

Finance Act 1979

Chapter V - Foreign Travel Tax

(1) This Chapter extends to the whole of India.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Section 34 - Definitions

In this Chapter, unless the context otherwise requires, -

(a) "aircraft" means an aircraft as defined in section 2 of the Aircraft Act, 1934 (22 of 1934), which is used (whether exclusive or not) for the carriage of passengers;

(b) "carrier" means the person or authority undertaking the carriage of a passenger on an international journey and includes any agent, representative or other person acting on behalf of such person or authority;

(c) "customs port" and "customs airport" mean, respectively, a port or an airport appointed as such under clause (a) of section 7 of the Customs Act, 1962 (52 of 1962);

(d) "international journey", in relation to a passenger, means his journey from any customs port or customs airport on board any ship or aircraft to a place outside India;

(e) "passenger" means any person boarding, at any customs port or customs airport, a ship or an aircraft for performing an international journey, but does not include -

(a) a person who has arrived at such customs port or customs airport from a place outside India is in transit through India :

Provided that he continues his journey to a place outside India -

(i) on board the same ship and as part of the same voyage of the ship; or

(ii) by the same aircraft and the flight having the same number by which he arrived; or

(b) a person employed or engaged in any capacity on board the ship or aircraft on the business thereof;

(f) "ship" means a ship used (whether exclusively or not) for the carriage of passengers.

Section 35 - Foreign Travel Tax

(1) With effect from the date of commencement of this Chapter, there shall be levied on all passengers embarking on international journey a tax (hereafter in this Chapter referred to as the foreign travel tax) -

(i) at the rate of one hundred rupees for every such journey to any place outside India other than a place in neighbouring country;

(ii) at the rate of fifty rupees for every such journey, where such journey is to any place in a neighbouring country.

Explanation : For the purposes of this sub-section, "neighbouring country" means any country which the Central Government may, having regard to the classes of persons who generally perform journeys to such country, the distance between India and such country, the means of communications available for reaching such country and any other relevant circumstances, specify in this behalf by notification in the Official Gazette.

(2) In accordance with the rules made under this Chapter, the foreign travel tax shall be collected by the officers of customs appointed under the Customs Act, 1962 (52 of 1962), or such officers of the Central Government or the State Government or the International Airports Authority of India constituted under the International Airports Authority Act, 1971 (43 of 1971) or such carriers, as may be authorised in this behalf by the Central Government by notification in the Official Gazette and paid to the credit of the Central Government.

Section 36 - Power to Exempt

Notwithstanding anything contained in this Chapter, the Central Government may, by notification in the Official Gazette, and subject to such conditions and limitations as may be specified therein, exempt, wholly or to such extent as may be specified in the notification, any class or classes of passengers or any category or categories of passengers under any such class from the payment of foreign travel tax if that Government is satisfied that it is necessary or expedient so to do, having regard to the place of destination, purposes of the journey and any other special circumstances.

Section 37 - Passenger not to be Permitted to Board Ship or Aircraft without Payment of Foreign Travel Tax

No carrier or other person in charge of a ship or an aircraft shall allow any passenger to board the ship or aircraft unless such passenger has paid the tax payable by him under this Chapter

Section 38 - Penalties

(1) Every passenger who embarks or attempts to embark on an international journey without paying the tax payable by him under this Chapter shall, in addition to his liability to pay the tax, be liable to a penalty not exceeding two hundred rupees.

(2) Every carrier or other person in charge of a ship or an aircraft, who, in contravention of the provisions of section 37, allows any passenger or passengers to board the ship or aircraft, shall be liable to a penalty not exceeding three times the amount or the aggregate amount of the tax payable by the passenger or passengers so allowed to board the ship or aircraft.

(3) Any penalty under this section may be adjudged, collected and paid to the credit of the Central Government by such authority and in such manner as may be specified in the rules made under this Chapter.

Section 39 - Protection of action taken in good faith

No suit or other legal proceeding shall lie against the Central Government and no suit, prosecution or other legal proceeding shall lie against any officer of the Central Government or the State Government or the International Airports Authority of India referred to in sub-section (2) of section 35 for anything in good faith done or intended to be done in pursuance of this Chapter or the rules made thereunder.

Section 40 - Power to Make Rules

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for -

(a) the collection of the foreign travel tax including the charges for collection payable to any State Government or the International Airports Authority of India referred to in sub-section (2) of section 35 or any carrier, the authorities by whom adjudication of penalties or other functions under this Chapter shall be discharged, the manner in which such tax, penalties or other sums due under this Chapter shall be payable, the manner in which such tax, penalties or other sums shall be collected and paid to the credit of the Central Government and the procedure for claiming refund of any amount paid under this Chapter;

(b) the powers of officers authorised under sub-section (2) of section 35 to enter, inspect and search any ship or aircraft for the purpose of carrying on any duty imposed on such officer by or under this Chapter :

Provided that the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches, shall, so far as they are applicable, apply in relation to searches under rules made under this Chapter;

(c) the procedure for adjudication of penalties;

(d) appeals against orders made under this Chapter, the manner in which and the time within which such appeals may be preferred and the fees payable therefor;

(e) the returns and other particulars and information which may be required to be furnished for the purposes of this Chapter, the persons or authorities by or to whom or which, and the intervals at which, such returns, particulars and information shall be furnished;

(f) any other matter which is to be, or may be, provided for by rules under this Chapter.

Section 41 - Rules and Notifications to Be Laid Before Parliament

Every rule made under this Chapter and every notification issued under the Explanation to subsection (1) of section 35 or section 36 shall be laid as soon as may be after it is made or issued before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any notification in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Section 42 - Cesser of Operation of Chapter VII of Act 32 of 1971 and Saving

Chapter VII of the Finance (No. 2) Act, 1971 (relating to foreign travel tax) shall cease to have effect except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897 (10 of 1897), shall apply upon such cesser as if the said Chapter had then been repealed by a Central Act.