

से इसके द्वारा प्रकाशित किया जाता है, जिसे भारतीय संविधान के अनुच्छेद 348 के खंड (3) के अधीन उक्त अधिनियम का अंग्रेजी भाषा में प्राधिकृत पाठ समझा जाएगा।

[JHARKHAND ACT 13 OF 2012]

JHARKHAND ENTERTAINMENT TAX ACT, 2012

AN ACT to enact the Jharkhand Entertainment Tax Act, 2012 in regard to its applicability and enforcement within the State of Jharkhand.

Be it enacted in the Sixty three year of Republic of India-

1. **Short title, extent and commencement** – (1) This Act may be called the Jharkhand Entertainment Tax Act, 2012.
 (2) It extends to the whole of the State of Jharkhand.
 (3) It shall come into force on such date as the State Government may, by notification, direct.
2. **Definitions** – In this Act, unless there is anything repugnant in the subject or context,-
 - (a) “**Admission**” means admission as a spectator or audience and admission for the purpose of amusement by taking part in any amusements to any place including residence/hotels/clubs etc., in which an entertainment is held;
 - (b) “**Amusement park**” means a place wherein various types of amusements including games or rides or both (but excluding exhibition by cinematograph and video exhibition) are provided fairly on permanent basis, on payment for admission;
 - (c) “**Antenna**” means an apparatus or equipments or devices which receives television signals or other electronic signals which enable viewers to tune into transmissions, including national or international satellite transmissions and is erected or installed for exhibition of films or moving pictures or series of pictures, by means of transmission of television signals by wire or otherwise, where the subscribers set the TV at a residential or non-residential place, which are linked by metallic coaxial cable or optic-fibre cable to a central system called the head-end, on payment by the connection holder by any contribution or subscription or installation and connection charges or by activation charges or by rent or by security or by any other means collected in any manner with an intention to provide entertainment whatsoever;
 - (d) “**Assessee**” means a person or the proprietor of an entertainment who receives payment for entertainment(s) from any person or subscribers, whether by way of subscription, fixed charges, sponsorship charges, rates charges, admission charges, compounding

charges, lump-sum charges, rent, security or otherwise, and who is liable to pay entertainment tax under this Act;

(e) "Cable Operator" means any person who provides cable TV service through a cable television network or otherwise controls or is responsible for the management and operation of a cable service for a cable television network and includes any sub-cable operator or any such agent, who receives signals from the principal for onward distribution of cable television network.

(f) "Cable Service" means the transmission by cables or programmes including re-transmission by cable of any broadcast transmission of television signals;

(g) 'Cable television network' means any system consisting of a set of closed transmission paths and associated signal, generation control and distribution or transmitting equipment(s), designed to provide service for reception by multiple subscribers;

(h) "Commissioner" for the purpose of this Act means the Commissioner of Commercial Taxes or Additional Commissioner of Commercial Taxes as appointed by the Government under section 4 of the Jharkhand Value Added Tax Act 2005 (Jharkhand Act 5, 2006) and includes any other officer appointed under Section 4 of Jharkhand Value Added Tax Act 2005 upon whom the State Government may by notification, confer all or any of the powers and duties of the Commissioner to carry out the purposes of this Act.

(i) "Complimentary ticket" means a pass or authority to enable a person or group of persons to secure admission to an entertainment free of charge or at a reduced rate of payment for entertainment;

(j) "Compounding" means a payment of tax in form of a fixed amount or a fixed percentage of gross collection capacity or gross collection or lump-sum payment or contribution for any specified number of shows in a specified period, irrespective of actual number of exhibition/ shows which may be held during such specified period.

Explanation I - "Gross collection capacity or gross collection" in relation to cinematograph exhibition shall mean the gross amount calculated for total seating capacity or gross collection for the valuable consideration of the theatre/ cinema hall/ hall or any other such place where an entertainment is being carried on, which shall include the admission fees, tax calculated or such gross collection received on the basis of rate specified under sub-section (1) of Section 3 or otherwise, surcharge or such charges for any privilege, right, facility service or anything combined with the right of admission to any entertainment excluding maintenance charges as specified by "Urban Development Department" of Jharkhand.

(k) "Direct to Home (DTH) Service" means a system of distribution of multi channel television programmes by using a Satellite system by providing television signals through Antenna direct or any other similar devices to the subscriber's

premises/hotels/clubs, without passing through an intermediary such as cable service;

(l) “**Direct to Home (DTH) Service provider**” means any person or proprietor or agency, who provide Direct to Home (DTH) Service, whether by means of “Set top boxes” or any such antenna or instruments or equipments or any other similar devices and includes the activation or renewal of such DTH service.

(m) “**Entertainment**” includes any exhibition, performance, amusement, game shows or sports to which persons are admitted for payment, or in the case of television exhibition with the aid of any type of antenna with a cable network attached to it or cable television network or Direct-to-Home (DTH) Service, for which persons are required to make payment by way of contribution or subscription or installation or rent or security and connection charges or by any other charges collected in any manner whatsoever; but does not include magic show and temporary amusement including games and rides;

For the purposes of this clause -

The expression “**exhibition**” includes any exhibition by cinematograph including video exhibition or television exhibition with the aid of any type of antenna with a cable network attached to it, or cable television network as provided by the cable operator incidental to cable service(s);

Explanation – For the purpose of this provision, exhibition shall include exhibitions in **Multiplex Cinema Complex(s)**.

The expression “**game**” includes video games which are played with the aid of machine which is operated electronically or mechanically or electro-mechanically for the purposes of entertainment or otherwise and

The expression “**temporary amusement**” means the amusement rides and games which are not provided on fairly permanent basis like in amusement park or melas or fair.

(n) “**Entertainment Tax**” means a tax levied on “entertainment” under this Act.

(o) “**Government**” means State Government.

(p) “**Month**” means a calendar month;

(q) “**Multiplex Cinema Complex**” means an entertainment cum cultural centre or a shopping mall; which provides minimum of three theatres with a minimum total seating capacity of 750; and with such other incidental and connected facilities, as specified by the Resolution of Urban Development Department of the State Government issued in this behalf from time to time;

(r) “**Notification**” means a notification published in the Official Gazette of the Government;

(s) “**Payment for entertainment**” includes –

- (i) any payment made by a person who, having been admitted to one part of a place of an entertainment, and is subsequently admitted to another part thereof, for admission to which a payment involving a tax is required, or
 - (i) any payment for valuable consideration for seats or other accommodation in a place of entertainment; or
 - (ii) any payment for any purpose or valuable consideration whatsoever connected with an entertainment which a person is required to make as a condition of attending or constituting to attend the entertainment in addition to the payment, if any for admission to the entertainment; or
 - (iv) any payment made by a person by way of contribution or subscription or installation or connection charges or valuable consideration or any other charge collected in any manner whatsoever for television exhibition with the aid of any type of antenna with a cable network attached to it or cable television network as provided by the cable operator; or
 - (v) any payment made by a person to the proprietor of a Direct to Home (DTH) service by way of contribution, subscription, installation or rent or security or activation charges or connection charges, or valuable consideration or any other charges collected in any manner whatsoever for Direct to Home (DTH) service with the aid of any type of set-top box(s) or any other instrument / equipment of like nature, or any other similar devices, which connects television set at a residential/ hotels/ clubs or non-residential place of a connection holder directly to the Satellite.

Explanation - For the purposes of this sub-clause any expenditure incurred by any co-operative housing society, residential complexes as valuable consideration or by the management of any factory, hotels, lodge, bar, permit room pub, or by a person or group of persons, for the purchase of any type of antenna or any other apparatus equipments for securing transmission through the cable network of cable television attached to it, for its members, or for workers or customers or for himself or themselves, as the case may be, shall be deemed to be the payment made under this sub-clause for the television exhibition with the aid of any type of antenna with cable network attached to it or cable television network an DTH service provider.

- (vi) any payment made by way of sponsorship or contribution amount for a programme which is organized only for invitees, without selling tickets;

(t) “**Period**” means ‘week’ or the ‘month’ or the ‘quarter’ or the ‘year’ as and when applied for the purpose of this Act.

(u) “**Person**” includes:-

(i) an Individual; (ii) a Joint Family; (iii) a Company;

(iv) a Firm;

(v) an association of persons or a body of individuals; whether incorporated or not;

(vi) the Central Government or the State Government or the Government of any other State or Union Territory in India;

(vii) a local Authority or any Authority established under any law;

(v) “**Prescribed**” means prescribed by rules made under this Act;

(w) “**Prescribed Authority**” means the authorities as appointed under section 4 of the Jharkhand Value Added Tax Act 2005 (Jharkhand Act 05, 2006) and as specified under sub-section (2) of Section 4 of the said Act, to exercise and perform the powers and duties respectively conferred upon such authorities by or under the said Act, within the specified respective area(s) mentioned in the corresponding entries of the said notification and as prescribed to carry out the functions, duties and powers: in order to carry out the purposes of this Act.

(x) “**Programme**” means:-

(i) Exhibition of films, features, dramas, advertisement, shows, events and serials, through any satellite channel or video cassette recorder or video cassette player or through Direct to Home (DTH) service;

(ii) Any audio or visual or audio-visual live performance or presentation and the expression programme service shall be construed accordingly.

(y) “**Proprietor**”, in relation to an entertainment, means any person –

(i) responsible for the management thereof;

(ii) connected in whatsoever manner with the organization of the entertainment, for any duration whatsoever; or

(iii) charged or entrusted or authorized with the work of admission to the entertainment; or

(iv) responsible for, or for the time being in charge of, the management of an entertainment, whether or not he has obtained licence, if any, for a place of such entertainment under any law for the time being in force;

(v) responsible for, or for the time being in charge of, management of cable operator providing cable connections from any type of antenna or peripherals or cable television network;

(vi) Any person including an individual, firm, company or body corporate or association or body of individuals, artificial juridical person, partnership firm, body corporate or a company registered under the Companies Act, 1956, responsible for or for the time being in charge of, the management of any entertainment or Multiplex Cinema Complex; or

(vii) Any person including by Government agencies or such companies registered under the Companies Act, 1956, and having licence to provide Direct-to-Home (DTH) Broadcasting service by the Government of India under section 4 of the Indian Telegraph Act, 1985 and the Indian Wireless Telegraph Act, 1933.

(z) "**Quarter**" means the quarter ending on the 30th June, 30th September, 31st December and 31st March

(aa) "**Schedule**" means the schedule specifying the rate(s) of tax payable for the entertainment(s) and appended to this Act.

(ab) "**Seat**" includes standing accommodation;

(ac) "**Set top box**" means an apparatus or equipments connected to a television set at a residential or non-residential place, complex or residential complex which receives encrypted television signals through dish antenna from satellite directly and provides decrypted television signals to the television set, which enables the viewer's to tune into multi channel television programmes on payment.

Explanation - For the purposes of this sub-clause any expenditure incurred by any co-operative housing society, residential complexes or by the management of any factory, hotels, lodge, bar, permit room pub, or by a person or group of persons, for the purchase of any type of antenna or any other apparatus equipments for securing transmission through the cable network of cable television attached to it, for its members, or for workers or customers or for himself or themselves, as the case may be, shall be deemed to be the payment made under this sub-clause for the television exhibition with the aid of any type of antenna with cable network attached to it or cable television network an DTH service provider.

(ad) "**Sponsorship amount**" means an amount paid (or value of goods supplied or services rendered or benefits provided) to the organizer of an entertainment programme by the sponsorer in lieu of advertisement of sponsorer's product or shows or events or his brand name. etc

(ae) "**State**" means the State of Jharkhand.

(af) “**Subscribers**” means a person who receives the television signal for the purpose of cable television network or for the purpose to Direct to Home (DTH) service or under any entertainment scheme.

(ag) “**Tax**” means ‘Entertainment Tax’ levied under this Act.

(ah) “**Ticket**” or “**Season Ticket**” means a ticket issued by a proprietor of an entertainment for admission of a person or persons to an entertainment

(ai) “**Tribunal**” means the Tribunal constituted under of Section 3 of Jharkhand Value Added Tax Act – 2005;

(aj) “**Valuable consideration**” means any cash or deferred payment and includes payment for entertainment -

(i) made by a person by way of contribution or subscription or rent or security or installation connection charges or any other charges collected in any manner whatsoever for television exhibition with the aid of any type of antenna with a cable television network attached to it or cable service.

(ii) made by a person to the proprietor of a Direct to Home (DTH) Broadcasting service by way of contribution, subscription, installation or rent or security or activation charges or connection charges, or any other charges collected in any manner whatsoever for Direct to Home (DTH) Broadcasting service with the aid of any type of set top box or any other instrument of like nature, which connects television set at a residential or non-residential place of a connection holder directly to the Satellite.

Provided that any person liable to pay tax under this Act, shall maintain a register showing the number of connections provided, names and addresses of subscribers, amount of payment made by subscribers every month, number of channels exhibited to subscribers and connection charges collected in any manner.

(ak) “**Week**” means the day commencing from Wednesday.

(al) “**Year**” means a financial year

Words and expressions used but not defined in this Act shall have the same meaning as assigned to them in the Cinematograph Act 1952, Cable Television Networks (Regulation) Act 1995, The Prasar Bharati (Broadcasting Corporation of India) Act, 1990, Indian Telegraph Act, 1985, the Indian Wireless Telegraph Act, 1933, and Jharkhand Value Added Tax Act 2005 : The Rules and the Notifications made/ issue under the said Act\$.

3. Incidence of entertainment tax - (1) Save as provided in sub-section (2), there shall be levied and paid to the State Government by an assessee: a tax on the entertainment at the rate(s) as specified in the notification issued under this Act.

Provided that the State Government may specify different rate or rates of entertainment tax in respect to different categories of the entertainments for the different specified periods and for different specified areas.

Provided further that the rate of entertainment tax shall not exceed thirty percent of the value of gross collection /admission charge(s) / subscription(s) / contribution(s) / rent / security / sponsorship / activation charges or by any other valuable consideration(s) received or receivable for providing entertainment(s).

(2) Notwithstanding anything contained in sub-section (1), entertainment tax shall be levied in relation to cinematograph exhibition on the proprietor of an entertainment at compound rate(s) as specified in the schedule.

Provided that the State Government may specify different rate or rates of tax in respect to the different specified areas and for different specified periods.

Provided further the State Government may specify different rates in relation to the separate units of Multiplex Cinema Complex, depending upon their respective sitting capacity.

4. Assesses to collect entertainment tax from persons admitted to entertainment. - Save as provided under sub-section (2) of Section 3 of this Act, every assessee shall be entitled to collect, from persons admitted to the entertainment(s), an amount equal to the entertainment tax payable in respect to the valuable consideration of tickets or complimentary tickets or the sponsorship amount.

5. Payment of tax - Subject to the provisions of this Act and such rules as may be prescribed, entertainments tax shall be payable by every assessee for the following class of entertainments-

(i) for the cinematograph exhibition falling under sub-section (2) of Section 3, before commencing of the week;

(ii) for the video exhibition falling under sub-section (2) of Section 3 read with serial number 2 of the schedule, before commencing of the month;

(iii) for the Multiplex Cinema Complex exhibition falling under sub-section (2) of Section 3 read with serial number 3 of the schedule, before commencing of the week;

(iv) for the sponsored programmes falling under clause (x) and (ad) of Section 2, before commencement of such sponsored programmes;

(v) for the cable operators, operating cable television network and Direct-to-Home Service Provider, and all other descriptions of entertainment falling under sub-section (2) of Section 3 read with

serial number 4, 5 and 6 of the schedule: by 7th day of the month after the expiry of the respective month.

Explanation – If the specified date happens to be holiday, the next working day shall be treated to be the payment day.

6. Registration of proprietors of entertainment – (1) No assessee / proprietor of any entertainment shall, while being liable to pay the entertainments tax under this Act, carry on the entertainments, unless such assessee / proprietor has been registered under this Act in the prescribed manner and possesses a registration certificate.

(2) Every assessee/proprietor required by sub-section (1) to be registered, shall make an application in this behalf in the prescribed manner to the prescribed authority.

(3) On receipt of an application, the prescribed authority shall, if he is satisfied that the application is in order, register the applicant and grant him a certificate of registration in the prescribed form,.

(4) When an assessee / proprietor of an entertainment in respect of which a certificate of registration has been granted under sub-section (3) has discontinued or closed down his business as such assessee / proprietor, the prescribed authority shall cancel the registration with effect from the date of such discontinuance.

7. Security – (1) Subject to such rules, as may be prescribed, the prescribed authority, may require the assessee / proprietor of an entertainment to deposit as security an amount not exceeding and total entertainments tax chargeable for the full fortnight as calculated with reference to the number of exhibitions;

Provided that the said authority may –

- (i) vary the amount of security from time to time if he considers this to be necessary;
- (ii) forfeit the security, in whole or part if the returns are not furnished on the due date along with the receipt for the payment of the tax in respect of admission otherwise or if the returns are found to be incorrect and false;
- (iii) adjust in the event of default, the amount of the arrears of entertainments tax due or penalty, if any, from the amount of security and direct the assessee / proprietor to make good the amount of security before the tax for the next fortnight falls due.

8. Admission to entertainment – (1) Save as otherwise provided in this Act, no person, other than a person who has some duty to perform in connection with the entertainment, or a duty imposed upon him by or under this Act or any other law, shall be admitted to any entertainment in respect of which entertainment tax is payable under section 3 except with a ticket or complimentary ticket.

(2) The State Government shall, by a notification Published in the official gazette, specify the places of entertainment for the purposes of sub-section (1);

(3) Nothing contained in sub-section (1) or (2) shall apply to an entertainment where entry is regulated by any mechanical contrivance used for the purpose of revenue under this Act.

9. Entertainments exempted from payment of tax.-(1) The State Government may, subject to such conditions and restrictions, exempt from levy and payment of entertainment tax, on any entertainment where the State Government is satisfied-

- (a) that the entire gross proceeds of the entertainment are devoted to philanthropic, religious or charitable purposes with or without any charge on such proceeds for any expenses of the entertainment; or
- (b) that entertainment is of a wholly educational character; or
- (c) that the entertainment is provided for purposes which are partly educational, cultural or scientific by any person not conducted or established for valuable consideration; or
- (d) that the entertainment is provided by an institution not conducted for profit and established solely for the purpose of promoting the public health or the interests of agriculture or of a manufacturing industry and consists solely of an exhibition of articles which are of material interest in connection with question relating to public health or agriculture, or of the products of the industry for promoting the interests of which the institution exists or of the materials, machinery, appliances or foodstuffs used in the production of those products.
- (e) that the entertainment is provided for any other purposes which the State Government may think proper in the public interest.

10. Power of Government to amend the schedules – The Government may, by notification, add to or delete or amend or alter any rate(s) as specified in the Schedule.

11. Exhibition of the hours of entertainments and posting of tables of rates of payment for entertainments at conspicuous places - The assessee / proprietor of an entertainment shall, in the prescribed manner, communicate to the prescribed authority the hours of commencement and termination of entertainment or its temporary suspension or closure and shall exhibit at conspicuous place of the premises the rates of payments for and the amount of the entertainments tax due on such payments.

12. Submission of returns and recovery of entertainments tax –(1)

Every assessee/ proprietor of an entertainment shall furnish true, complete and correct returns by such dates and to such authority as may be prescribed.

(2) If the assessee / proprietor without any reasonable cause, fails to furnish any return within the prescribed date, the prescribed authority may direct that such assessee / proprietor shall, by way of penalty, pay a sum not exceeding twenty rupees for every day, after the prescribed date during which the assessee / proprietor fails to submit the prescribed return.

(3) Before the assessee / proprietor furnishes the return required by sub-section (1), he shall, pay into a Government treasury in the prescribed manner, the full amount of such tax, and shall furnish, along with the return, receipt from such Treasury showing the payment of such amount.

(4) Where the assessee / proprietor fails to make payment of the entertainment tax due according to the return furnished under sub-section (1) of this Section within the prescribed period, without prejudice to any action which is or may be taken under clause (b) of sub-section (1) of Section 24, the prescribed authority shall after giving such assessee / proprietor an opportunity of being heard, impose a penalty which may extend to three percentum of the amount of tax for each of the first three months or part thereof following the due date and to six percentum for each subsequent, month or part thereof.

(5) Any penalty imposed under sub-sections, (2), (5) or (6) shall be without prejudice to any punishment that may be imposed under Section 24.

(6) Any amount of tax or penalty which remains unpaid under this Act or any sum required to be paid under Section 3, which remains unpaid after the due date, shall be recoverable as an arrear of land revenue;

(7) When the ownership of an entertainment is entirely transferred, the transferee shall be liable to pay any tax and penalty payable in respect of such entertainment and remaining unpaid at the date of the transfer and the transferee shall, within thirty days of the transfer, apply for registration under section 6.

13. Assessment of Tax – (1) Assessment of the tax payable by an assessee / proprietor shall be made after examining the accounts or registers and other evidences as the prescribed authority may require.

(2) In case an assessee / proprietor does not furnish any return or fails to produce accounts for assessment as required under sub-section (1), the prescribed authority may, after giving the assessee / proprietor

a reasonable opportunity of being heard, assess the amount of tax payable by such assessee / proprietor, to the best of his judgment.

(3) If the prescribed authority, in course of an assessment proceeding and before such assessment, is satisfied that the assessee / proprietor concealed the particulars of the sale of tickets including the complimentary tickets, or the realisation of the entertainments tax or has furnished inaccurate particulars of such sales or realisations with intent to defraud the State Government of its revenues, the prescribed authority may direct that in the addition to the amount of the entertainments tax and penalty, if payable by the assessee / proprietor, a sum not exceeding one and a half times the amount of the tax which would have been avoided if the concealment had not been discovered or the particular by the assessee / proprietor had been accepted as true shall be paid by the assessee / proprietor by way of penalty.

(4) If the prescribed authority, upon information which has come into his possession, is satisfied that the assessee / proprietor has been liable to pay tax under this Act in respect of any period, and has nevertheless failed to apply for registration under section 6 or having so applied failed to comply with any requirement for registration within a reasonable time and for which his application for registration has been rejected such prescribed authority shall, after giving the assessee / proprietor an opportunity of being heard, assess the amount of tax to the best of his judgment in respect of such period and shall also impose a penalty which shall be equal to the amount of tax assessed.

14. Escaped assessment and Audit observation- (1) If upon information which has come into his possession the prescribed authority is satisfied that reasonable grounds exist to believe that any payment for admission to an assessee / proprietor in respect of any period, has, for any reason, escaped assessment or any payment for admission of any such person or assessee / proprietor assessed under sub-section (1) of section 13 has been under assessed the prescribed authority shall, after giving such an assessee / proprietor an opportunity of being heard, by an order in writing re-assess the tax payable by such assessee / proprietor within eight years of the expiry of such period;

Provided that if the prescribed authority is satisfied that such assessee / proprietor has concealed, omitted or failed to disclose willfully the particulars of such payment for admission or has furnished incorrect particulars and thereby he returned figures below the real amount, the prescribed authority, without prejudice to any action which is or may be taken under section 24, shall direct that the assessee / proprietor shall, in addition to any tax re-assessed, pay by way of penalty a sum not exceeding three times but not less than an