

JAMMU & KASHMIR

The levy of sales tax in the State of Jammu & Kashmir is governed by the provisions of the Central Sales Tax Act, 1956, and the Jammu & Kashmir General Sales Tax Act, 1962. Motor spirits are, however, taxed under a separate enactment called Jammu & Kashmir Motor Spirits (Taxation of Sale) Act, 2005 SVT.

1. Structure

All dealers except those dealing exclusively in tax-free goods are liable to pay tax without any limit of turnover. A turnover exemption ceiling of Rs.1 lakh is specified for all dealers other than those who import goods for sale in the State. The definition of 'sale' includes works contracts and transfer of goods under hire-purchase system as well as sale of services and amenities in hotels and restaurants. Purchase tax is also leviable in respect of purchase of taxable goods if no tax is payable under any other provision of the Act.

Point of Levy: The State has adopted the system of single-point taxation, the tax being levied on the first point of sale in most cases. However, in the case of liquor, tax is levied at the stage of last sale in the State.

Rate Structure: The tax rates are specified in the various schedules annexed to the notifications issued under Section 4 of the JKGST Act. The minimum rate of tax of 4 per cent is applicable to items included in Schedule D of notification SRO 135 dated 29.3.1989. Staple fibre, edible oils, all types of yarn, etc. are taxed at 4 per cent. The maximum rate of 30 per cent is levied on Indian made foreign liquor, arms, resins etc.

Surcharge: There is no provision for the levy of additional tax. However, surcharge at 5 per cent of the amount of tax payable is levied irrespective of the quantum of turnover.

Works Contract: Works contract were brought under the purview of Sales Tax in the State by the promulgation of Ordinance No.II of 1970 dated 22.6.1970. Subsequently, this was incorporated in the Act by Act XII of 1970 dated 24.10.1970. Government departments, local authorities and corporations are required to deduct tax at source from the payments made to a contractor and to deposit the same in the Government treasury.

Exemptions: Section 5 of the J&K GST Act empowers the Government to exempt from tax any goods or class of goods. Schedule E of the notification issued under this section is the list of exempted goods which include cereals, common salt and several other items of mass consumption, and also agricultural implements. Certain exemptions have been provided with a view to encouraging local cottage and small-scale industries. The schedule also provides for conditional exemptions. Raw material sold to large and medium-scale industrial units as well as raw material sold to small-scale industrial units registered under the Act have been exempted subject to a declaration in the prescribed form.

Incentives to Industries: To promote growth of industries in the State, certain concessions and incentives are provided. Under this scheme, before 1984, all the SSI units were fully exempt from the tax for the first ten years of starting of production. From 1984 in the modified scheme full exemption was available for the first 3 years. Thereafter 75 per cent for 3 years 50 per cent and 25 per cent exemption was allowed for the next two blocks of 4 years and 2 years respectively. The Government however, introduced a new scheme from 1.4.1990 granting 100 per cent exemption to SSI units upto 31.5.1995 and 50 per cent and 25 per cent exemption for a period of 3 and 2 years respectively. Thereafter, in the case of large and medium scale industrial units recovery of tax on the inter-State, intra-State sales of goods manufactured by such units upto a turnover of Rs.5 crore has been deferred for a period of 5 years from the date, the unit goes into production.

2. Registration

Every dealer liable to pay tax is statutorily required to get himself registered under the J&K GST Act. Besides, dealers registered under the CST Act, 1956, are also obliged to get themselves registered under the GST Act where the import of taxable goods is involved. Provisional registration can also be obtained by a person who intends to establish a manufacturing business in the State. Registration once granted will remain in force unless it is cancelled. Accordingly, renewal of registration is not to be sought every year.

3. Assessment

Returns: Every dealer liable to pay tax is required to furnish a return of his turnover for the year within 120 days from the expiry of the year. Besides, a quarterly return too is called for within 30 days from the expiry of the quarter.

Mode of Assessment: If the assessing authority is satisfied about the correctness and completeness of the annual return, he may complete the assessment on the basis of the return. In other cases, assessment can be made after scrutiny of evidences and books of account. No order of assessment can be passed after the expiry of four years from the end of the relevant year or after the expiry of one year from the end of the year in which the return/revised return is filed, whichever is later. But the limitation period for re-opening an assessment is 8 years from the end of the relevant accounting period.

A scheme has been introduced under which returns showing sales upto Rs.50,000 are to be accepted without calling the dealer for production of books of account, etc.

Refund: The Act provides for the payment of interest to the dealer if refund arising from appellate or revisionary order is delayed beyond 3 months.

4. Penalty and Prosecution

Offences

Punishment

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| a. Carrying on business in contravention of the provisions of the Act. | Penalty upto Rs.500. |
| b. Failure to furnish return within the time allowed. | Penalty at the rate of 2 per cent per month of the tax payable as reduced by the amount of tax paid. |
| c. Failure to comply with the terms of any notice issued under Section 7 of the Act, without reasonable cause. | A sum of 20 per cent of the tax assessed reduced by the tax paid on the basis of quarterly return. |
| d. Failure to produce accounts, etc., without reasonable cause. | A sum of Rs.50 for each day of default subject to a maximum of Rs.1,000. |
| e. Concealing turnover or furnishing inaccurate particulars thereof. | A sum not less than the tax sought to be evaded but not exceeding twice the amount of such tax. |

5. Administrative Organisation

The Commissioner of Sales Tax is the head of the Sales Tax Department. The State has been divided into two divisions, Jammu and Kashmir, each headed by a Deputy Commissioner of Sales Tax. In addition there are Deputy Commissioners (Tax Planning), (Judicial) and (Headquarters) in the Commissioner's office. There is also a Deputy Commissioner posted at the principal checkpost at Lakhanpur, who is also in charge of the neighbouring small checkposts.

Jammu division has 14 assessing authorities while Kashmir division has 15. The assessing authorities function directly under the Deputy Commissioner of Sales Tax of the respective divisions. Each division has one appellate authority known as Deputy Sales Tax Commissioner (Appeals), and also a Deputy Commissioner (Recovery), a Deputy Commissioner (Vigilance) and a Deputy Commissioner (Audit).

6. Appeals

The appeal against any order passed by the assessing authority lies to the Deputy Commissioner.

Revision: The Commissioner can suo moto call for any proceedings which are pending before or have been disposed off for the purpose of satisfying himself as to the correctness, legality or propriety of such proceedings or orders, and may pass such orders in relation there to as he may think fit.

7. Checkposts

There are three major checkposts in the State, besides minor checkposts at small railway stations. Transportation of goods across or beyond the notified areas is permitted only on either a bill of sale or delivery note or certificate of ownership. A waybill has to be furnished at the checkposts which, then, record the particulars therein and forward these to the concerned assessing authorities. Goods are subject to physical verification on sample basis against declaration forms and are liable to be seized in case of discrepancy. Penal action is taken against defaulters.