

FOREIGN TRAVEL TAX RULES, 1979

CONTENTS

1. Short title and commencement
2. Definitions
3. Collection of tax
4. Tax to be paid into the treasury
5. Claim for refund of tax
6. Payment of collection charges
7. Notice for payment of tax not paid or underpaid or erroneously refunded
8. Passenger manifest
9. Return regarding tax collected, etc
10. Preservation of records by carrier
- 10A. Penalty for failure to comply with the provisions of the rules
11. Adjudication of penalties
12. Issue of showcause notice before levy of penalty
13. Appeal
- 13A. Deposit, pending appeal, of tax and interest demanded or penalty levied
14. Powers of revision of collector
15. Revision by Central Government
16. Recovery of sums due to Government
17. Power to inspect
18. Power to search ship, aircraft or premises

FOREIGN TRAVEL TAX RULES, 1979

In exercise of the powers conferred by Section 40 of the Finance Act, 1979 (21 of 1979), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement :-

- (1) These rules may be called the Foreign Travel Tax Rules, 1979.
- (2) They shall come into force on the 15th day of June, 1979.

2. Definitions :-

In these rules, unless the context otherwise requires,-

- (1) "Act" means the Finance Act, 1979 (21 of 1979) ;
- (2) "Appellate Collector of Customs" means an officer appointed as

such under Section 4 of the Customs Act, 1962 ;

(3) "Assistant Collector of Customs" means an officer appointed as such under Section 4 of the Customs Act, 1962 and having jurisdiction under the said Act over the customs port or customs airport of departure of the ship or aircraft as the case may be;

(4) "carrier" means a carrier referred to in Rule 3;

(5) "Collector of Customs" means an officer appointed under Section 4 of the Customs Act, 1962 as Collector of Customs or Additional Collector of Customs and having jurisdiction under the said Act over the customs port or customs airport of departure of the ship or aircraft, as the case may be;

(6) "Customs Act" means the Customs Act, 1962 (52 of 1962) ;

(7) "Form" means a form appointed to these rules;

(8) "Officer of Customs" has the same meaning as in the Customs Act;

(9) "tax" means the foreign travel tax leviable under Chapter V of the Act;

(10) "voyage" means the journey or movement of a ship or an aircraft from any customs port or customs airport of departure of the ship or aircraft in the territories to which Chapter V of the Act extends to a place outside India whether directly or after touching any other customs port or customs airport in the territories to which Chapter V of the Act extends;

(11) "treasury" means-

(i) the Customs House treasury; or

(ii) the Reserve Bank of India constituted under Section 3 of the Reserve Bank of India Act, 1934(2 of 1934), or any branch of the State Bank of India constituted under Section 3 of the State Bank of India Act, 1955 (23 of 1955), or a bank constituted under S.3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), wherein the Central Government has an account in this behalf.

3. Collection of tax :-

The tax shall be collected by a carrier authorised under subsection (2) of Section 35 of the Act.

4. Tax to be paid into the treasury :-

The tax collected in any month by any carrier shall be paid by such carrier before the expiry of ¹["fifteen"] days from the end of that month into the treasury at the place where the customs port or customs airport of departure of the ship or aircraft is situated: [^{**2}*]

1. In Rule 4, the words "thirty days", the words "fifteen days" shall be substituted, by Foreign Travel Tax (Amendment) Rules, 2002, Noti. No. F. No. 306/04/2000, FTT, (NO. 1/2002, Foreign Travel Tax), date. 4/01/2002, Gaz. of India, Exty., Part. II, Sec. 3(i), No. 8. No. 04/01/2002, page.2.

2. Omitted for " 1 ["Provided that the Assistant Collector of Customs may allow such carrier to pay the tax within a further period not exceeding ten days: Provided further that"]the Collector of Customs may, on sufficient cause being shown and having regard to the system of accounting adopted by any carrier, allow such carrier to pay the tax befoi'e the expiry of a longer period than the period of thirty days aforesaid. ", vide " THE FOREIGN TRAVEL TAXRULES, 1979" Dt.12th August, 1994 Published in Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 632(E), No. 1/94-Foreign Travel Tax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 2-3, No. 338 [F. No. 311/4/92-FTT]

5. Claim for refund of tax :-

(1) A carrier may claim refund of any amount paid by him into the treasury under Rule 3 by way of tax, by making an application for such refund to the Assistant Collector of Customs before the expiry of six months from the date of payment of the tax in respect of which refund is claimed.

(2) If, on receipt of such application, the Assistant Collector of Customs is satisfied that the tax paid should be refunded, he may make an order accordingly.

6. Payment of collection charges :-

The Collector of Customs shall, as soon as may be after the end of each financial year, pay to a carrier collection charges at the rate of one per cent of the amount of the tax paid by the carrier into the treasury during that year as reduced by the refunds, if any, made during that year to the carrier.

7. Notice for payment of tax not paid or underpaid or erroneously refunded :-

(1) When any tax due has, for any reason whatsoever either not

been paid or, has not been paid in full into the treasury under Rule 4 or, has been erroneously refunded under Rule 5, the Assistant Collector of Customs may, within six months from the relevant date, serve notice upon the carrier concerned, requiring him to show cause why he should not pay the ¹["amount of tax specified in the notice and the interest if any, payable thereon"]: Provided that where any tax has not been paid or has not been paid in full or has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the carrier, the provisions of this sub- rule shall have effect as if for the words "six months" the words "two years" were substituted.

(2) The Assistant Collector of Customs, after considering the representation, if any, made by the carrier on whom notice is served under sub- rule (1), shall determine the amount of tax to be paid by such carrier (not being in excess of the amount specified in the notice) and thereupon such carrier shall pay ² ["the amount of tax so determined and the interest, if any, payable thereon"].

(3) For the purpose of sub-rule (1), the expression "relevant date" means-

(a) in case where the tax has not been paid, or has not been paid in full, the date of commencement of the international journey to which the non-payment or the under-payment, as the case may be, relates, or the date on which the carrier files the relevant return under these rules, whichever is later;

(b) in a case where the tax has erroneously been refunded under Rule 5, the date on which the refund was made.

1. Substituted for "amount specified in the notice ", vide " THE FOREIGN TRAVEL TAX RULES, 1979" Dt.12th August, 1994 Published in Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 632(E), No. 1/94-Foreign Travel Tax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 2-3, No. 338 [F. No. 311/4/92-FTT]

2. Substituted for "the amount so determined", vide " THE FOREIGN TRAVEL TAX RULES, 1979" Dt.12th August, 1994 Published in Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 632(E), No. 1/94-Foreign Travel Tax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 2-3, No. 338 [F. No. 311/4/92-FTT]

8. Passenger manifest :-

(1) At each customs port or customs airport to which Chapter V of the Act extends, in respect of every voyage by a ship or an aircraft, the carrier concerned shall prepare three copies of the passenger manifest showing therein the names of all the passengers on the voyage in Form I and shall present them at the time of the departure of the ship or aircraft, to the officer of customs having jurisdiction over that customs port or customs airport of departure of the ship or aircraft as the case may be, in the territories to which Chapter V of the Act extends.

(2) The officer receiving the said copies of the manifest shall, after due verification and attestation, return one copy to the carrier.

9. Return regarding tax collected, etc :-

Every carrier required under Rule 4 to pay the tax into the treasury shall file, in respect of every month before the expiry of thirty days from the end of that month, before the Collector of Customs or his nominee having jurisdiction over the customs port or customs airport of departure of the ship or aircraft in the territories to which Chapter V of the Act extends, a return in Form 2 showing the particulars of the flights operated, number of passengers carried, amount of tax collected and paid into the treasury and amount of refund obtained, together with the attested copy of the manifest referred to in Rule 8 in respect of each of the voyage operated during the month : [**1*]

1. Omitted for " 2 ["Provided that the Assistant Collector of Customs may allow such carrier to file such returns within a further period not exceeding ten days: Provided further that"]the Collector of Customs may, having regard to the system of accounting adopted by any carrier) allow such carrier to file such returns before the expiry of a longer period than the period of thirty days aforesaid. ", vide " THE FOREIGN TRAVEL TAX RULES, 1979" Dt.12tAugust, 1994 Published in Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 632(E), No. 1/94-Foreign Travel Tax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 2-3, No. 338 [F. No. 311/4/92-FTT]

10. Preservation of records by carrier :-

Copies of all treasury challans or vouchers against which amounts collected as tax are paid into the treasury, returns and all other documents (not being a document the original or a copy whereof has been filed or submitted under any rule to any officer of

customs) relating to any international journey shall be preserved by the carrier for a period of two years from the date on which such challans, voucher, return or other document was prepared¹ ["and such challans, vouchers return or other document shall be produced before an Officer of Customs as and when required to do so"]: Provided that the Collector of Customs may, by order in writing and for reasons to be recorded therein, require any carrier to preserve for a longer period than the said period of two years any such copy of challan, voucher, return or other document and the carrier against whom such order is made shall comply with such order.

1. Inserted vide " THE FOREIGN TRAVEL TAXRULES, 1979" Dt.12th August, 1994 Published in Ministry of Finance(Deptt. of Revenue), Noti. No. G.S.R. 632(E), No. 1/94-Foreign TravelTax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 2-3, No. 338 [F. No. 311/4/92-FTT]

10A. Penalty for failure to comply with the provisions of the rules :-

1 , -

(1) Any carrier who fails to file a return showing the amount of tax collected, amount refunded and the amount paid in the treasury in the manner as specified under Rule 9 shall be liable to a penalty which shall not be less than rupees two thousand but which may extend to rupees twenty thousand and to a further penalty not exceeding rupees five hundred for each day after the date when the return was due to be filed in accordance with the provisions of the said rules.

(2) Any carrier who fails to file a copy of the passengers' manifest in the manner required under Rule 8 shall be liable to a penalty which shall not be less than rupees two thousand but which may extend to rupees twenty thousand and to a further penalty not exceeding rupees five hundred for each day after the date when manifest was due to be filed in accordance with the provisions of the said rule.

1. Inserted vide " THE FOREIGN TRAVEL TAXRULES, 1979" Dt.12th August, 1994 Published in Ministry of Finance(Deptt. of Revenue), Noti. No. G.S.R. 632(E), No. 1/94-Foreign TravelTax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 2-3, No. 338 [F. No. 311/4/92-FTT]

11. Adjudication of penalties :-

In every case in which any person is liable to penalty under Section 38 of the Act, such penalty may be adjudged by an officer of customs mentioned in Section 3(c) or S.3(f) of the the Customs Act, 1962: 1 [* * * * *]

1. OMITTED BY Foreign Travel Tax (Amendment) Rules, 2003, [Noti. No. F. No. 306/4/2003-FTT, (No. 1 /2003-Foreign Travel Tax), dt. 13.10.2003 Gaz. of India, Exty., Pt. II-Sec. 3(i), No. 496, dt. 13.10.2003, p. 1.]

12. Issue of showcause notice before levy of penalty :-

No order imposing any penalty on any person shall be made unless such person-

(a) is given a notice in writing informing him of the grounds on which it is proposed to impose a penalty;

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice, against the grounds for imposition of the penalty mentioned therein; and

{c) is given a reasonable opportunity of being heard in the matter : Provided that the notice referred to in clause (a) and the representation referred to in clause (b) may, at the instance *[the instance of the person concerned be made orally.

13. Appeal :-

(1) Any person aggrieved by any decision or order passed, under the Act, these rules, by any officer of customs mentioned in S.3{c) of the Customs Act, 1962, may, within three months from the date of communication of such decision or order, appeal to the Appellate Collector of Customs to whom appears against the order of such officer of customs ordinarily lie under the Customs Act; Provided that the appellate authority may) if satisfied that 'the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of three months.

(2} The appellate authority may, after giving an opportunity to the appellant to be heard if he so desires, and after making such inquiry as may be necessary, pass such order as it thinks fit, confirming, modifying or annulling the decision or order appealed against : Provided that no order enhancing any penalty shall be

passed by the appellate authority: Provided further that where the appellate authority is of the opinion that any tax has not been paid or has not been paid in full into treasury under Rule 4 or has been erroneously refunded under Rule 5, no order directing the payment of such tax shall be passed unless the appellant is given notice within the time limit specified in Rule 7 to show cause against the proposed order.

13A. Deposit, pending appeal, of tax and interest demanded or penalty levied :-

¹ .-Where any appeal under Rule 13 relates to any tax and the interest, if any, payable thereon, or any penalty levied under the Act or these rules the person desirous of appealing against such decision or order shall, pending the appeal, deposit with the Assistant Collector of Customs, the tax demanded and the interest if any payable thereon, or the penalty levied : Provided that where in any case the appellate authority is of the opinion that the deposit of tax demanded and the interest, if any, payable thereon, or the penalty levied would cause an undue hardship to such person, the appellate authority may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the interests of revenue.

1. Inserted vide " THE FOREIGN TRAVEL TAX RULES, 1979" Dt.12th August, 1994 Published in Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 632(E), No. 1/94-Foreign Travel Tax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 2-3, No. 338 [F. No. 311/4/92-FTT]

14. Powers of revision of collector :-

(1) An officer of customs mentioned in S.3 (a) of the Customs Act, 1962 may, of his own motion or on the application of any aggrieved person, call for and examine the record of any proceedings in which an officer of customs subordinate to him has passed any decision or order under the Act, or these rules (not being an order passed in appeal under Rule 13 for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may pass such order thereon as he thinks fit: Provided that no order enhancing any penalty shall be passed under this rule unless the person affected by the proposed order has been given a reasonable opportunity of showing cause against it: Provided further that where the officer of customs mentioned in S.3 (a) of the Customs Act, 1962 is of the opinion that any tax has not been paid or has

not been paid in full into the treasury under Rule 4 or has been erroneously refunded under Rule 5, no order directing the payment, of such tax shall be made unless the person affected by the proposed order is given notice to show cause against it within the time limit specified in Rule 7.

(2) No proceeding shall be initiated under this rule in respect of any decision or order after the expiry of a period of one year from the date of such decision or order.

(3) An officer of customs appointed as Additional Collector of Customs under Section 4 of the Customs Act, 1962 shall not be competent to exercise any powers of revision under this rule.

15. Revision by Central Government :-

(1) The Central Government may, on the application of any person aggrieved by any order passed under Rule 13 or Rule 14 annul or modify such order.

(2) An application under sub-rule (1) shall be made within six months from the date of the communication to the applicant of the order against which the application is being made : Provided that the Central Government may, if it is satisfied that the applicant was prevented by sufficient cause for presenting the application within the aforesaid period of six months, allow it to be presented within a further period of six months.

(3) The Central Government may, of its own motion, annul or modify any order passed under Rule 13 or Rule 14.

(4) No order enhancing any penalty shall be passed under this rule, unless, within one year from the date of the order sought to be annulled or modified the person affected by the proposed order has been given a notice to show cause against it.

(5) Where the Central Government is of the opinion that any tax has not been paid or has not been paid in full into the treasury under Rule 4 or has been erroneously refunded under Rule 5) no order directing the payment of such tax shall be made under this rule, unless the person affected by the proposed order has been given notice to show cause against it within the time limit specified in Rule 7.

16. Recovery of sums due to Government :-

(1) Where any tax, interest or penalty is not paid by a carrier, the Assistant Collector of Customs may, after the tax, interest or penalty has been determined under the rules, proceed to recover the amount of such tax, interest or penalty by one or more of the modes specified in sub-rule (2) or sub-rule (3).

(2) The Assistant Collector of Customs may require any person, from whom any amount is due to the carrier, to deduct the tax, interest or penalty so determined from the said amount and such person shall comply with the requisition by the Assistant Collector of Customs and shall pay the amount so deducted to the credit of the Central Government: Provided that nothing in this sub-rule shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under Section 60 of the Code of Civil Procedure, 1908 (5 of 1908).

(3) The Assistant Collector of Customs may prepare a certificate signed by him specifying the amount due and send it to the Collector of the district in which the carrier owns property or resides or carries on business and the said Collector, on receipt of such certificate, shall proceed to recover from the said carrier or other person, the amount specified thereunder as if it were an arrears of land revenue.

1. Substituted for " 16 . Recovery of sums due to Government Where any tax demanded from any person or any penalty payable by any person under Chapter V of the Act is not paid, the officer of customs mentioned in Section 3(d) of the Customs Act may prepare a certificate signed by him specifying the amount due and send it to the Collector of the district in which the said person owns property or resides or carries on business and the said Collector, on receipt of such certificate, shall proceed to recover from the said person the amount specified thereunder as if it were an arrear of land revenue. ", vide " THE FOREIGN TRAVEL TAX RULES, 1979" Dt.12th August, 1994 Published in Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 632(E), No. 1/94-Foreign Travel Tax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 2-3, No. 338 [F. No. 311/4/92-FTT]

17. Power to inspect :-

(1) Every officer of customs authorised in this behalf by a special or general order of a gazetted officer of customs shall, for the purpose of ascertaining whether or not the requirements of the Act or these rules have been complied with, at any reasonable time, have access

to any premises of any carrier and have powers to require any person found therein, who for the time being is in charge thereof, to produce to him for his inspection any books of accounts, returns or other documents and to furnish to him such other information as he may reasonably require for the purpose of ascertaining whether the requirements of the Act or these rules have been complied with.

(2) Every such officer shall also have free access to any ship or aircraft engaged in the carriage of passengers on an international journey and have powers to require any person on board to produce any of the aforesaid documents and to furnish the aforesaid information, for the said purpose.

18. Power to search ship, aircraft or premises :-

(1) If an officer of customs not below the rank of an Assistant Collector of Customs has reason to believe that any document which in his opinion will be useful or relevant to any proceeding under the Act or these rules are secreted in any ship, aircraft or any premises of a carrier, he may authorise any officer of customs to search for such documents.

(2) 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 this rule.