan and the date of deposit after getting the same verified by the Treasury Officer concerned. He shall also submit alongwith the application a certified copy of the full and true accounts showing the amount of tax actually due.

(2) The application for refund under sub-rule (1) above shall be made within ninety days from the date on which the tax, in respect of which the refund is claimed, was deposited.

(3) If the Commissioner is satisfied he may either order that the amount of tax deposited in excess be refunded to the proprietor of the cinema in cash or allow its adjustment against future payment of tax in which case the number of installments in which the adjustment is allowed shall also be specified. The order passed by the Commissioner shall be communicated to the proprietor of the cinema and a copy of the same shall also be supplied to the District Magistrate concerned for taking further necessary action in the matter.

8. Assessment of tax.—(1) Where on perusal of the books of accounts prepared and return of tax submitted or upon consideration of any information received either writing or otherwise and of evidence, if any, which has come into his possession the Commissioner is of the opinion that sufficient grounds do exist for making assessment of tax in respect of any cinema under Section 8 of the Act, he shall cause a notice to be served on the proprietor of such cinema stating the grounds on which the assessment is proposed to be made and calling upon him to produce all his books of accounts and other relevant records for the period to be specified in the notice and to show cause why the tax should not be assessed.

(2) The proprietor of the cinema shall, on receipt of the notice, submit his reply to the Commissioner with the time allowed and shall also produce all his books of accounts and other relevant records and evidence in support of his reply to the show cause notice.

(3) If, after considering the objections of the proprietor, the Commissioner is satisfied that the proprietor has actually evaded or attempted to evade the payment of tax due fraudulently failed to submit true and full returns within the time prescribed, the best of his judgment, assess the amount of tax to be paid proprietor or the cinema for the period in question in addition to of tax, if any, already paid by him. the Commissioner may penalty as provided under Section 8 of the Act.

(4) The order of assessment shall be given to the proprietor of the cinema and a copy of the same shall also be sent to the District Magistrate concerned for realising the amount of assessed tax alongwith penalty in accordance with the provisions of the Act and the rules made thereunder.

9. Appeal against assessment.—(1) An appeal under sub-section (2) of Section 8 of the Act shall be submitted to Sachiv, Uttar Pradesh Shasan Vitta (Manoranjan Kar) Anubhag, Uttar Pradesh Sachivalaya.. Lucknow, alongwith a copy of the order of assessment made by the Commissioner stating clearly the grounds of such appeal and the date of receipt of the assessment order. A copy of the appeal shall be sent to the Commissioner.

(2) The Government may, if it considers necessary, call for the comments of the Commissioner and after giving an opportunity to the appellant of being heard, pass such order as it may think fit, confirming, modifying or annulling the order appealed against. The order of the Government of the appeal shall be communicated to the appellant and a copy of the same shall be sent to the Commissioner and the District Magistrate concerned.

10. Inspections.—(1) The Commissioner may, by order made in writing authorise other officers of his department not below the rank of an Entertainment Tax Inspector and the District Magistrate may likewise authorise any officer of the district not below the rank of Naib-Tahsildar to make inspections of the cinemas under sub-section (1) or (2) of Section 9 of the Act, as the case may be, and shall send a copy of such order to the proprietors of all cinemas in which the inspections have to be made by such officers.

(2) Every inspecting officer shall note the result of his inspection on the Form 'A' register and if any records are taken into possession by him he shall make a recovery made in duplicate which shall be signed both by the inspecting officer and the proprietor of the cinema and the duplicate copy of the same shall be given to the proprietor as a receipt of the records.

11. Prosecution.—A prosecution for contravening any of the provisions of the Act or these rules shall be filed by Entertainment and Betting Tax Inspector as defined in Section 2(h) of the Uttar Pradesh Entertainments and Betting Tax Act, 1979 on behalf of the State Government in a competent court of law after the same has been duly sanctioned by the District Magistrate.

12. Compounding of offences.—(1) An application for compounding an offence under Section 13 shall be made in writing to the Commissioner stating full particulars of the offence committed.

(2) After the composition fee has been realised the Commissioner may by order compound the offence and a copy of such order shall be sent to the District Magistrate concerned, who shall drop any further proceedings in the matter where a prosecution has not already been instituted or where a prosecution has already been launched he shall inform the law court for dropping further proceedings

13. Payment of tax to local bodies.—(1) The tax received from the cinemas situated in each local body shall be transferred to the same local body after deducting the collection charges in the shape of grant to local bodies by the State Government.

(2) The amount of tax to be transferred to local bodies shall be credited under the Head "363—Compensation and Assignments to Local Bodies and Panchayati Raj Institutions—D—Other miscellaneous compensations and assignments—Payments to Local Bodies, Zila Parishads and Panchayat Raj Institutions from receipts under the Uttar Pradesh Advertisement Tax Act, 1981—Grants-in-aid/Contributions/Subscriptions."

14. Inspection Book—The proprietor of every cinema shall maintain an Inspection Book and produce the same immediately on demand for recording of remarks by various inspecting officers. The Inspection Book shall contain 100 pages serially numbered and shall be brought into use after getting the same authenticated in the manner as may be required by the Commissioner. When an Inspection Book is exhausted a new Inspection Book shall be brought into use after getting in authenticated as aforesaid and the previous books shall be surrendered to the District Magistrate concerned for record after obtaining a receipt for the same which shall be pasted on the first page of the new Inspection Book.

(Cont..... Forms)

FORM 'A'

(Prescribed under Rule 3 of Advertisement Tax Rules)

(a) Shorts

From whom received	Date of receipt	Short description	Period exhibiton		If received from Government/ Local Authority, number and date of the order	If Remarks taxable amount of tax payable amount of tax payable for a week	Remarks
			From	To			
1	2	3	4	5	6	7	8

FORM 'B'

(Return of tax prescribed under Rule 3 of Advertisements Tax Rules)

Name and place of cinema

Period of tax from to

Description of advertisement	Number of Advertisement exhibited during the week			Rate of weekly tax per advertisement	Amount of tax payable for the week	Remarks
	Taxable	Exempted	Total			
1	2	3	4	5	6	7

- 1. Shorts
- 2. Trailers
- 3. Slides
- 4. Other advertisement materials

Total

Certified that the entries made above have been checked from the entries in the relevant books of accounts Form 'A' and that the rate and amount of tax payable has been correctly calculated.

Signature of Proprietor

N.B.—(1) Number of shorts at different rates shall be shown separately.

(2) Number of slides and other advertisements material exhibited for different number of days in a week shall be shown separately.

FORM 'c'

(Certificate of exemption prescribed under Rule 6 of the Advertisements Tax Rule)

The exhibition of advertisement detailed below by (name and address of the person on whose behalf the advertisement is to be exhibited at (name and place of cinema or cinemas) from to being for philanthropic, charitable or educational purposes and without any profit to the said Is hereby exempted from liability to pay advertisement tax.

Nature of advertisement viz. shorts slides or other material	Title and description of advertisement	Length in case of shorts	Number and date of censorship certificate where required	Remarks
1	2	3	4	5
<p>Date District Magistrate</p>				

Strike out that which does not apply.