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C I R C U L A R

For Clients and associates only:

Following amendments / changes have been made under MVAT and other allied Acts by the Government.

A) Amendment under the MVAT Act, 2002 -

Govt. of Maharashtra has issued a Notification and Following changes have been made in the same.

a) New Taxation Scheme for Wine

Up till now, wine was taxed as per normal VAT chain. Every dealer was getting set off and liable to tax on sales.

From 1.1.2014 the system is changed. Change is brought in taxation of wine by issue of various notifications dated 24.12.13 under section 41(5), 8(3B) and Schedule D of MVAT Act, 2002 and under Rule 54 of MVAT Rules 2005. The brief indication of the new system can be as under:

(a) Manufacturer of Wine:-

(i) When wine is not sold in Bulk - Holding license BR-L will be liable to pay tax either @ 40% of sale price or an amount of tax calculated as per the Formula = $MRP \times 20/120$, whichever is less. Such dealers are required to mention MRP on sale bills.

(ii) When wine is sold in Bulk –when provisions of the Maharashtra potable Liquor (Fixation of Maximum Retail Prices) Rules,1966 are not applicable then rate of tax will be @ **20%** of sale price.

(b) Wholesalers: -Holding license in FL I, FL W will be exempt from tax if Wine is purchased from Registered Dealer in Maharashtra and on which tax is paid or has become payable at earlier stage. No set off to wholesaler.

If wholesaler has imported Wine from other State/Country he will be required to discharge tax liability like a manufacture i.e. 40% of sale prices subject to limit of tax calculated as per formula, $MRP \times 20/120$.

(c) Retailer: - Holding license in FL II, FLW-11, FL-BR/II will also be exempt from tax if Wine is purchased from registered dealers in Maharashtra. No set off to them.

(d) Hotel, Bars, Restaurants and Clubs (3 star and below):

Bars, Restaurants and Clubs holding license in FL-III or FL-IV or E with grading 3 star and below will be required to pay tax at 5% on the actual sale price of Wine which is purchased from registered dealers within state and on which tax is paid or has become payable at earlier stage.

They can collect tax separately. No set off is available on purchases.

If Wine is imported from other States / Country, then such restaurants will be required to pay tax 5% as above and $MPR \times 20/120$, subject to ceiling of Schedule rate i.e. 40% of selling price.

(e) Hotels, Bars, Restaurants and Clubs (4 star and above):

Hotels, Bars and Restaurants with grading 4 star and above will be required to pay tax at 20% of their actual sale price, if the wine is purchased from registered dealers within State and on which tax is paid or has become payable at earlier stage.

If wine is imported from other States / Country, then such restaurants will be required to pay tax 20% as above or $MPR \times 20/120$, subject to ceiling of Schedule rate i.e. 40% of selling price.

They can collect tax in the sale bills. No set off is available on purchases of wine.

(f) Taxation of stock as on 31.12.2013

The tax on sale of Wine in stock as on 31.12.13 will be as per new system, discussed above i.e. at 40% of sale price limited to calculation made as per formula of $MPR \times 20/120$.

Hotel/Bars, in addition to above, will be required to pay 5% or 20% as the case may be.

In this case set off will remain available on stock subject to submission of stock statement.

In case of sales of imported Wine, which were imported prior to 01/01/2014 and sold after 01/01/2014 by wholesalers or restaurants, then they are liable to pay VAT @ 40 % on selling price.

All the dealers, except manufacturers, shall furnish a statement of closing stock of goods mentioned in entry 1, 2 and 3 of Schedule D to MVAT Act, 2002 as on 31st December'2013, in the Proforma appended to the notification by 31st January'2014. Wine dealers of Mumbai, should file this Stock statement with Joint Commissioner of Sales Tax (EIU) and in case of others area it should be filed with the respective Joint Commissioner of Sales Tax (VAT Adm.).

B) Exemption from Late Fees:-

The Government of Maharashtra has issued Notification No VAT1513/C.R.124/Taxation 1 dated 24.12.2013 giving exemption from Late fees to the dealers as under:-

Table

Sr No	Class or Classes of Dealers	Returns eligible for Exemption	Extent of Exemption	Conditions
(a)	(b)	(c)	(d)	(e)
(1)	Dealers who have obtained new registration	Return of which due date fall at any time up to the end of month, in which registration is granted to the dealer is shown as “Active” on the website of the Sales tax Department, as the case may be.	Whole of the late Fee payable in respect of the returns specified in column (C).	Return specified in column (c) shall be filed on or before the due date for the period of return containing the date of grant of registration or the status of the dealer is shown as “Active” on the website of the sales tax department, as the case may be.
(2)	Dealers whose registration certificate has been cancelled and has been restored subsequently by the order of the appellate authority or any court.	Return whose due date fall between the date of issuing of the Registration cancellation order and date of passing or the registration restoration order.	Whole of the late fees payable in respect of the returns specified in column (c).	Returns specified in column (c) shall be filed on or before the due date for the period of return containing the date of restoration order passed by the appellate authority or any court.
(3)	Dealer whose effective date of the Registration Certificate has been modified in	Returns whose due date falls between the 1 st April of the year in which the dealer become liable for registration	Whole of the late fees payable in respect of returns specified in column (C).	Returns specified in column (c) shall be filed on or before the date intimated by the authority empowered to grant

	an administrative relief proceeding.	and the date of effect of the Registration Certificate, as it stood before grant of administrative relief.		administrative Relief.
(4)	The Dealers who are unable to upload the returns due to technical difficulties of the automation systems of the Sales tax Department of Maharashtra.	Returns whose due date fall during the period when the technical difficulties of automation system of the Sales tax Department of Maharashtra existed.	Whole of the late fees payable in respect of returns specified in column (C).	(a) Commissioner or an officer designated by him shall be satisfied that due to technical difficulties of the automation system of the sales tax department of the Maharashtra, certain class or class of dealers are unable to upload returns, specified in column (C). (b) Returns should have been filed within the period specified by the Commissioner of Sales Tax.
(5)	Dealer which is a proprietary concern and whose proprietor dies.	Returns of which due date falls on or immediately after the date of death of the proprietor.	Whole of the late fees payable in respect of the return specified in column (c).	(a) Return Specified in column (c), shall be filed within one year from the end of the period of return during which the proprietor dies. The Legal heirs of the deceased proprietor should have filed an application in form 103 before uploading the return specified in

				column (c).
(6)	Dealers who were covered under any of the class or classes specified at Sr. No. (1) to (5) above during the period starting from the 1 st August 2012 to date of this notification.	Returns which were due during the period starting from the 1 st August 2012 and ending on the date of this notification and which are filed after the date this notification.	Whole of the late fees payable in respect of the return specified in column (c).	Returns specified in column (c) shall be filed on or before the due date for the period of return containing the date of this notification.
(7)	A Dealer who undertakes the construction of flats, dwelling or buildings or premises and transfer them in pursuance of an agreement along with land or interest underlying the land.	Returns for any of the periods starting from the 20 th June 2006 to the 30 th September 2012, as the case may be.	Whole of the late fees payable in respect of the return specified in column (c).	Returns specified in column (c) should have been filed on or before the 31 st October, 2012.

Note: - In case of dealer, who have either paid the late fees or have adjusted the late fee against the refund for any of the returns, as the case may be, covered by this notification, then refund or adjustment of such amount shall not be permitted.

C) New Entry in Schedule A

The Government of Maharashtra has issued notification No VAT 1513/ CR 130/ Taxation 1 dated 24.12.13 giving exemption to Motor Vehicles having engine capacity up to 200 CC adapted or modified for use by handicapped persons subject to following conditions:-

- 1) The motor Vehicles specified above shall be certified as invalid carriage in the Certificate of Registration, issued under the Motor Vehicles Act, 1988
- 2) The dealers effecting sale of such motor vehicles as specified above shall retain a copy of the Certificate of Registration issued under the Motor Vehicles Act, 1988.

D) Amendment in Rules for Tax on Developers & Builders :-

The Government of Maharashtra has amended certain rules relating to developers and builders with effect from 20.6.2006.

- i) In rule 58(1) amendment is made, so as to provide that the deduction as per table will be available after reduction of land cost from the contract price.
- ii) In rule 58(1A) which is relating to calculation of land cost is amended and a proviso is added. It is to provide that if higher cost is proved before Department of Town & Planning and Valuation then dealer can take that higher value instead of ready reckoner value.
- iii) Rule 58(1B) is inserted to provide that if the agreement is entered when some work is already completed then the value of the goods, after taking deduction for labour and land, will be as per following calculation.

Table

Sr. No.	Stage during which the developer enters into a contract with the purchaser	Amount to be determined as value of goods involved in works contract
(1)	(2)	(3)
(a)	Before issue of the Commencement Certificate.	100%
(b)	From the Commencement Certificate to the completion of plinth level.	95%
(c)	After the completion of plinth level to the completion of 100% of RRC framework.	85%
(d)	After the completion of 100% RRC framework to the Occupancy Certificate	55%
(e)	After Occupancy Certificate	Nil %

(b) For determining the value of goods as per the Table of clause (a), it shall be necessary for the dealer to furnish a certificate from the Local or Planning Authority certifying the date of completion of the stage referred above and where such authority does not have a procedure for providing such certificate then such certificate from a registered RCC consultant.

(C) If the dealer fails to establish the stage during which the agreement with the purchaser is entered, then the entire value of goods as determined after deductions under sub-rules (1) and (1A) from the value of the entire contract, shall be taxable.”;

B) CIRCULARS

i) The Commissioner of Sales Tax has issued circular bearing no. 1T of 2014 dt.04.1.2014, by which Date for Filing the Audit report by Developers in FORM 704 for the FY 2012-2013 is extended to 15th February’2014.

ii) The Commissioner of Sales Tax has issued circular bearing no. 2T of 2014 dt.07.01.2014, by which modification has been made to Circular 1T

above clarifying that the extension mentioned in Circular No. 1 is granted to the developers who has opted for composition Scheme only.

iii) The Commissioner of Sales Tax has issued one more circular bearing no.3T of 2014 dated 24.01.2014, by which some clarification is provided regarding closed units in Package Scheme of Incentives.

iv) The Commissioner of Sales Tax has issued one more circular bearing no.4T of 2014 dated 28.01.2014, by which Revised Procedure for submission of application for CST e Declarations/certificates and issuance of the same electronically is explained.

C) As per Supreme Court's judgment, Developers are now works contractors also, liable to pay VAT in respect of sales of under construction properties. As such, whenever any Notified person purchased under construction property by entering into an agreement with a Developers then in such case, he becomes the Employer and also becomes liable for deduction of WCT TDS in respect of amount paid or to be paid to the developer. The rate of WCT TDS would be 1% / 2% (depending upon the method of taxation adopted by the developers) of the Agreement Value. Such person is also requires to annual return of TDS.

**FOR ANY FURTHER CLARIFICATION
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