

Sales Tax Systems in India: A Profile

HARYANA

The State of Haryana was created in 1966 after the reorganisation of Punjab.

Apart from the Central Sales Tax Act, 1956, the Haryana General Sales Tax Act, 1973 is being administered in Haryana. The Punjab Sales Tax Act, 1948 was initially being applied therein and the Haryana General Sales Tax Act, 1973 was introduced as an independent Act. Taxation of sales of motor spirit was covered under a separate statute. With effect from 1.1.1988, however, the Haryana General Sales Tax Act, 1973, with amendments, incorporates taxation of sales of motor spirit. The following Acts are also being administered by the Excise and Taxation Department in Haryana:

- i. The Punjab Passenger and Goods Tax Act.
- ii. The Punjab Entertainment Duty Act.
- iii. The Punjab Cinematograph (Show Tax) Act.
- iv. The Punjab Excise Act (including taxation on medicines and toilet preparations drugs (etc)).
- v. Haryana Toll and Road Tax under Motor Vehicle Act.

1. Structure

Importers and exporters in the State are liable to pay tax irrespective of their turnover whereas all other dealers including manufacturers whose turnover exceeds Rs.1 lakh, are liable to pay tax.

Point of Levy: The Haryana General Sales Tax Act, 1973 envisages a single-point levy at the point of purchase or sale.

Presently, in accordance with the general trend towards the levy of tax at the first point of purchase or sale, basically luxury items and consumer durables are taxed at the first stage of sale. All other commodities are liable to tax at the last point of sale in the State.

Rate Structure: The State has broadly 9 different rate categories. The tax ranges from 0.5 per cent to 12 per cent.

The general rate, however, is 8 per cent which is applicable to non-specified goods. Liquor (foreign and I.M.F.L) is taxable at 20 per cent.

Surcharge: Surcharge prior to 1.1.1988, at the rate of 2 per cent on the amount of tax payable was being levied. With effect from 1.1.1988, however, the rate has been increased to 10 per cent.

No surcharge is payable on the tax payable in respect of declared goods under the Act.

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Purchase Tax: Purchase tax, is leviable on purchase value of certain goods (1) when a dealer purchases goods, other than those specified in Schedule B (tax free goods) from any source in the State and uses them in the State in the manufacture of schedule B goods or (ii) purchases such non-tax free goods from any source in the State and uses them in the manufacture of any other goods and either disposes of the manufactured goods without selling them in the State or makes outside state despatch of the finished goods otherwise by way of sale in the course of inter-state trade or commerce/export outside the territory of India or (iii) purchases the non-tax free goods and exports them so as to avoid tax. Purchases of goods used in the manufacture are taxable and set-off provided from the tax payable on their sales.

Works Contract: Hire Purchase, Leasing: The Haryana General Sales Tax (Amendment and validation) Act, 1984 and the Haryana General Sales Tax (Amendment) Act, 1989 have defined 'Contractor', 'Contractee', 'goods' (Section 2 clauses (ba), (bb), (f)) to give tax treatment to works contract.

As per clause (L), note 3 of section 2, a sale falling under sub-clause (ii) of section 2(L) i.e. under works contract, has to be deemed to have taken place within the State if the goods involved in the execution of works contract are within the State at the time of their use. This will be the taxable event.

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The taxable quantum, for contractors has been fixed at Rs.1 lakh. The normal rates of tax applicable to particular class of goods will be applicable. Compounded tax, at the rate of 10 per cent on gross contract can be paid on the value opted for by any contractor.

Leasing: In case of Leasing too, the Act of 1989 mentioned above has defined 'sale' in clause L(iv) of Section 2.

As per clause L, note 4 of Section 2, a sale falling under sub-clause (iv) of section 2(L), i.e. under the transfer of right to use any goods, shall be deemed to have taken place within the State if the goods in respect of which right to use has been transferred are within the State at the time of their use. This will be the taxable event.

The taxable quantum with effect from 19.10.1988, in respect of any dealer who transfers the right to use tents, kanats, chholdari, crockery, utensils, furniture and all other goods dealt with by the tent dealer and all other allied dealers for decoration and lighting purposes, etc. etc., is 'nil' i.e. liability starts irrespective of turnover. The normal rates of tax applicable to particular class of goods, would then apply.

Exemptions: Schedule B of the Act, lists 61 goods as exempt from tax. These include vegetables, milk, meat, eggs, common salt etc., books, periodicals, exercise and drawing books. Goods sold to certain charitable and philanthropic

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societies such as the Indian Red Cross Society and St. John Ambulance Association, etc. have been exempted from tax on social and human considerations.

Taxation of Inputs: No sales tax is leviable on sales of finished goods and raw materials to new tiny industrial units for a period of 2 years from the date of start in all areas.

Incentive to Industries: Apart from a tax-holiday, payment of Sales Tax and Central Sales Tax has been deferred for new industries for 9, 7 or 5 years depending upon the location of the unit in zones A, B, C (classification according to the extent of industrial backwardness). 90 per cent, 60 per cent or 30 per cent of fixed capital investment upto the overall monetary limit of Rs.4.5 crore, Rs.3 crore or Rs.1.5 crore, as the case may be, is the benefit made available for all sizes of industry depending upon the zone of location. Pioneer and prestigious units are eligible to the benefit of deferment upto 100 per cent of the amount of fixed capital investment or Rs.5 crore whichever is less.

2. Registration

Compulsory: Every dealer liable to pay tax is required to get himself registered, that is every importer and exporter irrespective of turnover whereas it is mandatory for every dealer whose annual turnover exceeds Rs.1 lakh. However, for dealers new purchase and sell goods within the State the turnover limit is Rs.2 lakh.

Voluntary: Any dealer who deals in goods (not tax-free goods as mentioned in Schedule B) and whose sales of such goods during a year exceed Rs.15,000 may apply for registration, which is voluntary, even though he may not be liable for registration.

Provisional: Provisional registration is granted under section 21 of the Act to any person intending to establish a business in the State for the purpose of manufacturing goods of value exceeding Rs.10,000 in a year despite the fact that he may not be liable.

3. Assessment

Returns: Registered dealers are required to file quarterly returns within 30 days of the end of each quarter. The prescribed authority can, however, require any dealer to furnish monthly return by recording the reasons therefor.

Payment of Tax: Each registered/liable dealer shall pay the full amount of tax due from him under the Act according to the return before filing the return. Dealers with an annual tax of Rs. one lakh are required to pay taxes every month and it is obligatory on all dealers to pay tax on monthly basis during the last quarter ending March 31, in case yearly tax exceeded Rs.6,000 during the preceding year.

Mode of Assessment: Normally assessments are made annually. However, in special circumstances the assessment of a dealer can be made on quarterly basis. If the assessing authority is satisfied without requiring the presence of the dealer and the production by him of any evidence that

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the returns furnished by him are correct and complete, he can assess the amount of tax due from the dealer on the basis of the returns.

If the assessing authority wants the presence of the dealer and production of evidence in support of correctness or completeness of returns, he may call him for production of the books of accounts and other relevant documents to examine the same and assess the amount of tax due from the dealer.

If a dealer fails to comply with the terms of the notice after having furnished returns, for a particular period, best judgement assessment can be completed within five years from the expiry of the period under consideration. Such best judgement assessment, on reasonable opportunity having been given for being heard, can also be completed in a case where the dealer does not furnish returns in respect of any period by the prescribed date, within five years from the expiry of such period.

Unregistered dealers liable to pay tax can also be assessed within the same period of limitation. In special circumstances, provisional/best judgement assessment in case of tax evasion/avoidance can be concluded.

There are special provisions also for summary assessment. In respect of a dealer whose gross turnover in a year does not exceed Rs.3 lakh under both H.G.S.T. Act and C.S.T. Act and who has shown an aggregate increase of at least 15 per cent in tax over the tax paid in the year immediately preceding without requiring the presence of the

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dealer and production of account books and evidences in support of his returns subject to the conditions that (i) the dealer should have filed all the returns in time duly accompanied with declarations, bills of loading, certificates, list of sales and purchases of goods, as prescribed, during the year under consideration. (ii) tax should have been calculated at correct rate in the returns and the due amount should have been deposited. (iii) no offence of evasion of tax was committed or detected for which penalty could be imposed.

4. Penalty and Prosecution

After getting investigation of offences conducted in accordance with provisions of section 45, the following offences are punishable with penalty.

<i>Offence</i>	<i>Penalty</i>
i. Failure to furnish returns without sufficient cause.	Not less than Rs.5 but not exceeding Rs.10 for every day of default.
ii. Failure to pay tax due according to return.	Not exceeding one and a half times the amount of tax due as per return and to which the dealer is assessed or liable to be assessed.
iii. Failure to maintain correct accounts and to furnish correct returns.	In addition to tax, penalty not less than two times and not exceeding three times the amount of tax which would have been evaded if the turnover as returned had been accepted as correct. In case no tax is payable, penalty ranging from Rs.100 to Rs.1,000.

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| iv. Collection of tax on tax-free goods by any person, unregistered dealers collecting tax, registered dealers collecting excess tax. | In addition to tax, penalty not exceeding Rs.500 or twice the amount so collected whichever is higher. |
| v. Misuse of registration certificate. | Not exceeding one and a half times the tax payable. |
| vi. Other offences. | Not exceeding Rs.2,000. If the offence is a continuing one, daily penalty not exceeding Rs.50 during the period of continuance. |

5. Administrative Organisation

The overall administrative control rests with the Excise and Taxation Commissioner posted at Chandigarh. There are three Additional Excise and Taxation Commissioners, one incharge of Sales Tax Administration and the other incharge of checkpoints/barriers etc. and the third dealing with legal matters. There are four Joint Excise and Taxation Commissioners posted at the headquarters. They respectively assist the Commissioner and supervise the work of inspecting officers and investigation wings working at district levels. One Joint Excise and Taxation Commissioner looks after the work of administration and one Joint Excise and Taxation Commissioner supervises the Excise work. There is a Deputy Excise and Taxation Commissioner posted at headquarters who is incharge of research and investigation. He also assists the Commissioner. The administration of sales tax in the districts vests with the Deputy Excise and Taxation Commissioners of each of the 17 districts. These officers supervise the work of Excise and Taxation Officers working

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as assessing authorities in respect of the Central Sales Tax and H.G.S.T. Acts. The Excise and Taxation Officers assess cases of gross turnover exceeding Rs.5 lakh a year whereas the Assistant Excise and Taxation Officers assess the cases of gross turnover upto Rs.5 lakh a year.

There are thirteen Deputy Excise and Taxation Commissioners, incharge of inspection, who have jurisdiction over the district to have effective control over the assessing authorities in regard to the legality and propriety of the assessment orders etc. passed by them. They are assisted by an Excise and Taxation Officer and supporting staff. These are revising authorities. One Excise and Taxation Officer (Enforcement) is incharge of checking and detecting cases of tax evasion in each district. He is also vested with powers of assessing authority. One Excise and Taxation Officer looks after the work of Excise and Taxation Officers (AES) are also posted in the bordering districts to check evasion of Tax.

There are three appellate divisions each under the charge of a Joint Excise and Taxation Commissioner (Appeals). Every appeal against the order of the assessing authority/checkpost/barrier incharge has to be filed before the appellate authority of the division concerned.

There is an Institute for Training at Karnal headed by Joint Excise and Taxation Commissioner, designated as principal, assisted by the Excise and Taxation Commissioner and other Staff.

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There is a Sales Tax Tribunal at Chandigarh which hears second appeals.

6. Appeal/Revision (Remedial Measures)

An appeal on the order of assessing authority lies to the Appellate Deputy Excise and Taxation Commissioner and if the order has been passed by the Deputy Excise and Taxation Commissioner, to the Commissioner and if the order has been passed by the Commissioner, to the Tribunal. The Excise and Taxation Commissioner may suo moto revise the orders of Deputy Excise and Taxation Commissioner (Appeals) or Deputy Excise and Taxation Commissioner, (Administration) or Excise and Taxation Officer/Assistant Excise and Taxation Officer/Taxation Inspectors on finding any illegality or impropriety.

There are provisions for rectification of mistakes apparent on the face of the record.

There are provisions for statement of case to High Court against the orders of the Tribunal only on questions of law.

7. Checkposts

The State government has erected 67 checkposts/barriers at important points of entry and exit.

The owner or person incharge of the goods or goods carrier, entering or leaving the limits of the state, is required to furnish the relevant documents before the

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officer-in-charge of the checkpost, copies of which are to be produced before the assessing authority at the time of assessment.

Default attracts penalty of Rs.2,000 or 20 per cent of the value of the goods whichever is higher depending upon the nature of default.