
PAYMENT OF TAXES (TRANSFER OF PROPERTY) ACT, 1949

22 of 1949

[22nd April, 1949]

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"The object of the Bill is to safeguard the loss of revenue in the case of persons who dispose of their properties with the intention of leaving India and settling somewhere else. Following the issue of an Ordinance in Pakistan in December 1947, a corresponding Ordinance was promulgated in India in February 1948. This Ordinance was due to expire on the 6th August 1948 and was renewed on that date by another Ordinance called the Payment of Taxes (Transfer of Property) Ordinance, 1948, which is now being repealed by this Bill."-Gaz. of Ind., 1948, Pt. V, p. 620.

1. Short title and extent :-

(1) This Act may be called The Payment of Taxes (Transfer of Property) Act, 1949.

(2) It extends to the whole of India ¹ [* * *].

1. The words 'except the State of Jammu and Kashmir' were omitted by the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954(41 of 1954), Section 2 and Schedule (8-10-1954).

2. Application of Act :-

This Act shall apply to any person-

(i) who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or the fear of such disturbances, leaves or has, since the 14th day of August 1947, left any place in ¹[India] for any place outside India, or who, since the said date, has been residing in any place outside India; or

(ii) who, in the opinion of any of the Income-tax authorities specified in sub-section (1) of section 5 of the Indian Income-tax Act, 1922 (11 of 1922), or a Custodian of Evacuee Property or a Collector, is likely to leave ¹[India] with the intention of settling in any place outside ¹[India], and in respect of whom a declaration that he is a person to whom this Act applies has been received from any such Income-tax authority. Custodian of Evacuee Property or Collector by the registering officer of the area in which any property belonging to such person is situate. ⁴ [* * * * *]

1. Substituted for 'the States' by the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954 (41 of 1954), Section 2 and Schedule (8-10-1954).

4. The Explanation, which was added by A.L.O., 1950, was omitted, i bid.

3. Payment of taxes before registration of documents :-

(1) Where any document required to be registered under the provisions of clause (a), clause (b), clause (c) or clause (e) of sub-section (1) of section 17 of Registration Act, 1908 purports to transfer, assign, limit or extinguish any right, title or interest in any property, other than agricultural land, belonging to any person to whom this Act applies, no registering officer appointed under the said Act shall register any such document, unless it is certified by the Income-tax Officer of the area in which the property is situate in respect of the person whose right, title or interest in the property is to be so transferred, assigned, limited or extinguished under the terms of the document that-

(a) such person is not liable to assessment or taxation under Income-tax Act, 1922,

Excess Profits Tax Act, 1940 or, Business Profits Tax Act 1947 (21 of 1947): or

(b) such person has either paid or made satisfactory provision for

the payment of all existing or anticipated liabilities under any of the Acts specified in clause (a) of this sub-section; or

(c) the Income-tax Officer is otherwise satisfied that the registration of the document will not prejudicially affect the recovery of all existing or anticipated liabilities referred to in clause (b) of this sub-section.

(2) Every Income-tax Officer refusing to issue a certificate under the provisions of sub-section (1) shall make an order of refusal and record his reasons therefor and, on application made by any person claiming to be affected by such order, shall, subject to the payment of such fee as may be prescribed, furnish him with a copy of the order.

4. Recovery of taxes where property has been transferred without a certificate :-

(1) Where, in respect of the transfer made on or after the seventh day of February, 1948, ¹[in the territories which, immediately before the 1st November, 1956, were comprised in the States] of Bombay, West Bengal, Punjab, Bihar, Delhi and Ajmer, and in any ²[other territory] on or after the date on which Transfer of Property (India) Ordinance, 1948 was made applicable to ² [that territory], of any right, title or interest in any immovable property, other than agricultural land, belonging to any person to whom this Act applies, the Income-tax Officer of the area where the property is situate is satisfied, after giving such person notice in this behalf for a period of not less than one month, that no certificate in the terms mentioned in section 3 would have been issued to him if this Act had been in force on the date the transfer was made, he may forward a statement to the Collector showing the existing and anticipated liabilities by way of taxes in respect of all or any of the parties to the transfer.

(2) On receipt of any statement under sub-section (1), the Collector shall proceed to recover the total amount shown in such statement as if it were an arrear of land revenue, and for the purpose of such recovery proceedings he may treat the property transferred as aforesaid as if it belonged to all or any of the persons named in the statement.

1. Substituted for the words 'in the States' by 3 A.L.O., 1956 (with retrospective effect from 1-11-1956).

2. Substituted for the words "that State", by 3 A.L.O., 1956.

5. Right of appeal :-

An appeal shall lie against the order of any Income-tax Officer refusing to issue a certificate under the provisions of the sub-section (2) of section 3 to the Commissioner of Income-tax to whom the Income-tax Officer is subordinate, if presented to such Commissioner within thirty days from the date of the order, and the Commissioner may pass such orders thereon as he may think fit.

6. Effect of Act over other laws :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

7. Bar of suit :-

No suit, prosecution or other legal proceeding shall lie against the Central Government or any person or authority in respect of anything which is in good faith done or intended to be done under this Act.

8. Power to make rules :-

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[(1)] The Central Government²[, by notification in the official Gazette,] may make rules for the purpose of carrying into effect the objects of this Act, and, in particular, prescribe the fee payable under sub-section (2) of section 3 .

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[(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule 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.]

1. S. 8 renumbered as sub-section (1) by Delegated Legislation Provisions (Amendment) Act (4 of 1986), S. 2 Sch. (15-5-86).

2. Inserted, by Delegated Legislation Provisions (Amendment) Act.

9. Effect of expiry of Ordinance XXI of 1948 :-

On the expiry of the Payment of Taxes (Transfer of Property) Ordinance, 1948, section 6 of General Clauses Act, 1897 , shall apply as if the Ordinance had then been repealed by a Central Act.