

BIHAR FINANCE BILL-2012

PREAMBLE - TO AMEND THE BIHAR VALUE ADDED TAX ACT, 2005, THE BIHAR ELECTRICITY DUTY ACT, 1948 AND BIHAR TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS ACT, 2011, BIHAR MOTOR VEHICLES TAXATION ACT, 1994.

Be it enacted by the Legislature of the State of Bihar in the Sixty three year of the Republic of India as follows:-

1. Short title, extent and commencement- (1) This Act may be called the Bihar Finance Act, 2012.

(2) It Shall extend to the whole of the State of Bihar.

(3) It Shall come in to force at once.

PART-1

Amendment in the Bihar Value Added Tax Act, 2005 (Act 27 of 2005).

2. Insertion of a new section 15A in the Bihar Value Added Tax Act, 2005 (Act 27 of 2005).herein after referred to as **Act 27, 2005**- After section 15 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), the following new section 15A shall be inserted, namely—

“15A. Compounding of tax liability.— (1) Notwithstanding anything to the contrary contained in the Act and subject to such Rules as may be made in this behalf, the State Government may, by notification and subject to such conditions and restrictions, as may be prescribed, permit any class or description of registered dealers to pay, in lieu of the tax payable by him, an amount calculated at such rate, not exceeding five percent, of his gross turnover as may be specified in the notification.

(2) Every dealer to whom the provisions of sub-section (1) apply shall—

(a) not charge any tax on the sale of goods specified in Schedule 1;

(b) not charge any tax in excess of the rate specified in the notification issued under sub-section (1); and

(c) not be entitled to issue any tax invoice in respect of any sale made by him.

(3) Notwithstanding anything to the contrary contained in the Act, every dealer to whom the provisions of sub-section (1) applies, shall—

(a) furnish to the prescribed authority a true and complete return, containing such particulars in such form and manner and in respect of such period and within such time as the Commissioner may, by notification specify;

(b) maintain such books of accounts and draw up such accounts in such manner in respect of his business as the Commissioner may, by notification, specify.

Explanation.— For the purposes of this section, the expression “books of accounts” shall include registers, statements, invoices, bills, ledgers, contracts and other documents, in relation to his business, issued to or received by him.”

3. Amendment in section 16 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005).— (1) Clause (e) of sub-section (1) of section 16 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005) shall be substituted by the following, namely—

“(e) when a registered dealer purchases any input within the State of Bihar from another such dealer after paying him the tax as specified under section 14 at a rate higher than four per cent and transfers goods manufactured from such goods to another dealer outside the State of Bihar, he shall be allowed credit of such tax and in excess of such percent or in excess of such amount in the manner as may be prescribed :”

(2) The proviso to sub-section (1) of section 16 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005) shall be substituted by the following, namely—

“Provided that if the claim for input tax credit under clause (a) or clause (b) or clause (c) or clause (d) or clause (e) for any month exceeds the output tax for the same month, such excess shall be carried forward for adjustment against the output tax of subsequent months, not being a month later than the last month of the financial year, and any amount of input tax that remains unadjusted in terms of the return under sub-section (3) of section 24 shall be refunded, subject to the provisions of sections 68, 69, 69A and 71 of the Act, within three months following the month in which the return required under sub-section (3) of section 24 and the report under sub-section (2) of section 54, if required, is furnished.”

(3) Sub-section (1A) of section 16 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005) shall be deleted.

(4) The full stop at the end of clause (f) of sub-section (3) of section 16 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005) shall be substituted by a semi-colon and after the semi-colon so substituted the word “or” shall be inserted.

(5) After clause (f) of sub-section (3) of section 16 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), the following two new clauses (g) and (h) shall be added, namely—

“(g) in respect of inputs purchased from within the State by a registered dealer paying tax under section 15A of the Act;

(h) in respect of inputs which have been sold at a price lower than the corresponding purchase price thereof:

Provided that in the matter of such claims of Input tax credit to which the provisions of clause (h) apply, the claims of input tax credit shall be restricted to the amount of output tax in respect of the sale of such goods as have been sold at a price lower than the corresponding purchase price thereof.”

4. Amendment in section 19 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005).— The full stop at the end of the first proviso to sub-section (1) of section 19 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005) shall be substituted by a colon and, after the colon so substituted, the following new proviso shall be inserted, namely—

“Provided further that no application for registration from a person to whom the first proviso hereto applies shall be accepted unless the applicant furnishes, along with the application for registration, security, in such form and manner as may be prescribed, equivalent to ten thousand rupees.”

5. Amendment in section 24 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005).— (1) Sub-section (1) of section 24 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005) shall be substituted by the following, namely—

“(1) Every person, being a dealer, who is not registered under this Act, by a notice served in the manner prescribed by the prescribed authority, shall furnish a true and complete return to the prescribed authority in such form and manner and by such time as may be prescribed.”

“(1A) Every person, being a registered dealer (other than a dealer permitted to pay tax under sub-section (1) or sub-section (1A) or sub-section (4) of section 15 or section 15A) shall furnish, to the prescribed authority, a true and complete return, in the form and manner prescribed, in respect of all his transactions relating to sales, purchases, receipts and dispatches of goods and any other transactions prescribed specifically for each quarter, on or before such date as the Commissioner may, by notification, specify:

Provided that different dates may be specified in respect of different categories of registered dealers.”

6. Amendment in section 35 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005).— After sub-section (1) of section 35 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), the following new sub-section (1A) shall be added, namely—

“(1A) Notwithstanding anything contained in sub-section (1) and subject to such Rules as may be made in this behalf, the State Government may, in respect of such class or description of dealers paying tax under section 15A of the Act, as may be specified in a notification issued in this behalf, specify deductions from the Gross

Turnover calculated at such fixed rates as may be specified in the notification issued in this behalf.”

7. Amendment in section 41 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005).— The words “four per cent” in sub-section (1) of section 41 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005) shall be substituted by the words “five per cent”.

8. Insertion of a new section 69A in the Bihar Value Added Tax Act, 2005 (Act 27 of 2005).— After section 69 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), the following new section 69A shall be inserted, namely—

“69A. Refunds in certain cases.— Notwithstanding anything contained in section 68 or section 69 or the rules made there under, no refund of unadjusted input tax, necessitated by virtue of the proviso to sub-section (1) of section 16 of the Act, shall be made without verification and cross-checking in such manner and by such authorities as the Commissioner may, by notification, specify.”

9. Insertion of a new section 98A in the Bihar Value Added Tax Act, 2005 (Act 27 of 2005).— After section 98 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), the following new section 98A shall be inserted, namely—

“98A. Extension of time limit and prescription of forms in certain cases.— (1) Notwithstanding anything to the contrary contained in the Act or the Rules made there under, the Commissioner may, for reasons to be recorded in writing and by notification and subject to such conditions and restrictions as may be specified in the notification, extend the date or, as the case may be, the extended date, specified in the Act in respect of—

(a) making any electronic payment of tax under the Act, or

(b) furnishing any return or statement or report required to be filed electronically

and such extension shall be for a period not exceeding three months from the date, or, as the case may be, the extended date, specified in respect of such electronic payment or electronic return or electronic statement or electronic report, as the case may be.

(2) Notwithstanding anything to the contrary contained in the Act or the Rules made there under, the Commissioner may, by notification, specify the form and manner in which any application, return or statement or report required by or under the Act may be furnished electronically.”

PART-2

Amendment and Validation of Bihar Electricity Duty Act, 1948(Bihar Act 36 of 1948)

10. Amendment in section 2 of the Bihar Electricity Duty Act, 1948 (Bihar Act 36 of 1948).— (1) After clause (e) of section 2 of the Bihar Bihar Electricity Duty Act, 1948 (Bihar Act 36 of 1948), the following new clause (ee) shall be inserted with effect from the seventeenth day of October, 2002, namely—

“(ee) ‘value of energy’—

(i) in case of energy sold to a consumer by a licensee or by any person who generates energy, means the charges payable by the consumer, to the licensee or to any person who generates such energy, for the energy supplied by such licensee or person, as the case may be, but it shall not include the following charges, namely—

- (1) Meter charges
- (2) Interest on delayed payment
- (3) Fuse-off call charges and reconnection charges:

Provided that where no energy has been consumed by a consumer, minimum charges payable by him shall not deemed to be the value of energy:

Provided further that where the units of energy actually consumed by a consumer are less than the units of energy for which prescribed minimum charges are payable, the value of energy shall, in the case of such consumer, mean the charges for the units of energy actually consumed by him and not the prescribed minimum charges:

(ii) in case of energy consumed by the person generating such energy, means the charges payable by any other consumer for such quantum of power to the Bihar State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (Act 54 of 1948) in respect of energy supplied by the Bihar State Electricity Board within the area where the consumer is located;”

(2) The amendments made in section 2 of the Act shall be deemed to be, and to always have been, for all purposes, as validly and effectively in force at all material times with effect from the seventeenth day of October, 2002.

(3) Any assessment, collection, adjustment, reduction or computation made or any other action taken or anything done or purported to have been taken or done under the Bihar Electricity Duty Act, 1948 (Bihar Act 36 of 1948) and notifications issued and rules made there under shall be deemed to be and to have always been,

for all purposes, as validity and effectively, assessed, collected, adjusted, reduced, computed or taken or done as if the said Act as amended by this Act had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree, or order of any Court, or Tribunal or other Authority :-

(a) no suit or other proceedings shall be maintained or continued in any Court or Tribunal or other Authority for the refund of any amount received or realized by way of such duty;

(b) no Court, Tribunal or other Authority shall enforce any decree or order directing the refund or any amount received or realized by way of such duty;

(c) recoveries shall be made, in accordance with the provisions of sub-section (ee) of Section 2 read with the provisions of Section 3 of the Bihar Bihar Electricity Duty Act, 1948 (Bihar Act 36 of 1948), of all amounts which could have been collected as duty under the said Act by reason of amendment made in Section 2 by this Act but which had not been collected.

(4) For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

PART-3

Amendment in Bihar Tax on Professions, Trades, Callings and Employments Acts, 2011.

11. Amendment in section 3 of the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011 (Bihar Act 10 of 2011).— (1) The full stop at the end of section 3 of the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011 (Bihar Act 10 of 2011) shall be substituted by a colon and after the colon so substituted the following proviso shall be inserted, namely—

“Provided that the tax due from a person, liable to tax under this Act, who has remitted the amount of tax due from him, along with the interest, if any, payable under sub-section (3) of section 8 of the Act and has furnished the return required by section 7 of the Act, shall be deemed to have been assessed.”

(2) The full stop at the end of sub-section (1) of section 7 of the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011 (Bihar Act 10 of 2011) shall be substituted by a colon and after the colon so substituted the following proviso shall be inserted, namely—

“Provided that every person, other than an employer, liable to tax under this Act, who has remitted, by way of tax, an amount equivalent to the maximum amount specified under the Act, along with the interest, if any, payable under sub-section (3) of section 8 of the Act shall not be required to furnish the return specified in this section.”

PART-4
Amendment in Bihar Motor Vehicles Taxation Act, 1994

12 Substitution of the Part A of the Schedule-I of the Bihar Motor Vehicles Taxation Act, 1994(Act 8,1994) - Part A of Schedule-I of the Act shall be substituted by the following :

Schedule I
Part A
Rate chart of one-time tax for Personal Vehicles
[See Sub-section(1)of Section-7]

Clause	Sl.No.	Stages of Registration	Class of Motor Vehicles	
			Motor Cycles	Motorcars and Omnibuses up to seating capacity of 12 used for personal use
1	2	3	4	5
A		Up to one year of age at the time of registration or first registration	One time tax at the rate of 6% of cost of vehicles excluding VAT	One time tax at the rate of (i) 6% of the cost excluding VAT for the vehicles, costing up to Rs. 4 lac. (ii) 7% of the cost excluding VAT for the vehicles, costing more than Rs. 4 lac .
B		If the Motor vehicle is already registered and its age from the first registration is	Percentage of one time tax levied under Clause A-Column(4)	Percentage of one time tax levied under Clause A-Column(5)
	1	More than one year but not more than two years	95%	95%
	2	More than two year but not more than three years	90%	90%
	3	More than three year but not more than four years	85%	85%
	4	More than four year but not more than five years	80%	80%
	5	More than five year but not more than six years	75%	75%
	6	More than six year but not more than seven years	70%	70%
	7	More than seven year but not more than eight	65%	65%

		years		
	8	More than eight year but not more than nine years	60%	60%
	9	More than nine year but not more than ten years	55%	55%
	10	More than ten year but not more than eleven years	50%	50%
	11	More than eleven year but not more than twelve years	45%	45%
	12	More than twelve year but not more than thirteen years	40%	40%
	13	More than thirteen year but not more than fourteen years	35%	35%
	14	More than fourteen year but not more than fifteen years	30%	30%
	15	More than fifteen year	25%	25%

13. Substitution of the Schedule-III of the Bihar Motor Vehicles Taxation Act,1994 (Act 8, 1994) - Schedule-III of the Act shall be substituted by the following:

SCHEDULE-III

(See Section 6)

Rates of tax to be paid by dealer or manufacturer

Description of Vehicles in possession under a manufacturer or dealer	Annual tax for per vehicle under a manufacturer or dealer
	Amount Rs.
1. Motor Cycles	150.00
2. Chassis of heavy motor vehicles	250.00
3. Other vehicles	200.00