

Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003

(Tamil Nadu Act No. 12 of 2003)



1. (1) This Act may be called the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003.

Short title and commencement.

(2) * It shall come into force on such date as the State Government may, by notification, appoint.

2. In this Act, unless the context otherwise requires,-

(1) "actual user of power" means one who is not a consumer but uses power out of captive generating plant;

Definitions

(2) "captive generating plant" means a power plant set up by any person or association of persons or any Co-operative society to generate electricity primarily for his own use or for the use of members, and includes the power plants that are permitted to sell the surplus power so generated.

2(A) ** "Charge on Maximum Demand " means the charge levied on the highest value of the average kilo volt ampere delivered at the point of supply to the consumer during any consecutive 30 minutes in a month

(3) "Director" means the Director of Electricity Tax appointed by the State Government ;

Central Act
1 of
1956

(4) "company" means a company registered under the Companies Act, 1956 and includes anybody Corporate under a Central, State or Provincial Act.

Central Act
X of 1910.

(5) "consumer" with its grammatical variations and cognate expression means any person who is supplied with electricity on payment of charges, or free of cost or otherwise by a licensee or by the Government or by any other person engaged in the business of supplying electricity to the public under the Indian Electricity Act, 1910 or any other law for the time being in force and includes -

(i) a licensee who consumes electricity whether generated by himself or supplied to him by any other licensee; and

(ii) actual user of power or any other person who consumes electricity generated by himself;

Explanation I.- Where a licensee consumes electricity, whether generated by himself or supplied to him, such licensee shall be deemed to be a consumer only in respect of the electricity so consumed.

* The Government notified that the Tamil Nadu Tax on Consumption or sale of Electricity Act, 2003 shall come into force on the 16th June 2003 (vide G.O.Ms.No.49, Energy (B1), dated 12th June 2003)

** Inserted by Tamil Nadu Act 38 of 2007 with effect from 16th June 2003.

Explanation II.- Where a licensee or other person consumes energy for purposes connected with the construction, maintenance and operation of the generating transmitting and distributing system, such licensee or person shall not be deemed to be a consumer in respect of the energy so consumed;

(6) "electricity" means electrical energy ;

(7) * "Consumption charge" means the amount charged by a licensee for the supply of electricity to a consumer before deduction of rebate, if any, allowed by the licensee for payment on or before such date as may be specified by the licensee, but does not include -

- (i) meter charges;
- (ii) interest on delayed payment ;
- (iii) fuel surcharge ; or
- (iv) fuse off call charges and reconnection charges

Provided that in the case of High Tension supply of electricity, consumption charge includes the charge on maximum demand and power factor surcharge.

Explanation - I.- If electricity is supplied to any person free of charge or at a concessional rate (other than tariff concession), the * Consumption Charge would mean the tariff fixed by the Tamil Nadu Electricity Regulatory Commission in its Tariff Order to similar consumer.

(8) Omitted *

(9) "generating company" means any company or body corporate or association or body of individuals, whether incorporated or not or artificial juridical person, which owns or operates or maintains a generating station.

Central Act
X of 1910.
Central Act
LIV of
1948.

(10) "licensee" means any person licensed under part II of the Indian Electricity Act, 1910, to supply electricity and includes any person who has obtained the sanction of the State Government under section 28 of that Act, the State Government when it is engaged in the business of supplying electricity, the generating company as defined in clause (4-A) of section 2 of the Electricity (Supply) Act, 1948, the Electricity Board and the captive generating plant;

(11) "local authority" means-

- (i) any Municipal Corporation established under any law for the time being in force; or
- (ii) any Municipal Council constituted under the Tamil Nadu District Municipalities Act, 1920; or
- (iii) any District Panchayat or any Panchayat Union Council or any Village Panchayat constituted under the Tamil Nadu Panchayats Act, 1994;

Tamil Nadu
Act V of 1920

Tamil Nadu
Act 21 of
1994

(12) Omitted *

* Substituted and Clause 8 and 12 omitted in the Tamil Nadu Tax on Consumption or Sale of Electricity (Amendment) Act, 2007 (Tamil Nadu Act 38 of 2007) w.e.f. 16.06.2003

(13) "supply" in relation to electricity means the sale of electricity to a licensee or consumer.

(14) "tariff" means a rate of tariff livable upon the consumption of electricity in the State supplied by the licensee and as fixed by the Tamil Nadu Electricity Regulatory Commission ;

(15) "unit" means one kilowatt hours of energy.

Central Act X
of 1910.

Central Act
LIV of 1948.

Central Act
14 of 1998

(16) words and expressions used but not defined in this Act shall have the meaning assigned to them in the Indian Electricity Act, 1910, Electricity (Supply) Act, 1948 and the Electricity Regulatory Commission Act, 1998.

3. (1) Save as otherwise provided in this Act, every licensee and every person other than a licensee shall pay every month to the Government in the prescribed manner, a tax on the electricity sold or consumed during the previous month at the rates specified hereunder:

Tax on the
consumption
or sale of
electricity

(a) In the case of licensees other than captive generating plants, the rate shall be not less than 5% and not more than 10% of the * consumption charge, as may be notified by the Government ;

Provided that no tax shall be paid on sale of electricity for agricultural purposes and hut service connections;

(b) In the case of licensees who are captive generating plants, the rate shall be not less than 10 paise and not more than 20 paise per unit of electricity on the consumption for own use; and shall be not less than 5% and not more than 10% on the * consumption charge on the sale of surplus electricity as may be notified by the Government ;

Provided that no tax shall be paid on the sale of electricity to the Board.

(c) In the case of a person other than a licensee, the rate shall be not less than 10 paise and not more than 20 paise per unit of electricity on the consumption for own use as may be notified by the Government ;

(2) The Government may pay such amount as may be prescribed as collection charge to every person collecting electricity tax under this section.

Provided that such amount shall not exceed one percent of the electricity tax collected by such person.

* Substituted in the Tamil Nadu Tax on Consumption or Sale of Electricity (Amendment) Act, 2007 (Tamil Nadu Act 38 of 2007) w.e.f. 16.06.2003

1. The Government have notified that the rate of tax on the electricity sold by the licensees other than captive generating plants as 5% on the consumption charge

2. The Government have notified that the rate of tax on the surplus electricity sold by the licensees, who are captive generating plants as defined under section (2) of the Act as 5% on the consumption charge

3. The Government have notified that the rate of tax on the electricity consumed for own use in the case of licensees, who are captive generating plants and also in the case of persons other than licensees as 10 paise per unit. (vide G.O.Ms.No.51, Energy (B1) Department, dated 13th June 2003)

4. As per rule 3 of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003, the collection charge for the purpose of sub-section 2 of section 3 shall be half per cent of the tax collected by the person referred to in section 3 (1). (vide Rule 3 of Tamil Nadu Tax on Consumption or Sale of Electricity Rules, 2003)

4. Notwithstanding anything contained in this Act, no electricity tax shall be payable under section 3, on the sale of electricity, by a licensee to -

(a) any Government for consumption by that Government, save in respect of premises used for residential purposes;

(b) (i) any local authority, save in respect of premises used for residential purposes;

(ii) Railway administration as defined in the Railways Act, 1989, save in respect of premises used for residential purposes.

Electricity sold for consumption to Government local authority or Railway Company not liable to Tax.

Central Act
24 of 1989

5. (1) Every person, other than a licensee or the State Government, who has installed or proposes to install a generating plant for generation of electricity for his own consumption, shall register his name with such officer as the Government may appoint in this behalf.

Registration

(2) The application for registration shall be made in such manner and in such form and on payment of such fee as may be prescribed.

(3) The officer appointed in this behalf may, on receipt of an application and after such enquiry as he considers necessary, grant to the applicant a certificate of registration for such plant, for such period and on such conditions as may be prescribed.

6. (1) Any licensee may with the previous sanction of the Government and subject to such conditions as they may impose, recover from any person or class of persons to whom electricity is sold, the electricity tax which falls to be paid by the licensee in respect of the electricity so sold, or any part of it as may be determined by the Government.

Licensee to reimburse himself from consumer in certain cases.

Explanation.- Save as provided in section 4 of this Act, the electricity tax recoverable from any person under this section shall not be deemed to be part of the * consumption charges charged by the licensee.

(2) Licensee may for the purpose of sub-section (1) exercise the powers conferred on a licensee by sub-section (1) of section 24 of Indian Electricity Act, 1910 for the recovery of any charge or sum due in respect of energy supplied by him.

7. Any electricity tax due under this Act which remains unpaid -

Recovery of
Electricity Tax

(a) shall be deemed to be in arrears and thereupon interest ** at the rate prescribed by the Government, from time to time, shall be payable on such electricity tax; and

(b) shall, together with any interest payable under clause (a) be recoverable either as an arrear of land revenue or by deduction from any amount payable by the Government to the licensee.

* Substituted in the Tamil Nadu Tax on Consumption or Sale of Electricity (Amendment) Act, 2007 (Tamil Nadu Act 38 of 2007) w.e.f. 16.06.2003

** As per rule 7 of the Tamil Nadu Tax on Consumption or Sale of Electricity Act, 2003, the rate of interest on the arrears of Electricity Tax is 12% per annum for each calendar month of delay.

The Government have appointed the Electricity Tax Inspecting Officers holding the post of Electrical Inspectors for the purpose of Registration under section 5 (1) of the Act. (G.O.Ms.No.55 Energy (B1) Department, dated 13th June 2003)

8. Every licensee and every person other than a licensee

- (a) keep books of account in the prescribed form ; and
- (b) submit returns showing the units of electricity supplied and the amount of the electricity tax payable in respect thereof, to the Director in such form and within such time as may be prescribed:

Provided that every person other than a licensee, who has registered his name under section 5 shall quote the registration number in all books of accounts and returns submitted to the Director.

Obligation of
licensees to keep
books of account
and to submit
returns.



9. (1) If no return in respect of any period is submitted by a licensee or a person required to submit return under section 8 or if the return submitted by such licensee or person appears to the Director to be incorrect or incomplete the Director shall, after giving such licensee or person as the case may be, a reasonable opportunity of being heard, proceed in such manner as may be prescribed to assess to the best of his judgment the amount of electricity tax payable under this Act by such licensee or person.

Assessment

(2) The amount of electricity tax assessed under sub-section (1) for a period less the sum, if any, already paid in respect of the said period, shall be paid by the licensee or the person by such date as maybe specified in a notice issued by the Director in this behalf and the date to be specified shall be ordinarily not less than 30 days from the date of service of such notice.

(3) No assessment under this section shall be made after the expiry of four years.

Explanation.- For the purpose of this section, "year" means the year commencing on the first day of April and ending on the last day of March.

10. (1) Any person may in the prescribed manner appeal to the Government against any order of assessment of Electricity Tax within sixty days or such further period as may be allowed by the Government for reasons shown to their satisfaction from the date of receipt of a notice of demand issued after such order of assessment.

Appeal

Provided that no appeal against an assessment of electricity tax shall be entertained by the Government unless they are satisfied that such amount of electricity tax as the appellant may admit to be due from him has been paid.

(2) The Government in disposing of any appeal under sub-section (1) may -

- (a) confirm, modify or annul the assessment of electricity tax; or
- (b) set aside the assessment of electricity tax and direct the Director to make a fresh assessment after such further inquiry as may be directed.

	11. The Government shall in the prescribed manner, pay a simple interest at the rate not exceeding four per cent per annum as may be prescribed * in this behalf, for each calendar month of delay in making refund to a licensee the amount of electricity tax paid in excess which arises from an order passed on appeal under section 10.	Interest payable by Government
	12. (1) The Government may, by notification, appoint the Electricity Tax Inspecting Officers to inspect the prescribed books of account kept under section 8.	Electricity Tax Inspecting Officers
Central Act XLV of 1860	(2) Every Inspecting Officer appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.	
	13. (1) Subject to the provisions of any rules made by the State Government in this behalf, an Inspector may -	Powers of Electricity Tax Inspecting Officers
	(i) require production for inspection of such books and records as may be necessary for ascertaining or verifying the amount of electricity tax leviable under the Act.	
	(ii) enter and search any premises where electricity is, or is believed to be supplied, for the purpose of -	
	(a) verifying the statements made in the books of account kept, and returns submitted, under section 5,	
	(b) testing the reading of meters,	
	(c) verifying the particulars required in connection with the levy of electricity tax.	
	(iii) exercise such powers and perform such other functions as may be necessary for carrying out the purposes of this Act or the rules made there under.	
Central Act 2 of 1974.	(2) All searches made under sub-section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973.	
	14. (1) The Government may, by notification, make an exemption or reduction in rate in respect of the electricity tax payable under this Act on energy sold for consumption by or in respect of any -	
	(i) institution or class of persons;	
	(ii) place of public worship, public burial or burning ground or other place for the disposal of the dead;	
	(iii) premises declared by the State Government to be used exclusively for purposes of public charity;	
	(iv) vessel whether seagoing or inland.	

* As per rule 13 of Tamil Nadu Tax on Consumption or Sale of Electricity Rules, 2003, the rate of simple interest payable under this section is 4 % per annum for each calendar month of delay in making refund to a licensee.

** The Government have appointed the Chief Electrical Inspector to Government, Senior Electrical Inspector, Electrical Inspector, Chief Accountants, Superintendents of the Tamil Nadu Electricity Inspectorate Department as Electricity Tax Inspecting Officers – vide G.O.Ms.No.54, Energy (B1), dated 13th June 2003.

(2) * The Government may, by notification, make an exemption or reduction in rate in respect of the Electricity Tax payable under this Act on the consumption of electricity for own use by any captive generating plant.

(3) * The Government may, by notification, cancel any notification issued under sub-section (2)

15. (1) The Government may, make rules to carry out the purposes of this Act.

Power to make rules

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

(a) the time and manner of payment of the electricity tax under section 3 ;

(b) the form of the books of accounts to be kept and the times at which, the form in which and officers to whom the returns under section 8 shall be submitted;

(c) the powers and duties of Inspecting Officers;

(3) All rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(4) Every rule or order made under this Act shall, as soon as possible, after it is made, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Legislative Assembly agrees in making any modification in any such rule or order or the Legislative Assembly agrees that the rule or order should not be made, the rule or order 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 order.

16. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the Tamil Nadu Government Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to them necessary or expedient for removing the difficulty.

Power to remove difficulties

17. (1) Where an offence punishable under this Act has been committed by a company, every person, who, at the time the offence was committed, was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly ;

Offences by companies

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

* Added in the Tamil Nadu Tax on Consumption or Sale of Electricity (Amendment) Act, 2008 (Tamil Nadu Act 5 of 2008)

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a Company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly

Explanation.- For the purpose of this section-

(a) "company" means any body corporate and includes a firm, society, trust or other association of individuals; and

(b) "director" in relation to-

(i) a firm means a partner in the firm

(ii) a society, trust or other association of individuals means the person who is entrusted under the Rules of the society, trust or other association with the management of the affairs of the society, trust or other association, as the case may be.

18. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith

19. If any person -

Penalties

(a) liable under section 8 to keep books of account or to submit returns, fails to keep or submit the same in the manner prescribed; or

(b) intentionally obstructs an inspecting officer appointed under section 12 in the exercise of his powers or the performance of his duties under this Act or the rules made there under; or

(c) contravenes any rule made under this Act;

he shall be punished with fine which may extend to ten thousand rupees.

Tamil Nadu Act V of 1939. 20. The Tamil Nadu Electricity Duty Act, 1939 and the Tamil Nadu Electricity (Taxation on Consumption) Act, 1962 is hereby repealed.

Tamil Nadu Act IV of 1962. Provided that * unless a different intention appears, such repeal shall not affect –

(a) the previous operation of the said Acts or anything duly done or suffered there under;

(b) any right, privilege, obligation or liability, acquired, accrued or incurred under the said Acts;

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Act;

* Substituted in the Tamil Nadu Tax on Consumption or Sale of Electricity (Amendment) Act, 2007 (Tamil Nadu Act 38 of 2007) with effect from 16.06.2003

- (d) any investigation, legal proceeding (including assessment proceeding) or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed;

(2). Notwithstanding such repeal,-

(a) anything done or any action taken or purported to have been done or taken including any rule, notification, inspection order or notice made or issued or any direction given under the repealed laws, shall so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

Tamil Nadu
Act V of 1939.

(b) any duty levied under the repealed Tamil Nadu Electricity Duty Act, 1939 and the rules made there under during the period prior to the commencement of this Act, but not collected, may be recovered in the manner provided under the repealed Act and rules made there under.

Tamil Nadu
Act IV of 1962

(c) any tax levied under the repealed Tamil Nadu Electricity (Taxation on Consumption) Act, 1962 and the rules made there under during the period prior to the commencement of this Act, but not collected, may be recovered in the manner provided under the repealed Act and the rules made there under.

(3) For the removal of doubts it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person from claiming refund of any tax or duty paid by him in excess of the amount due from him under the repealed Acts and the rules made there under.

21. This Act shall have effect subject to the provisions of Article 288 of the Constitution

Act to be subject to Article 288.