

THE UTTARAKHAND VALUE ADDED TAX ACT, 2005

Sec. 4: Rate of Tax:

(1) The tax payable by a dealer under this Act shall be levied on his taxable turnover at such rates as may be prescribed in Schedules under sub-section (2), but not exceeding-

(a) the maximum rate for the time being specified in section 15 of Central Sales Tax Act, 1956 in respect of declared goods, and

(b) **fifty percent** in respect of goods other than the goods referred to in clause (a) above;

Provided that in case of transfer of the **right to use** any goods, the rate of tax shall not exceed **twenty percent** in respect of goods other than the goods referred to in clause (a) above.

(2) (a) No tax under this Act shall be payable on the sale or purchase of the goods specified in Schedule-I;

(b) Subject to the provisions of section 3, a dealer shall be liable to pay tax on his taxable turnover-

(i) At **every point of sale** at the rate hereafter provided:

(a) In respect of goods specified in Schedule II (A) 1 percent

(b) In respect of goods specified in Schedule II (B) 4 percent

(c) In respect of goods specified in Schedule II (C) at the rate specified therein

(d) In respect of goods other than those included 12.5 percent

in any of the Schedules

(ii) At the point of sale by Manufacturer or sale by _____ at the rate
Importer in respect of Special Category Goods _____ specified
therein specified in Schedule III

(c) Sale of goods to or by the dealer or persons specified in Schedule IV shall be exempt from whole or any part of tax, as may be specified therein

(d) A sale in the course of export of goods out side the territory of India as specified under sub-section(1) and sub-section(3) of section 5 of the Central Sales Tax Act,1956 shall be Zero -Rated which means that there shall be **no tax** on the sale turnover of such transaction and the exporter shall be entitled to refund of tax paid by him on purchase of goods which are so exported:

Provided that units established in Special Economic Zones (SEZ), shall be entitled to claim refund of tax paid on purchase from units established in Domestic Tariff Area.

(e) Any person or a dealer or an international organisation listed in Schedule V shall be entitled to refund of tax paid by it on the purchase of taxable goods.

(f) Where the State Government is satisfied that it is expedient in public interest so to do, it may by notification and subject to such conditions and restrictions as may be specified therein, allow a rebate up to full amount of the tax payable on sale or purchase of any goods where tax on sale or purchase of such goods is leviable under any other State Act and if it is proved that the turnover of sales and/ or of purchases have been disclosed before the authority competent to levy tax under that Act.

"(g) in case of sale of used capital goods, purchased within one year prior to the date of the commencement of this Act or, as the case may be, from the date of registration under this Act, and on the purchase of which no tax has been paid in the State under this Act or under the repealed Act at the time of purchase, the tax shall be payable at the rates as per the schedules;

Provided that in case tax has been paid in the State under this Act or the repealed Act at the time of purchase an an Input Tax Credit in respect thereof has been claimed, no tax shall be payable on such sale.

(Inserted vide notification no. 1314/XXXVI(4)/2008 Dated 31st March,2008)

(3) (a) When goods are sold or purchased in containers or packed in any packing material, the rate of tax applicable to such containers or packing material, as the case may be, shall, whether **the price of container or packing material is charged separately or not**, be the same as those applicable to the goods contained or packed and turnover in respect of container and packing material shall be included in the turnover of such goods.

(b) Where the sale of goods contained in container or packed in packing material is exempt from tax, then the sale of such container or packing material shall also be exempted from tax.

(inserted vide notification no. 22 January 07, 2010 as follows)

(c) the rate of tax on such parts, spares and accessories, which are not classified elsewhere in the Principal Act, shall be same, as applicable to that commodity under said Act.

(4) The State Government may, by notification in the official gazette, declare different rates in respect of different goods, or add or remove any schedule (s), or add to, amend or alter any Schedule of this Act,

(5) Every dealer shall pay a tax on the net turnover, determined in the prescribed manner, in respect of-

(a) transfer of the right to use any goods for any purpose (whether or not for a specified period) at the rate of **four percent**; and

(b) transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract at such rates as are provided under sub-section (2) above:

Provided that where any goods purchased are involved in execution of works contract and tax has been paid or is payable within the State in accordance with the provisions under section 3 at the rate prescribed under sub-section (2) of section 4, on any earlier sale or purchase of such goods, the purchase price of such goods shall be deducted from the total turnover under a works contract;

Provided further that the State Government may, by notification in the Gazette, declare different rates for different goods or for different class of dealers so as not to exceed the limits specified under sub-section (1) above.

(6) Rebate on tax on certain purchases and sales: (a) Subject to such conditions as it may impose, the Government may, if it deems necessary so to do in the public interest, by notification in the Official Gazette, exempt the sale or purchase of any goods, or any sales or purchases made to or by a

class of dealers or persons specified in the said notification from payment of the whole or any part of any tax payable under the provisions of this Act, and any notification issued under this section may be issued so as to be retrospective to any date not earlier than the date of commencement of this Act and such exemption shall take effect from the date of the publication of the notification in the Gazette or such other earlier or later date as may be mentioned therein;

(b) Where any dealer or person has purchased any goods under a declaration or certificate given by him under any notification issued under this section, and-

(i) any of the conditions subject to which such exemption was granted; or

(ii) any of the restrictions or the conditions of the declaration or the certificate, are not complied with for any reasons whatsoever, then without prejudice to the other provisions of this Act, such dealer or person shall be liable to pay tax on the sale price of the goods at the rate set out against each of such goods in the Schedule under section 4 notwithstanding that such dealer or person was not liable to pay tax under any other provisions of this Act and accordingly the dealer or the person who has become liable to pay tax under this sub-section shall file a return including the sale price of such goods therein, and also pay the tax, in the prescribed manner. The tax due from any such dealer or person shall be assessed and recovered as if the person or dealer is a dealer liable to be proceeded against under the provisions of this Act.

(c) If the assessing authority has reason to believe that any person or dealer is liable to pay tax under sub-section (2), the assessing authority, shall, after giving him reasonable opportunity of being heard, assess the amount of tax so due.

(7)Special relief to certain manufacturers:

(a) Notwithstanding anything contained in section 3 and/or this section where any goods liable to tax under this Act are sold by a dealer to another dealer and such other dealer furnishes to the selling dealer in prescribed form and manner a certificate to the effect that he holds a Recognition Certificate issued under clause (b) in respect thereof, the selling dealer shall be liable in respect of those goods to tax **“at the rate prescribed under sub-section (1) of section 8 of the Central Sales Tax Act, 1956** (at the rate of 4%),*(inserted vide notification no. 1314/XXXVI(4) Dated 31 March 2008)* **(at the rate of 2 percent)**,*(inserted vide notification no. 22 dated 01 January 2010)* subject to the conditions and restrictions as may be notified by the State Government in the Gazette in that behalf:

Provided that where such goods are exempt from tax or subject to tax at a rate which is lower (the rate prescribed under sub-section (1) of section 8 of the Central Sales Tax Act, 1956), *(inserted vide notification no. 1314/XXXVI(4) Dated 31 March 2008)* **(than 2 percent)**, *(inserted vide notification no. 22 dated 01 January 2010)* then the tax shall be nil or, as the case may be, shall be calculated at the lower rate.

Explanation: For the purpose of this sub-section the conditions and restrictions that may be specified for the grant of concession in respect of, or exemption from tax, may include the requirement that the notified goods

referred to in clause(b) shall be manufactured in a manufacturing unit covered under section 4-A of the Uttaranchal (the Uttar Pradesh Trade Tax Act,1948) Adaptation and Modification Order, 2002, which goes into production after such date, whether before or after the date of the notification under this sub-section , and within such period as may be specified.

(b) Where a dealer requires any goods, referred to in clause (a) for use by him in the manufacture of any **taxable** goods in the state, or in the packing of such goods manufactured or processed by him, and such goods are intended to be sold by him in the State or in the course of inter-state trade or commerce or in the course of export out of India, he may apply to the Assessing Authority in such form and manner and within such period as may be prescribed, for the grant of a Recognition Certificate in respect thereof, and if the applicant satisfies such requirements including requirement of depositing late fee and conditions as may be prescribed, the Assessing Authority shall grant to him in respect of such goods a Recognition Certificate in such form and subject to such conditions, as may be prescribed:

(substituted vide notification no. 1314/XXXVI(4) Dated 31 March 2008)

[Prior to the substitution it was-Where a dealer requires any goods, referred to in clause (a) for use by him in the manufacture in the State of any goods,]

Provided that every dealer who held a Recognition certificate under section 4-B of the Uttaranchal (The Uttar Pradesh Trade Tax Act,1948) Adaptation and Modification Order, 2002 and the same has neither been cancelled by the Assessing Authority nor such dealer has discontinued business till the date of commencement of this Act, he shall, subject to the provisions of this sub-section, be deemed to be a Recognition certificate

holder under this Act with effect from the date of commencement of this Act and if such a dealer is not desirous of continuing to be a Recognition certificate holder under this Act, he shall submit an application to the Assessing Authority to this effect within 30days of the commencement of this Act

Explanation: For the purposes of this sub-section the "goods" required for use in the manufacture shall mean Capital Goods and raw materials, processing materials, consumable stores, spare parts, accessories, components, sub-assemblies, fuels or lubricants; and in the packing of such manufactured goods.

(c)(i)Where the assessing authority is satisfied that the dealer in whose favour a Recognition Certificate in respect of any goods was granted under clause(b)-

(aa)has discontinued the business or the manufacturing of goods in respect whereof the Recognition Certificate was granted; or

(ab)has made a breach of any condition of the Recognition Certificate; or

(ac)has failed to furnish the security, if any, required under section 20; or

(ad)has failed to pay any tax, penalty or other dues payable under this Act within a period of three months from the date when such tax, penalty or other dues became payable; such authority may, either of its own motion or on the application of the dealer, cancel the Recognition Certificate with effect from such date as it may specify.

*Explanation:*The dissolution or reconstitution of a firm, association of persons or partition a joint Hindu family or ransfer by a dealer

of his business shall be deemed to be discontinuance of business within the meaning of this clause.

(ii) The assessing authority may amend a Recognition Certificate granted under clause (b) either of its own motion or on the application of the dealer where the dealer has changed the name or place of his business or has closed down any branch or opened a branch, or for any other sufficient reason:

Provided that no Recognition Certificate shall be cancelled or amended by the Assessing Authority of its own motion except after reasonable opportunity of being heard has been given to the dealer.

(d) Where a dealer in whose favour a Recognition Certificate has been granted under clause (b) has purchased the goods after payment of tax at concessional rate or, as the case may be, without payment of tax under this sub-section and has used such goods for a purpose other than that for which the Recognition Certificate was granted or has otherwise disposed of the said goods, such dealer shall be liable to pay as penalty such amount as the Assessing Authority may fix which shall not be less than the difference between the amount of tax on the sale or purchase of such goods payable under this sub-section and the amount of tax payable under any other provisions of this Act, but not exceeding **three times** the amount of such **difference**.

(e) Where a dealer in whose favour a Recognition Certificate has been granted under clause (b) has purchased "**the goods**" (the special category goods) *(inserted vide notification no. 1314/XXXVI(4) Dated 31 March 2008)* **or after packing such manufactured goods with such packing material** after payment of tax at concessional rate or, as the case may be, without payment

of tax under this sub-section *and the goods manufactured out of such raw material procured* or after packing such manufactured goods with such packing material are sold or disposed of other than by way of sale in the state or in the course of inter-state trade or commerce or in the course of export outside Indian territory, such dealer shall be liable to pay an amount **equal to 2 percent of the amount of stock transfer or other such transactions.**

(inserted vide notification no. 22 dated 01 January 2010 as above)

(e) Where a dealer in whose favour a Recognition Certificate has been granted under clause(b) has purchased the goods after payment of tax at concessional rate or, as the case may be, without payment of tax under this sub-section and the Special Category Goods manufactured out of such goods or after packing such with manufactured goods with such packing material are sold or disposed of otherwise than by way of sale in the state or in the course of inter-state trade or commerce or in the course of export, such dealer shall be liable to pay "as penalty" (deleted vide notification no. 1314/XXXVI(4) Dated 31 March 2008) an amount equal to the difference between the amount of tax on the sale or purchase of such goods payable under this sub -section and the amount of tax payable under any other provisions of this Act

Explanation : For determining whether a sale or purchase in the course of inter-state trade or commerce, within the State, or in the course of export out of India, the provisions of section 3, section 4 and section 5 of the Central Sales Tax Act, 1956, shall respectively apply.

(g) No penalty under this section shall be imposed unless the dealer has been given a reasonable opportunity of being heard.

(h) No penalty under section 58 shall be imposed in respect of the same facts on which a penalty has been imposed under this section.

(8):Specified Goods on which Tax shall be payable at M.R.P.:

(a) Where the State Government is satisfied that it is expedient in public interest so to do, it may, by notification and subject to such conditions and restrictions as may be specified therein, direct any class or category of dealers to pay, on sale of such goods as may be specified in the notification, in lieu of tax payable at the actual sale price, a tax at the rate specified in the respective Schedule on the Maximum Retail Price (M.R.P.).

(b) A dealer paying tax at M.R.P. under clause (a) above, shall, in addition to mentioning in the Sale Invoice, the actual sale price, separately indicate in the sale invoice the M.R.P. on which tax has been charged and also print on the top "**INVOICE FOR TAX ON M.R.P.**".

(c) Any dealer purchasing goods on which tax has been paid on M.R.P., shall neither be entitled to Input Tax Credit on such purchases nor shall be liable to pay tax on sale on such goods.

(d) Where the State Government is of the opinion that it is no longer in the public interest to continue any scheme under the above provisions, it may, by notification, at any time withdraw any such scheme, and thereafter the tax shall be payable under the relevant provisions of the Act .

Explanation: The expression M.R.P.(Maximum Retail Price) means the price printed on label or packet of the goods or the regulated price of the goods, if any.

(9) Every notification made under this section shall, as soon as may be after it is made, be laid before the State Legislative Assembly while it is in session, for a total period of not less than fourteen days, extending in its one session or more than one successive sessions, and shall, unless some later date is appointed, take effect from the date of its publication in the Gazette subject to such modifications or annulments as the State Legislative

Assembly may during said period make. However any such modification or annulment shall be without prejudice to the validity of any thing previously done thereunder except that any imposition, assessment, levy or collection of tax or penalty shall be subject to the said notification or annulment.

(10) Notwithstanding anything contained in this section, the State Government may grant moratorium for payment of the admitted tax in case of industrial units under the provisions of section 76 of this Act.