TAMILNADU

Tamil Nadu (the erstwhile State of Madras) was the first State in India which introduced Sales Tax in 1939. The 1939 Act was repealed and replaced by the Tamil Nadu General Sales Tax Act, 1959 with effect from 1.4.1959.

At present, the following enactments for the levy of sales tax are in force in the State.

A.Tamil Nadu General Sales Tax Act, 1959.
B.Tamil Nadu Additional Sales Tax Act, 1970.
C.Tamil Nadu Sales Tax (surcharge) Act, 1971.
D.Central Sales Tax Act, 1956.

A. TAMIL NADU GENERAL SALES TAX ACT, 1959

1. Structure

Every dealer whose turnover for any year is Rs.1 lakh or more becomes liable to pay tax. However, dealers in goods subject to single-point tax are required to pay tax irrespective of turnover.

Point of Levy: General Sales Tax was collected either as a single point or as a multipoint levy upto 30.3.1990. From 1.4.1990, it has been made a single point levy. Schedules I and II of the Act list out the commodities covered under single point while Schedule II lists out the declared goods which are essential for human consumption viz. cereals, oil seeds, iron and steel etc., Schedule I lists out all other articles that are subjected to single point levy. The number of commodities covered under Schedule I is 207 as on 1.4.92. Single point tax rate ranges from 1 per cent to 50 per cent of the turnover of such goods. Goods listed out in Schedule III are exempted from tax.

Rate Structure: Schedule I lists the 196 commodities subject to single-point tax, at rates specified in column 4. The minimum rate is 2 per cent, applicable to a few more commodities including raw wool. The maximum rate (excluding liquor) of 15 per cent applies to luxury goods such as refrigerators, VCRs, iron and steel safes, etc. Molasses is liable to tax at 25 per cent and arishtams and asavas are taxable at 30 per cent. Foreign liquor is taxed at 50 per cent. IMFL and country liquor are taxed at 25 per cent. Other rates in use are 2, 3, 3.5, 4, 5, 6, 8, 10 and 12 per cent.

Schedule II deals with goods declared to be of special importance in inter-State trade and commerce. Most commodities in this Schedule are taxed at 3 and 4 per cent on single-point basis.

Uniform single-point rate of 8 per cent is leviable on non-specified general goods except those goods on which the taxes are either reduced or exempted through notification or by including them in Schedule I.

Purchase Tax: Purchase tax is levied only under certain circumstances with a view to preventing loss of revenue. When a dealer purchases taxable goods to be used in the manufacture of other goods but disposes of the manufactured goods in a manner other than by way of sale within the State or despatches them to a place outside the State except as a direct result of sale in the course of inter-State trade or commerce, with the result that no sales tax is payable by him, he is liable to pay tax on the purchase of such goods.

Works Contract: Works contract in Tamil Nadu is taxable since 29.5.1984. Any dealer executing works contract with a turnover of Rs.50,000 is liable to pay tax on works contracts. Sales Tax on works contract ranges between 5 per cent to 15 per cent and 21 items of contract works are covered therein which include works contracts of painting and polishing.

Leasing: A transfer of right to use any goods for any purpose for cash, deferred payment or other valuable consideration is taxable under the TNGST Act. Tax is levied on the aggregate amount received or receivable.

Exemptions: Tax exempted goods, listed in Schedule III, include tobacco, sugar, cotton and woollen fabrics, handloom cloth and a few other commodities. Besides, conditional exemption, effected through special notifications, is accorded to the sale/purchase of a number of goods by certain persons or institutions. Sales of food and drinks by hostels and canteens run exclusively for the benefit of students of recognised educational institutions in the State, sales by Defence Services installations which are managed by the units themselves, sales by cooperative wholesale stores to primary cooperative stores in the State are included for such exemption. Sales of hearing aids, ambar charkhas, etc. are also exempt from tax.

Taxation of Inputs: Sale of raw material and component parts specified in Schedule I, meant to be used by the buying dealer in the manufacture of goods (specified in the same schedule) is taxable at the concessional rate of 3 per cent. on furnishing the requisite declaration in the prescribed form. If the raw materials and component parts so purchased are not consumed in the manufacture and sold as such, the dealer purchasing the goods in respect of which he had furnished declaration should pay the difference of tax payable on the turnover relating to sale of such goods at the rate prescribed and 3 per cent.

Incentives to Industries: New industries are granted an interest free loan for a period of 3 to 6 years depending on the type of the industry whether SSI, large or medium scale to the 20 to 25 per cent of the fixed assets of the industries. Deferment in tax payable is granted to any industry having an investment of not less than Rs.50 crore but below Rs. 100 crores for a period of 10 years.

2. Registration

Dealers whose turnover of general goods is Rs.75,000 or more are under a statutory obligation to register. Persons dealing in goods enumerated in Schedules I and II, dealers registered under the CST Act, commission agents and casual traders have to get themselves registered irrespective of the quantum of their total turnover.

For dealers carrying on works contract/transfer of right to use the property, turnover limit to register is Rs.40,000.

3. Assessment

Returns: Returns showing actual turnover are required to be filed on a monthly basis along with the proof of payment of tax by the 20th of the following month. An annual return showing the total taxable annual turnover of the year has to be filed by the first of May.

Mode of Assessment: Assessments are made annually. The law provides for the completion of both provisional and final assessments. Provisional assessment is made in the course of the year and is in the nature of advance assessment based on estimated turnover. Final assessment is made on the basis of a dealer's return which is filed in the prescribed form. If, however, no return is filed by a dealer or the return filed is found to be incomplete or incorrect, the assessment is made on the basis of best judgement. Such an assessment can also be made if any part of the turnover is found to have escaped assessment. However, this can be done within five years of the expiry of the year to which the tax relates.

Deemed assessment system is proposed to be replaced by a new self assessment system. Any trader with an annual turnover of less than Rs.5 lakh and who has a clear record with no infringements and who does not use specified saleable form, to make a self assessment return which will be accepted by the authorities.

4. Penalty and Prosecution

Penalties: The TNGST Act provides for the levy of penalty for various defaults committed by dealers or other persons.

If a dealer does not fully disclose his turnover, penalty not less than 50 per cent, but not exceeding 150 per cent of the tax payable on the undisclosed portion of the turnover, may be levied after giving due opportunity to the dealer. Failure to file return also attracts penalty which may not be less than 50 per cent and not exceeding 150 per cent of the assessed tax. Late filing of return also attracts penalty calculated at the rate of 2 per cent of tax for each month of default. Penalty is also leviable for filing incorrect return and for collecting tax in contravention of the provisions of the Act.

Prosecution: Certain offences are also punishable with fine or imprisonment on conviction, as mentioned hereunder:

	Offence	*Punishment*
i.	Failure to file return as per law.	Fine upto Rs.200.
ii.	Failure to get certificate of registration under the Act.	Fine upto Rs.200.
iii.	Collection of tax in contravention of the provision of the Act.	Fine upto Rs.500.
iv.	Wilful submission of an untrue return.	Fine upto Rs.2000.
v.	Fraudulent evasion of tax.	Simple imprisonment upto six months.
vi.	Wilful contravention of any provisions of the Act.	-do-

vii.	Failure to keep or maintain accounts.	-do-
viii.	Failure to make use of goods according to declaration made at the time of purchase.	-do-

B. TAMIL NADU ADDITIONAL SALES TAX ACT, 1970

This Act came into force from 1.4.1970 and the rate of additional tax applicable presently is as given below:

	Turnover	Rate of Additional Tax
1.	Between Rs.10 lakh and Rs.40 lakh	1.25 per cent
2.	Between Rs.40 lakh and Rs.1 crore	1.50 per cent
3.	Between Rs.1 crore and Rs.5 crore	2 per cent
4.	Between Rs.5 crore and Rs.10 crore	2.25 per cent
5.	Exceeding Rs.10 crore	2.50 per cent

This tax cannot be passed on to the buyers and should be paid by the Assessees.

C. THE TAMIL NADU SALES TAX (SURCHARGE) ACT, 1971

Under the provisions of the Tamil Nadu Sales Tax (Surcharge) Act 1971, surcharge on sales tax is levied on traders carrying on business at the rate of 15 per cent. An additional surcharge of 5 per cent is levied in the Madras area.

Further with effect from 10.6.1981, additional surcharge of the tax is payable on the goods sold in the corporation of Madras.

5. Administrative Organisation

The overall administrative control is exercised by the Special Commissioner and Commissioner of Commercial Taxes. The entire State has been divided into nine divisions, each headed by a Deputy Commissioner. In all, there are 33 Commercial Tax Districts each of which is under the administrative control of an Assistant Commissioner. The Department has been divided into three wings, viz., assessment wing, appellate wing and enforcement wing.

The assessment wing has 298 assessment circles headed by Assistant Commissioners, Commercial Tax Officers and Deputy Commercial Tax Officers. The Assistant Commercial Tax Officer or Additional Assistant Commercial Tax Officer can exercise the power of assessment of the dealers whose total turnover does not exceed Rs.21 lakh and in respect of dealers whose total turnover exceds Rs.2 lakh but does not exceed Rs.5 lakh involving a tax liability of Rs.3,000.

The Appellate Wing consists of 17 Appellate Assistant Commissioners and a Tribunal at Madras with three additional benches at Madras, Madurai and Coimbatore.

The enforcement wing, consisting of inspection squads, Roving squads and checkposts, detects evasion and suppression of information. This wing is administered by a Deputy Commissioner.

6. Appeals/Revision

The first appeal against the assessment order by the assessing authorities other than Assistant Commissioners lies to the Appellate Assistant Commissioners. An appeal against the assessment orders passed by the Assistant Commissioner lies to the Deputy Commissioners.

Revision: The Deputy Commissioner or the Joint Commissioner of Commercial Taxes have powers of suo moto revision of assessment orders passed by the assessing authorities or the appellate authorities. Board of Revenue is vested with powers of revision of order passed u/s 33(3) of the Act (an order for which an appeal is not provided) by the Deputy. Commissioner of Commercial Taxes.

Appellate Tribunal: The second appeal on the order passed by the Appellate Assistant Commissioners and the Deputy Commissioners lies to the Tribunal.

Any person objecting to an SMR order passed by the Joint Commissioner may appeal to the High Court Madras.

7. Checkposts

Checkposts have been set up at vital points. They are manned by Commercial Tax Officers and Assistant Commercial Tax Officers, assisted by Inspectors and other auxiliary staff. As in other States, goods vehicles are intercepted at checkposts to verify the goods against the required documents. Any default may result in penal action against both the vehicle owner and the importer.