

Delhi State Taxes

Department of Excise, Entertainment & Luxury Tax

A well-planned, well-defined and just system of revenue collection is one of the most significant prerequisites of a developed society. Excise, entertainment and luxury taxes levied by the Delhi Government have been an important instrument of revenue collection. The Excise, Entertainment and Luxury Tax Commissionerate of Delhi has two major objectives. First, it regulates the liquor trade in Delhi without promoting consumption. Second, it mobilises revenue generation under the heads that it administers. The Commissionerate consists of the Excise Department, Luxury Tax Department and Entertainment Tax Department that function independently under the same Commissionerate.

The Excise Department

The Department makes safe quality of liquor intoxicants and narcotics available to consumers. The Acts that govern the Department are Punjab Excise Act, 1914, Medicinal & Toilet Preparation Act, 1955 and rules made there under. There are four government organisations in Delhi that manage the liquor trade, namely Delhi Tourism and Transport Development Corporation (DTTDC), the Delhi State Industrial Development Corporation (DSIDC), the Delhi State Civil Supply Corporation (DSCSC), and the DCCWS (expansion unknown). They control 309 shops for Indian Made Foreign Liquor (IMFL) and beer, whereas private entrepreneurs hold the remaining 84 shops. A Commissioner assisted by two Deputy Commissioners heads the Department, which has 20 other gazetted officers and a staff strength of 296.

Functions and Responsibilities

The Department's main responsibility is issuing various kinds of licenses for regulating the liquor trade in Delhi. Some of the important licences

are:

- L-1 granted to distilleries/ bottling plants for the wholesale supply of Indian Made Foreign Liquor (IMFL) and beer
- L-1A to country liquor manufacturers
- L-2 to retail liquor trade, mainly government undertakings
- L-52 for retail trade in IMFL to private entrepreneurs
- Licences for consumption of liquor on site premises like hotels and clubs
- L-9 for wholesale supply of country liquor from bottling plants
- L-10 for supply for retail through DTTDC, DSCSC, DSIDC and DCCWS. Licences are also given for holding/ hosting private parties as well as for storage for personal consumption beyond the permissible limits.

One of the other primary functions of the Department is regulation of consumption/ distribution/ issue of rectified spirit, denatured spirit, and life-saving drugs to various government hospitals, private nursing homes, and doctors. Licences have to be procured for such business.

Procedures of Licenses

IMFL Branch/ Licenses of Liquor

The IMFL branch issues L-1 licences to distilleries/ bottling plants for supply of liquor to retail outlets, licensed hotels, restaurants and clubs. Applications are invited through public notice. Once licences are granted, a pre-determined licence fee has to be deposited. Price structures are issued after the payment of brand fee and brand registration fee. Payment of brand fee is on pro-rata basis. The licensees have to maintain bonded warehouses that are supervised by the Department. L-1 licence grants an import permit that allows stocks for in bounding and permits authorising transport of specific quantities to a specified destination.

Country Liquor Branch

L-9 licences are granted to two or more tenderers to supply country liquor in Delhi. It is done through inviting tenders for supply of coun-

try liquor from distilleries. They are allotted quota (in terms of percentage) depending on their capacity and competitiveness of rates. A licence in the form CLW-1 for bonded warehouses is also granted to store country liquor. There are no private vends for the sale of country liquor. The Excise Department collects excise revenue from L-10 licensees well in advance of the supplies. L-2 licenses are granted for sale of cheaper IMFL and beer through country liquor retail vends.

Import/ Transport Permit Branch

The permit branch issues import permits for import of liquor into Delhi and transport permits for transportation of liquor from bonded warehouses to licensed consumption premises. The licensees are L-2 (Retail Vends), L-3 (Hotel-Room Service), L-4 (Restaurant), L-5 (Hotel-Bar) and L-19 (Club). On an average, 80 import permits and 1,800 transport permits are issued daily. For issue of import permits, import duty of Rs 5 per bulk litre for regular brands and Rs 1.25 per bulk litre for cheaper brands has to be paid. There are 67 L-1 licensees for a year, who are authorised to supply liquor/ beer to retailers. Separate transport permits are prepared as per the order placed by retailers with L-1 licensees.

Budgets and Revenues

Table 1 details the budget estimates, expenditure and revenues collected over the years.

Table 1: Budget Estimates & Actual Expenditure

Year	Budget Estimate (Rs in lac)			Actual Expenditure (Rs in lac)	Revenues (Rs in crore)
	Plan	Non-Plan	Total		
2000-01	150	300	450	349	560
2001-02	175	303	478	387	611
2002-03	200	324	524	375	725
2003-04	70	349	419	1306	
2004-05	70	502	572		
2005-06	90	567	657		

Source: Government of NCT Delhi. Data abstracted from the Detailed Demand for Grants for the years of 2001-02, 2002-03, 2003-04, 2004-05, 2005-06 and Website of the Excise Department

The amount of revenue generated by the Department has been substantial. The number of licences issued is also increasing over the years, thus generating considerable amount of revenue. Table 2 gives the number of various kinds of licenses granted by the Department over the years since 1994.

<i>Year</i>	<i>Table 2: Number of Licenses Granted</i>			<i>L-4</i>
1994-95		172	43	37
1995-96	53	188	43	43
1996-97	57	184	44	48
1997-98	55	189	45	56
1998-99	55	208	45	65
1999-00	75	224	45	72
2000-01	76	235	47	96
2001-02	63	251	47	121
2002-03	68	273	51	173
2003-04	65	276	51	183
2005	67	309	44	231

Source: Website of Excise, Entertainment & Luxury Tax Department

Entertainment & Luxury Tax Department

The Entertainment Tax Department regulates entertainment activities in Delhi as per the provisions of the Delhi Entertainment and Betting Tax Act, 1996. Entertainment means any exhibition, performance, amusement, game, sport or race, (including horse race) and cinematographic exhibitions. The liability to collect entertainment tax from the patrons and to deposit the same with the authorities lies with the proprietors/ organisers of entertainment programmes. It is mandatory to obtain permission from the Department before organising any entertainment program.

Taxed Programmes

Permission is required for tax-paid programmes, invitee programmes, tax-free programmes, amusement parks and cable network.

Tax paid Programmes

Where entry to an entertainment venue is through priced tickets of Rs 500 or more, the patron has to pay entertainment tax at the rate of 25% of entry charges. The organiser of the programs has to obtain prior permission from the Department by making an application in Form-5 and full house tax has to be deposited in advance.

Invitee Programmes

Where entry to a programme is only through invitation cards, an application has to be made by the organizers in Form-6 along with an affidavit of the organizer, a sample of the invitation card and the details of the invitees. The notary should attest all these papers and expenditure account of the program has to be furnished within 15 days of the program. Those sponsored programs have to pay a tax of 25% of the amount of sponsorship to the Department.

Tax Exempted Programmes

The Department also grants exemption from the payment of entertainment tax for the conduct of entertainment programmes where the objective is to promote philanthropic, charitable or religious activities. The exemptions extend to all the societies registered under the Societies Registration Act, 1860 magic shows and circus performances on prior information.

Tax on Amusement Parks/ Video Game Parlours, Cable Television Networks and Betting

Amusement parks, video game parlours, bowling alleys and billiards/pool joints also come within the ambit of the Entertainment Tax Department and are required to obtain permission before commencing operations. Patrons have to pay entertainment tax at 25% of admission charges for gaining entry to these entertainment venues, except video game parlours, where the rate of tax is Rs 50 per machine per week in case a token of Re 1 is used.

Cable tax is the second major source of Entertainment Tax. Proprietors of cable television networks are liable to pay entertainment tax at the rate of Rs 20 per subscriber per month. Hoteliers providing cable service in their rooms have to pay tax at the rate of Rs 50 per room per month. Form 10 has to be filled while submitting the tax amount.

Budgets and Revenues

Table 3 estimates the revenues and actual expenditure done over the years.

Table 3: Revenues and Expenditure

<i>Year</i>	<i>Budget Estimate (Rs in lac)</i>	<i>Actual Expenditure (Rs in lac)</i>	<i>Revenues (Rs in crore)</i>
2000-01	33	27	48
2001-02	35	28	50
2002-03	30	23	51
2003-04	25	25	NA
2004-05	30	–	NA
2005-06	35	–	NA

Source: Government of NCT Delhi. Data abstracted from the Detailed Demand for Grants for the years of 2001-02, 2002-03, 2003-04, 2004-05, 2005-06 and Website of the Excise Department.

Moderate levels of tax are envisaged for any economy. This benefits both taxpayers as well as authorities in raising tax revenues. Also, rationalisation of tax system helps in the long run by lowering the compliance cost and increasing revenue base.

Luxury Tax Department

The Delhi government has explored a hitherto untapped source of revenue, namely, the hospitality industry. Luxury Tax has been imposed since 1996 on various hotels, lodging houses and clubs. 'Luxury provided in hotel' means accommodation and other services provided in a hotel. Every hotel that comes under the purview of Delhi Tax on Luxuries Act, 1996 should get registered in the Department. Hoteliers have to file an application in Form 4 under Section 8 of the Act within 30 days from the appointed day if they are liable to pay tax under the Act.

Rates of Tax

Luxury Tax is levied on the turnover of receipts of hoteliers at the notified rate, not exceeding 15%. The Government may notify different rate(s) periodically and for different classes of hotels as described in Table 4.

Table 4: Rates of Taxes in Different Classes of Hotels

<i>Year</i>	<i>Type of Tariff</i>	<i>Rates %</i>
1996	Declared tariff	10
1999	Actual/ Charged Tariff	10
2000	Actual/ Charged Tariff	12.5
2001	Actual/ Charged Tariff	10
2002	Actual/ Charged Tariff	12.5
Dec 2002 - March 2003	Actual/ Charged Tariff	10
April 2003	Actual/ Charged Tariff	12.5
2004	Actual/ Charged Tariff	12.5

Source: Website of Excise, Entertainment & Luxury Tax Department

Revenue collected by the Luxury Tax Department is substantial, but has fluctuated over the years. It decreased from Rs 85 crore in 2000-01 to Rs 65 crore in 2002-03. The total approved plan outlay for the Department of Excise, Entertainment & Luxury Taxes for the Tenth Five Year Plan (2002-07) was Rs 430 lac, out which Rs 155 lac has already been spent. This is around 36 percent of the total allocation.

Thus, after discussing all the three departments of the Excise, Entertainment and Luxury Tax, a snapshot of budget estimates and revenue collected over past years will put the functioning of the whole Commissionerate in better perspective. This is illustrated in Table 5.

Table 5: Revenue Collected by the Commissionerate (Rs in Crore)

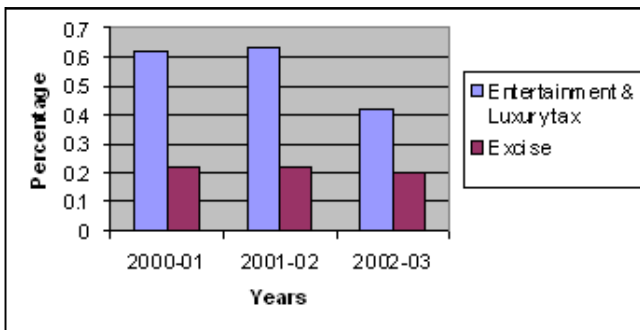
<i>Major Heads</i>	<i>Financial Years</i>	<i>Budget Estimates</i>	<i>Revised Budget Estimates</i>	<i>Actual Collection</i>
Excise	1999-2000	575	535	565.62
	2000-01	545	600	560.43
	2001-02	655	600	606.40
	2002-03	770	725	725.49
	2003-04	850	700	708.36
	2004-05	850	820	858.10
	2005-06	900		
Entertainment Tax	1999-2000	41.3	43	41.94
Cable Tax		6.00	2.50	3.59
Betting Tax		2.97	2.50	2.58
Local Tax		120	105	113
Total		170.27	153	161.11
Entertainment Tax	2000-01	45	39	39.73
Cable Tax		2.50	4	5.16
Betting Tax		2.50	3	3.02
Local Tax		125	90	85
Total		175	136	132.91
Entertainment Tax	2001-02	38	41	46.65
Cable Tax		4	5	4.70
Betting Tax		3	4	2.79
Local Tax		110	92	73.44
Total		155	142	127.58
Entertainment Tax + Cable Tax	2002-03	58	45	39.62
Betting Tax		5	5	2.82
Local Tax		86	60	62.95
Total		149	110	111.69
Entertainment Tax + Cable Tax	2003-04	60	35	27.37
Betting Tax		6	3	3.01
Local Tax		88	88	89.44
Total		154	126	126.80

Entertainment Tax + Cable Tax	2004-05	45	35	36
Betting Tax		3.50	3	3.01
Local Tax		123	123	149.30
Total		171.50	161	188.31
Entertainment Tax + Cable Tax	2005-06	50		
Betting Tax		3		
Local Tax		140		

Source: Government of NCT Delhi. Deputy Commissioner of Accounts, Excise Department.

Revenue has shown a fluctuating trend over the years. The Commissionerate spends only a small proportion of the revenue for collection of the same. Figure 1 gives the ratio between revenue collection and expenditure of the entertainment and luxury tax departments.

Figure 1: Ratio of Revenue Collection and Expenditure



Source: Government of NCT Delhi. Deputy Commissioner of Accounts, Excise Department

Problems of the Commissionerate

Bureaucratic ways of functioning is the biggest problem faced by the Commissionerate. Departments marginalize office orders issued by the Finance Ministry and, despite liberalisation there is not much that the Department can boast about. The Delhi Government is the sole buyer and seller of alcohol in Delhi, which gives unlimited power to the authorities. For instance, there was Rs 4 crore worth of liquor of inferior quality lying in the government retail outlets.¹ What is meant by inferior quality no one knows. On asking, concerned officials in the DTTDC head office in Lakshmi Nagar said that it was just unsold stock.

The government's excise policy is subject to a lot of sudden changes. Manufacturers' sometimes just need to get their L-1 licenses renewed, and at times they need to apply afresh, like in the year 2001. In

1993, L-1 license holders were allowed to set up 5 'dedicated' shops in Delhi in which they could sell their approved brands in addition to having them sold in the government retail shops. The policy was withdrawn in an ad hoc manner in 1994. On being questioned about the effects, an official in one of the country's leading breweries said that the introduction of this policy had led to increase in revenue by almost 30%, which they have lost out on since. Recently, the government's policy to open up 45 private liquor shops was quashed by the cabinet, because it meant that the MLA's power in issuing a no-objection certificate for setting up a retail outlet would be questioned. Had this policy been implemented, the government would have earned Rs 7.5 lacs on each vend as licence fee annually.² Customers often complain that they buy the alcohol that is made available to them and that the brand of their choice is difficult to get. Sometimes the scarcity is real, at other times it may be a case of "brand pushing". Lines are long, stocks inadequate, and the service leaves a lot to be desired.

Due to high luxury tax, customers-both individuals and groups-incline towards neighbouring states as they have less or no luxury tax. As of October 2004, Rajasthan had eight percent and Uttar Pradesh had five percent luxury tax.³ The added taxes also create problems in attracting tourists to India as prices become less competitive. When other states like Tamil Nadu and other coastal areas are planning to cut tax to encourage tourism, rationalisation of taxes seems to be the need of the hour.

According to a study done by the World Travel and Tourism Council, Delhi is one of the most taxed cities in the world for international travellers. Multiple taxes and high levels of entertainment and luxury taxes are a bane for tourism industry.

Recommendations

Moderation of taxes is one of the most important reforms that needs immediate implementation. The maze of licensing should be reduced and better systems put in place for making the process user-friendly and transparent. Licensing procedures should be simplified and clearer methods should be introduced. Bureaucratic red-tape and corruption are also major problems. Less staff and stricter regulations are major prerequisites for sound management.

More private liquor shops should be introduced. The government would definitely not be worse off with the introduction of private stores. In fact, more revenue, in the form of licence fee as well as tax would accrue to the government from these vends. Studies conducted by the Fraser Institute of Canada in Alberta, a place where alcohol is sold privately, have shown that privatisation of the liquor retail has not led to increase in consumption or crime. More vends, particularly private ones, would be welcomed by customers. Luxury tax should be rationalised and tourism should be encouraged by lowering taxes.

Value Added Tax

Another important source of revenue that has just been introduced is Value Added Tax. The Ministry of Finance launched Value Added Tax (VAT) in 21 Indian states on 1 April 2005. VAT is a multi-point tax system which is collected at different stages of sale with a provision for set-off for tax paid at the previous stage/ tax paid on inputs. It is a simplified form of tax allowing full input tax credit on procurements and capital goods, except for a few restrictions, which differ from state to state. VAT has replaced local intra state taxes levied at state level like local (basic) sales tax, turnover tax (tot), additional taxes and surcharges including taxes levied on deemed sales, namely, work contract (WC) and leasing transactions. VAT moves down to every level of the chain, which includes manufacturers, dealers, third party manufacturers, hospitals and customers.

VAT encourages voluntary compliance and thereby simplifies assessment procedures. In addition, it aims to fully eliminate disputes with regard to tax liability of a transaction or rate of tax applicable and reduces compliance costs. VAT seeks to prevent the problem of under-valuing and inflation as all stages of production and distribution are subject to tax. It proposes to permit claims of credit for taxes only on the receipt of invoice.

VAT is implemented by Delhi Sales Tax Department and thus the system of functioning and implementation remains the same. The Department is headed by a Commissioner. Four Additional Commissioners and 11 Joint Commissioner assist him in monitoring the process of collection of VAT.

Laws and Revenues

The primary function and responsibility of the Department is to impose taxes on the sale or purchase of goods and services in the state and collect the corresponding amount of money from traders, retailers, and manufacturers. The Delhi Value Added Tax Act 2004 governs VAT. Some of the main features include voluntary registration where the threshold is Rs 10 lac and documents like details of bank account, constitution of firm and details of its premises and grounds for seeking registration have to be furnished during the payment of VAT. Table 6 lists various schedules, rates and commodities that are taxed at these rates.

Table 6: Rates of Delhi Value Added Tax

<i>Schedule</i>	<i>Rates of Tax %</i>	<i>Sample list of Commodities</i>
Second	1	Bullion, articles of gold, silver, precious metals, precious and semi-precious stones etc.
Third	4	Agricultural implements, IT products, drugs, eatables, Kirana items etc.
Fourth	20	Petroleum products, liquor, country liquor, narcotics, molasses, rectified spirit, lottery tickets, brake fluid etc.

Source: Website of Delhi Sales Tax Department

The main exemptions from VAT are sales that include inter-state trade or commerce, those that are done outside Delhi or in the course of import of goods into or export of the goods out of the territory of India.

The procedure for filing returns is quite simple. The dealer himself computes the tax liability. The returns can be filed online through the unique registration number and password allocated to the dealer. The prescribed form will then be available to the dealer where he/ she will file the Gross Turnover (GTO) for period of return. A system will be introduced where return will not be introduced till the GTO does not tally with the total of the quantum of sales reported under each head. The system will automatically calculate the amount of tax payable by the dealer for the period of return. A hard copy of the return generated online shall have to be deposited with the Department along with the proof for deposit of tax within prescribed period.

Section 3 (4) of the Act requires any dealer to pay the net tax within 28 days of the conclusion of the dealer's tax period. For the

recovery of tax, dealers have to maintain invoices and normal documents that they possessed during the earlier system of sales tax. In case of disputes, the disputed demand will be considered stayed automatically once there is an objection to the same. One opportunity of appeal is given, which basically checks unnecessary litigation. The dispute shall be disposed off within a period of five years from the date of commencement of the Act. Table 7 enumerates the revenues that have been collected in the past 5 months since its implementation.

Table 7: Revenue Collected by the VAT Department (Rs in crore)

<i>Months 2005</i>	<i>Revenue Collection</i>
April	442.43
May	588.83
June	478.38
July	573.76
Till August 23rd	220.59
Total	2303.99

Source: Accounts Officer, Value Added Tax Department

Even though VAT seems to be better and more efficient than the earlier system, there are some apprehensions. There are criticisms about the design of the tax. It is opined that the Delhi government should have incorporated the destination principle, which means that tax should be levied on final consumption and should be appropriated by the state of destination. One of the major reasons for opposition to VAT in Delhi is the proposal to collect entry tax from transporters. This has led to a perception of burden among dealers. It is believed that the government should have adopted a floor rate mechanism of about 8 percent to begin with instead of the rate of 12.5 percent. Despite such apprehensions, VAT is a more productive, remunerative and a better system of generating income for the government.

—Prepared by Susmita Pratibast

Notes

- ¹ *Times of India*. 2001.
- ² Soumya, H.B. 2001. http://www.ccsindia.org/RP01_6.html
- ³ *Travel & Tourism*. 2004. *Luxury Tax Set To Kill the Golden Goose*. October 2004. Available at <http://www.expresstravelandtourism.com/200410/macrovie02.shtml>. Accessed on 15 September 2005.

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States underplay VAT gains to get aid

