

MAHARASHTRA

In Maharashtra, Sales Tax was first introduced in the erstwhile State of Bombay in 1946. It was then a single point levy at the rate of 6 paise per rupee payable at the last stage of sale. After the recommendations of Babubhai Patel Taxation Enquiry Committee, Bombay Sales Tax Act, 1959, was enacted which is in force presently and the tax system has undergone several major changes since then and has encompassed new areas of sales taxation.

Apart from the administration of the Central Sales Tax Act, 1956, the State administers the following enactments:

- A. The Bombay Sales Tax Act, 1959.
- B. The Bombay Sales of Motor Spirit Taxation Act, 1958.
- C. The Maharashtra Purchase Tax on Sugarcane Act, 1958.
- D. The Maharashtra Sales Tax on Transfer of property in goods involved in the execution of works contracts (re-enacted) Act, 1989.
- E. The Maharashtra Sales Tax on the Transfer of the Right to use any goods for any purpose Act, 1985.
- F. The Maharashtra Sales Tax on Professions, Trades Calling and Employment Act 1974.
- G. Maharashtra Tax on entry of Motor Vehicles into Local Area 1987

H. Maharashtra Tax on Luxuries (in hotel, lodging house) Act 1987.

I. The Maharashtra Chit Fund Act.

A. The Bombay Sales Tax Act, 1959

1. Structure

Every dealer whose turnover either of all sales or of all purchases exceeds the specified limit becomes liable to pay sales tax. The specified limits for different categories of dealers are as under:

- I. 1. Every importer with a turnover of Rs.50,000 is liable to pay tax provided the value of the taxable goods sold, or purchased and the value of any goods purchased or received by him into the State during the year is not less than Rs.5,000.
- ii. Every manufacturer with a turnover of Rs.50,000 is liable to pay tax provided the value of taxable goods sold or purchased by him or the value of any goods manufactured by him during the year, is not less than Rs.5,000.
- II. Every dealer with a turnover of Rs.1,25,000 is liable to pay tax provided the value of taxable goods sold or purchased by the dealer during the year is not less than Rs.5000.

A dealer holding registration certificate under the Central Sales Tax Act 1956 but not liable to pay tax under the local Act also liable to pay tax on the sales of goods purchased in accordance with Section 8(4) of the CST Act 1956 or also on the sales of the goods manufactured out of such purchases.

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Point of Levy: On the recommendations of the Sales Tax enquiry Committee under the chairmanship of Shri M.R. Yardi in August, 1975, the Maharashtra State switched over to the single point first stage sales tax levy with effect from 1st July, 1981.

Rate Structure: Schedules A, B, C-I and C-II enumerate 8 broad categories of goods. Schedule A goods are free from taxes with general or conditional exemption. Schedule B details the declared goods, while Schedule C has a list of 36 commodities in two parts of non-declared goods subject to single point sales tax, the first part indicating mass consumption goods and inputs for industries ranging from bullion and specie, to LPG and the rate of sales tax/purchase tax ranges from 1 per cent to 4 per cent. Part II of Schedule C enumerates final products and luxury goods and the tax ranges from six per cent to fifty per cent.

Additional Tax: A dealer with a turnover of all sales or of all purchases amounting Rs.10 lakh or above during a year is required to pay additional tax at the rate of 12% of the sales tax and purchase tax payable by him and this additional tax is not collectable. Fifty per cent of the revenue collected by way of additional tax is earmarked for implementing Employment Guarantee Scheme in the State.

Turnover Tax: Turnover Tax, was introduced with effect from 13.7.1986 and is levied on the turnover of sales of commodities falling under Schedule C and payable by the

dealers whose turnover either of all sales or of all purchases exceeds Rs.12 lakh in any year at the rate of 1.25 per cent. Turnover tax is not collectable.

Purchase Tax:

- i. The State Government is empowered to levy purchase tax on purchases of any of the specified commodities as listed in Schedules B (declared goods) Schedule C (non-declared goods) by notification unless such purchases are resold by the liable dealer. (Section 13B)
- ii. Purchase Tax at the rate of 4 per cent is levied on purchases of goods in Schedule C Part II (non-declared goods) by a recognised dealer on the strength of the declaration prescribed certifying therein that the goods purchased will be used in the State in the manufacture of taxable goods for sale which will in fact be so used and sold by him or in the packing of goods so manufactured. Such levy will also be imposed on purchases on his behalf by the commission agent on the same conditions.
- iii. Under Section 13AA, purchase tax at the rate of 2 per cent is leviable on purchases of such non-declared goods, as are mentioned in Part I of Schedule C, as are purchased by a liable dealer or his commission agent from a registered/unregistered dealer when the taxable goods manufactured out of these goods are despatched outside the State. This is in addition to the sales tax/purchase tax paid or payable.
- iv. When goods are purchased by any dealer (or his commission agent) under certain certificate or declaration and the conditions, recitals and undertakings therein are not complied with, then purchase tax on the purchase value of the goods at the rate in Schedule B and Schedule C shall be levied.

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- v. When business is transferred, discontinued or the dealer him self dies, then purchase tax at the relevant rate is levied on the purchase price of the stock of taxable goods purchased on the strength of certificates prescribed under section 11 or 12. (Section 15)

Works Contract: Levy of tax on works contract is governed by the Maharashtra sales tax on the transfer of property in goods involved in the execution of works contract (re-enacted) Act, 1989 - which was re-enacted retrospectively with effect from 1.10.1986.

Tax is levied only on the value of the goods involved in the execution of a works contract. 'sale price' in relation to a transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract, means the amount of purchase price paid or payable by a dealer in respect of the purchase of such goods effected in the state, or in the course of inter-state trade or commerce or in the course of import and includes the value of such goods brought or transferred from places outside the state, used, applied or as the case may be, appropriated (whether in the same form in which they were purchased or in any other form) in the execution of the works contract in the State.

The turnover limit for taxation is Rs.2 lakh (Section 3) and the tax on declared goods involved in the execution of works contract is 4 per cent and that leviable on the rest of the goods involved is 8 per cent and is levied on the net turnover, after deducting the labour charges, still charges profits, turnover pertaining to tax free goods.

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The procedure for assessment, reassessment, recovery, offences and penalties etc. are the same as that under the BST Act 1959.

Leasing: Leasing, is taxable under the Maharashtra sales tax on the transfer of the right to use any goods for any purpose Act, 1985, with effect from 1.10.1986.

The tax is leviable on the transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration and goods which are subjected to this tax are enumerated in the Schedule and include right to use TVs, video cassette recorders etc. the gross turnover of sales is defined as the aggregate of sale prices received or receivable during a year in respect of the transfer of the right to use any goods and includes any advance received by a dealer as part of the sale price (Section 2(15)). The incidence of tax falls on every dealer whose turnover of sales exceeds Rs.50,000 in a year. He can't sell any goods unless he possesses a valid certificate of registration under this Act. The tax rate is subject to a maximum ceiling of 15 per cent (Section 7) but with effect from 19.9.1986 the notified rate is 4 per cent only. The tax is multi-point. However, additional sales tax is not recoverable from the lessee. This Act is also administered by the Sales Tax Department and the general provisions of the B.S.T Act, 1959 relating to registration, return, assessment, re-assessment, advance payment of tax, collection of tax etc. apply.

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Exemptions: Under the B.S. Tax Act, 1959, Schedule A gives the list of 47 exempted goods such as agricultural implements of low value, bread, cereals and pulses, coconut, eggs, etc. There are also conditional exemptions like sales to personnel of Diplomatic corps; UNICEF greeting cards etc.

Taxation of Inputs: Under the B.S.T Act, 1959 in accordance with the provisions of the same the recognised dealer or manufacturer who manufactures taxable goods for inter-state sales is entitled for a set off of the taxes paid by him on the purchase of raw materials. The set off is allowed after reducing 4 per cent of the purchase price subject to certain conditions.

In case of Part I goods under Schedule C, under Section 13AA, apart from sales tax/purchase tax (as the case may be), purchase tax at the rate of 2 per cent is payable but if the goods manufactured out of the scheduled goods are sent by the dealer on branch transfer outside Maharashtra, the excess over 6 per cent of the total tax paid, is only refunded. In case of goods other than those used for the packing of goods manufactured by him, if the authorised dealer (Section 24) resells directly or through another authorised dealer or uses them in the packing of the goods meant for resale, in the course of inter-state trade or commerce or in the course of export within a period of nine months of purchase, the whole of the tax paid at the rate of 4 per cent on purchases, is refunded by way of set off in accordance with Section 12(a) and Section 12(c) and Section 42, provided the purchased goods are despatched within 6 months of purchase (Section 11(1)). In

case of manufacture of declared goods and non-ferrous metals, the whole of the tax paid on purchases meant for their production, is refunded.

Incentives to Industries: Package scheme of incentives was introduced in Maharashtra in 1964 and since then there have been various scheme in 1969, 1973, 1976, 1979, 1983 and 1988. Presently the 1988 scheme is in operation. This scheme would remain in operation till 30.9.1993 in which the State of Maharashtra has been classified into different groups viz., A,B,C,D depending on the industrial development and no industry district and incentives are granted to the industries based on the degree of development of the areas in which the industries are situated. These incentives are available in two parts - part I and part II. The sales tax incentives under part-I will be admissible either by way of exemption or by way of deferment but not both. The quantum of sales tax incentive admissible under the 1988 scheme under part I either as an exemption or as a deferment or as an interest free unsecured loan to eligible units other than those undertaking expansion/diversification depends on different percentages of the fixed capital investment for 5 years to 10 years for small, medium and large scale industries. Incentives under part II are in lieu of sales tax incentives under part I. Sales tax incentives, as interest free unsecured loans are given under certain specified circumstances.

2. Registration

Under Section 22, every liable dealer [under Section 3 or Section 19(6)] is required to obtain a certificate of registration from the prescribed authority. However, the Act provides that if a liable dealer has applied for registration within the prescribed time, he can carry on business without waiting for the issue of the certificate of registration. An authorisation (Section 24) is issued to registered dealers whose turnover of export sales or outside state sales of goods during the previous year/current year or whose turnover of sales to any authorised dealer who in his turn makes export sales or outside state sales of goods, exceeds Rs.1 lakh. There are certain facilities attendant with it, such as issuing declarations in form No. 14 and getting concessional purchases.

A recognition (Section 25) - is issued to a dealer where the value of all taxable goods manufactured for sale by him exceeds Rs.5,000 during the previous/current year. The recognised dealer can purchase raw materials by paying 4 per cent purchase tax on the strength of a declaration in form No. 15. A permit (Section 26) is issued to a dealer who bonafidely buys or sells for an agreed commission on behalf of a principal (an authorised dealer or recognised dealer) and whose turnover of purchases during the previous/current year exceeds Rs.1 lakh. The tax liability of the Commission agent is identical with that of the principal.

3. Assessment

Returns (Section 32): The periodicity of submission of returns is now linked to tax liability with effect from 1.4.1984 instead of the quantum of turnover. Those dealers having an annual tax liability exceeding Rs.20,000 have to file monthly return alongwith the proof for having paid the tax irrespective of their turnover within 45 days from the end of the month for the first two months and the return for the last month of the quarter is to be filed within 30 days.

Dealers, whose annual tax liability exceeds Rs.5,000 and is upto Rs.20,000 are required to file quarterly returns within 30 days from the end of the quarter. Those dealers with an annual tax liability less than Rs.5,000 have to file annual returns within 30 days from the end of the year.

Payment of Tax: Every dealer who is an importer manufacturer or both is/are required to furnish an annual commodity wise return in addition to the returns to be filed if his turnover of purchases and sales has exceeded Rs.10 lakh if the tax payable exceeds Rs.20,000 per annum.

Mode of Assessment: Under Section 33 of the Act, dealers are normally assessed for an accounting/financial year (transitional accounting year). Under section 33(1) proviso, however, assessment of dealers for a part of the year can be completed after recording reasons for doing so.

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The assessing authority may complete the assessment without requiring the dealer to produce accounts or evidence, if he is satisfied that the relevant return is correct and complete (Section 33(2)). In other cases, the assessment shall be completed after consideration of all evidences and scrutiny of returns, documents etc. (Section 33(3)). There are also circumstances (such as non-filing of return) when assessment to the best of judgement shall be completed (Section 33(4)).

A scheme of summary assessment by way of accepting returns filed by dealers whose tax liability does not exceed Rs.20,000 has been introduced. This scheme saves the dealers, the long procedure of producing books of accounts and evidences in support of their return before the assessing officers as also the administrative inconvenience involved is reduced. However, on random sampling basis, such cases are scrutinised and if discrepancies are found, best judgement assessment orders are passed in which case the facility of summary assessment granted to such dealers is withdrawn.

Section 33(4A), fixes the limitation for concluding assessments as three years from the close of the assessment year. The only condition is that all the returns should have been filed on or before the date prescribed for filing the last return of the year.

The re-assessment of turnover escaping assessment or under assessed turnover or wrong deduction etc. for any year may be made after giving the dealer a reasonable

opportunity of being heard, within 8 years from the close of that year in serious cases and within 5 years of the end of that year in other cases (Section 35).

4. Penalty and Prosecution

Under Section 36, a number of penalties have been provided for different defaults. These are as under:

<i>Offence</i>	<i>Penalty</i>
i Failure to comply with the conditions under Section 8A, Section 11 (taxation at reduced rate) Section 12 (deductions on the strength of declarations) Section 41 (exemption notification).	- Twice the amount of tax payable (Section 36(1)) (under certain proviso- no penalty).
ii Failure to apply for registration under Section 22.	- a sum not exceeding the amount of tax assessed re-assessed, payable (Section 36(2)(a)).
iii. Failure without reasonable cause to comply to provisions of assessment (Section 33), reassessment (section 35), production in connection with inspection, seizure of accounts documents etc.(Section 49), (revision - section 57).	- a sum not exceeding Rs.10,000 (Section 36(2)(b)).
iv. Failure to disclose transaction/appropriate tax liability in return, Inaccurate deduction/set-off etc.	- a sum not exceeding the amount of tax assessed, reassessed, payable. [Section 36(2)(c)].
v. When a dealer knowingly issues, produces false bill, cash-	- a sum not exceeding the amount of tax due (Sec-

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memoranda, voucher, declaration etc - resulting in transactions being exempt or taxed at reduced rate.

tion 36(2A)]. If the default continues, twice the amount.

- vi. Knowingly furnishing false declaration, certificate and getting exemption. - a sum not exceeding double the amount of tax leviable. [Section 36(2B)].
- vii. Failure to pay tax within the prescribed time. - a simple interest equal to 2 per cent of the amount of the tax for each month of default in addition to the tax. [Section(3)(a)].
- viii. For any tax due after assessment. - simple interest equal to 2 per cent of the amount of the tax due. [Section 36(3)(b)].
- ix. Failure to issue memorandum of sales exceeding Rs.10 in one transaction by a registered dealer whose previous year's sales exceeded Rs.1 lakh. - a sum not exceeding double the amount of such bill or Rs.100 whichever is greater. [Section 36(4)].

Under Section 37, for the following defaults, respective penalties have been provided:-

Penalty

- i. An unregistered dealer collecting tax. - An amount not exceeding Rs.2,000 or double the collected tax whichever is less [Section 37(1) (a) (i)].
- ii. A registered dealer collecting tax in excess of what is payable or collects illegally turnover tax or additional tax. - An amount not exceeding Rs.2,000. In addition, the sum collected as turnover tax (in violation of [Section 9(3)], additional tax [by dealers having annual turnover of Rs.10 lakh thus violating Section

15A-1(4)] shall be forfeited [Section 37(1)(a)(ii), 37(1)(a)(ii-a-1), 37(1)(a)(ii-a)].

The above penal provisions put a bar to prosecution. Offences of graver nature, have been subjected to the penalty of rigorous imprisonment and fine (Section 63). These are as under:

<i>Offences</i>	<i>Penalty on Conviction</i>
i. An unregistered dealer falsely representing as registered dealer (violation of Section 22).	Rigorous imprisonment for a term between six months and three years with a fine.
ii. wilful furnishing of false return when evadable tax exceeds Rs.10,000 during the year.	"
iii. wilful production of false bill, cash memorandum, voucher, certificate etc. for purpose mentioned in Section 36(2A) where tax evadable exceeds Rs. 50,000 during a year.	"
iv. wilful submission of false accounts, registers, documents, information - where tax evadable exceeds Rs.50,000 during a year.	"
v. A non-holder of Licence, Authorisation, Recognition or permit represents otherwise.	Punishment with rigorous imprisonment of 6 months to 3 years and with fine. If the offence is a continuing one, in addition,
vi. violation by issuing false declaration (under Section 8A), Section 11(taxation at reduced rate), Section 12	punishment with a daily fine of Rs.100 or more for the period of continuance.

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(deductions on the strength of declarations) or false bill etc.

- vii. wilful tax evasion or evasion of tax/penalty payment where the amount involved exceeds Rs.50,000.
- viii. Illegal collection of turnover tax, additional tax, wilful carrying on of business without registration even though liable, wilful non furnishing of information/return, wilful collection of tax on exempted goods, wilful failure to issue bill/cash memorandum or to maintain accounts despite directions, voluntary obstruction to inspection/search/seizure.

For a minor variety of offences under (ii), (iii) above, for maintenance of false accounts, for a minor variety of offences under (iv) above, a minor variety of offences under (vii) above punishment with rigorous imprisonment of 3 months to 1 year and with the fine and the penalties. If the offence is a continuing one, in addition, punishment with a daily fine of Rs.100 or more for the period of continuance is levied.

5. Administrative Organisation

The Sales Tax department in Maharashtra is headed by a Commissioner of Sales tax, a senior scale officer of the I.A.S. He is responsible for administering various Acts, apart from Sales Tax Acts, entrusted to the Sales Tax

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Department. All the relevant powers of administering the various enactments are vested in him and the subordinate officers hold delegated powers at various levels.

There are four Additional Commissioners of Sales Tax, three Incharge of Zones, each zone comprising of a number of divisions who are incharge of administration in their respective zones and act as revisional authorities in respect of orders passed by the Deputy Commissioners (Appeals); the other Additional Commissioner stationed at headquarters is incharge of the general administration including the establishment matters of the department.

There is a Joint Director, Statistical Cell, on deputation to the Sales Tax Department. He is incharge of collecting and maintaining statistical data of various types.

There are 27 Deputy Commissioners. One Deputy Commissioner (Headquarters) assists the Commissioner directly in administration. The Deputy Commissioner in-charge of audit with the assistance of subordinate Assistant Commissioners takes up the cases of big tax payers for audit where the tax involved is more than Rs.4 lakh. The Deputy Commissioner (Legal) with the help of Assistant Commissioners and Sales Tax Officers, represents the revenue before the Maharashtra Sales Tax Tribunal and also advises the Commissioner on legal matters as and when called for. The Deputy Commissioner (Enforcement), Supervises the work of the Assistant Commissioners and Sales Tax Officers in the matters of detection of tax evasion. The Deputy Commissioner (Administration), Incharge

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of Administration in a Division, supervises the work of Assistant Commissioners and Sales Tax Officers Class I & II, working in the Division and he is delegated with the powers to be incharge of Profession Tax Act and is also a revisional authority for the orders passed by the Assistant Commissioner. The Deputy Commissioners of appeals, are the appellate authorities for the orders passed by the Assistant Commissioners and their orders are subject to revision by the Additional Commissioner. Out of the other Deputy Commissioners, one Deputy Commissioner looks after the administration of the Profession Tax Act in the Bombay City Division, i.e. Bombay.

The Assistant Commissioners, incharge of the administration supervise the administration of the 'Range' through the Sales Tax Officers Class I and II posted in the range under him. They are revisional as well as appellate authority for the orders passed by the STOs. The Assistant Commissioners (Assessment) are incharge of assessments and assess the big tax payers in their respective jurisdiction.

The Sales Tax Officers, Class I & Class II look after assessments and recovery in their jurisdiction. Generally, cases of sales/purchases turnover exceeding Rs.3 lakh are allotted to S.T.O Class I and those of sales/purchase turnover of Rs.3 lakh and below are allotted to S.T.O Class II.

6. Appeal/Revision (Remedial measures)

Under the provisions of Section 55 of the B.S.T Act. 1959, an appeal against the S.T.O's order lies to the Assistant Commissioner. For the order of the Assistant Commissioner, Deputy Commissioner is the appellate authority. The orders passed by Deputy Commissioner/ Additional Commissioner or Commissioner, is appealable in the Tribunal.

In the case of an appellate order passed by an Assistant Commissioner or by a Deputy Commissioner, a second appeal lies at the option of the appellant, either to the Commissioner or to the Tribunal.

The time limit for filing a first or second appeal is 60 days from the date of the communication of the order appealed against.

Revision: Under Section 57, the Commissioner (and other superior authorities like an Additional Commissioner) may suo moto, call for within three years from the date of communication of any order passed by the assessing authority and examine the record of such order and pass such order as he thinks just and proper. The revisional order is required to be made within five years from the date of communication of the order sought, to be revised.

The Tribunal can also revise any order (not an order on second appeal) passed by the Commissioner provided an application in this regard is made to it within four months from the date of communication of the order revisable.

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There is a bar to revision without taking recourse to appeal.

There is a provision, under section 61, for statement of case to the High Court on any question of law.

The mistakes apparent from the record are rectified under Section 62.

7. Checkposts

There are no Sales Tax checkposts in Maharashtra.

Some other statutes administered by the Sales Tax Department are as under:

- i. ***The Maharashtra Sale of Motor Spirit Taxation Act, 1958:*** The Act provides for the levy of tax on the sale of Motor spirit i.e, petrol, high speed diesel etc., within the State. The sale of motor spirit is exempt from the levy of sales tax under the B.S.T Act. The tax on motor spirit under the M.S.M.S Taxation Act is levied only at the stage of first sale.

The Act is administered by the Commissioner of Sales tax, Maharashtra under his designation as Collector of Motor Spirit Sales Tax. Assessments are made by the Sales Tax Officers who are designated as Motor Spirit Sales Tax Officers for purposes of this Act.

- ii. ***The Maharashtra Purchase Tax on Sugarcane Act, 1962:*** Under this Act, a specific tax is levied on the purchase of sugarcane for purposes of manufacture of sugar, including khandsari sugar, in a factory. This Act is also administered by The Commissioner of Sales Tax

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who is designated as Commissioner of Purchase Tax on sugarcane. Assessments under the Act are made by the S.T.O's as Purchase Tax Officers.

This tax is levied on the tonnage of sugarcane as notified by the Government in official gazette from time to time. But the rate is limited to 2 paise per kilogram.

A dealer is required to obtain a licence from the department which is valid upto and inclusive of the 30th day of June every year and needs to be renewed every year.