

ACT No. X OF 1943.

[PASSED BY THE INDIAN LEGISLATURE.]

(Received the assent of the Governor General on the 31st March, 1943.)

An Act to provide for the imposition and collection of excise duties on tobacco.

WHEREAS it is expedient to impose excise duties on tobacco and to provide for the collection thereof;

It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This Act may be called the Tobacco (Excise Duty) Act, 1943.

(2) It extends to the whole of British India.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “tobacco” means any form of tobacco, whether cured or uncured, and whether manufactured or not, and includes the leaf, stalks and stem of the tobacco plant, but does not include any part of a tobacco plant while still attached to the earth;

(b) “curing” includes wilting, drying, fermenting and any process for rendering tobacco fit for marketing or manufacture;

(c) “manufacture” means the preparation of cigarettes, cigars, cheroots, *biris*, cigarette or pipe or hookah tobacco, chewing tobacco, or snuff; and the word “manufacturer” shall be construed accordingly and shall include not only a person who employs hired labour for the production of these commodities, but also any person who engages in their production on his own account if his products are intended for sale;

(d) “sale” and “purchase”, with their grammatical variations and cognate expressions, mean any transfer of the possession of goods by one person to another in the ordinary course of trade or business for cash or deferred payment or other valuable consideration;

(e) “wholesale dealer” means a person who buys or sells tobacco wholesale for the purpose of trade or manufacture, and includes a broker or commission agent who, in addition to making contracts for the sale or purchase of tobacco for others, stocks tobacco belonging to others as an agent for the purpose of sale;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “factory” means any premises wherein tobacco is manufactured.

3. *Imposition and collection of excise duties on tobacco.*—There shall be levied and collected in such manner as may be prescribed duties of excise as, and at the rates, set forth in the Schedule on all cured tobacco in British India on the 1st day of April, 1943, on all tobacco cured in British India on or after that date, and on all tobacco products mentioned in the Schedule and manufactured in British India on or after that date.

4. *Determination of value for the purposes of duty.*—Where under this Act any article is chargeable with duty at a rate dependent on the value of the article, such value shall be deemed to be the wholesale cash price for which an article of the like kind and quality is sold or is capable of being sold for delivery at the place of manufacture and at the time of its removal therefrom, without any abatement or deduction whatever except trade discount and the amount of the duty then payable.

5. *Power of Central Government to impose customs duty on cured tobacco.*—The Central Government may, by notification in the official Gazette, impose on cured tobacco, or any tobacco product mentioned in the Schedule, brought into British India from the territory of any Indian State, not being territory which has been declared under section 5 of the Indian Tariff Act, 1934 (XXXII of 1934), to be foreign territory for the purposes of that section, a duty of customs equivalent to the excise duty imposed by this Act on the like tobacco cured or the like tobacco product manufactured in British India.

6. *Certain operations to be subject to licence.*—From such date as may be specified in this behalf by the Central Government by notification in the official Gazette, no person shall engage in the curing, wholesale purchase or sale (whether on his own account or as a broker or commission agent), storage, or manufacture, of tobacco,

except under the authority and in accordance with the terms and conditions of licence granted under this Act.

7. *Restriction on possession of unmanufactured tobacco.*—From such date as may be specified in this behalf by the Central Government by notification in the official Gazette, no person shall, except as provided by the rules made under this Act, have in his possession unmanufactured tobacco in excess of such quantity as may be prescribed for the purposes of this section as the maximum amount of unmanufactured tobacco or of any variety of unmanufactured tobacco which may be possessed at any one time by such a person.

8. *Form and conditions of licence.*—Every licence under section 6 shall be granted for such area, if any, for such period, subject to such restrictions and on such conditions, and in such form and containing such particulars, as may be prescribed.

9. *Penalty for contravention of section 6 or section 7.*—Whoever contravenes any of the provisions of section 6 or section 7 shall be punishable with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

10. *Penalty for evasion of duty or failure to supply information.*—Whoever evades or attempts to evade the payment of any duty payable under this Act or fails to supply any information which he is required by the rules made under this Act to supply, or (unless with a reasonable belief, the burden of proof which shall be upon him, that the information supplied by him is true), supplies false information, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

11. *Power of Courts to order forfeiture of tobacco.*—Any Court trying an offence under this Act may order that any tobacco in respect of which the Court is satisfied that an offence under this Act has been committed, together with the packages or coverings thereof, be forfeited to His Majesty.

12. *Recovery of duty, etc.*—In respect of duty and other sums payable to the Central Government under any of the provisions of this Act or of the rules made thereunder, the officer empowered by the Central Board of Revenue to levy such duty or require the payment of such sums may prepare a certificate signed by him specifying the amount due from the person liable to pay the same and send it to the Collector of the district in which such person resides or conducts his business and the said Collector, on receipt of such certificate, shall proceed to recover from the said person the amount specified therein as if it were an arrear of land-revenue.

13. *Application of the provisions of Act VIII of 1878 to the duties on tobacco.*—The Central Government may, by notification in the official Gazette, declare that any of the provisions of the Sea Customs Act, 1878 (VIII of 1878) relating to the levy of and exemption from customs duties, drawback of duties on warehousing, offences and penalties, confiscation, and procedure relating to offences and appeals shall, with such modifications and alterations as it may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duties on tobacco imposed by section 3.

14. *Power of Central Government to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules to carry into effect the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may—

(i) provide for the assessment and collection of the duties, the authorities to whom functions under this Act are to be discharged, the issue of notices requiring payment, the manner in which the duties shall be payable, and the recovery of duty not paid ;

(ii) prohibit the curing or manufacture of tobacco except on land and premises approved for the purpose ;

(iii) regulate the removal of tobacco from the place where grown, cured, or manufactured and its transport to or from the premises of a licensed wholesale dealer or manufacturer, or a bonded warehouse or to a market ;

(iv) regulate the curing, storage, wholesale sale and manufacture of tobacco and provide for the appointment of officers of the Crown to supervise such curing, storage, wholesale sale and manufacture within any tobacco growing or manufacturing area ;

(v) provide for the appointment, licensing, management and supervision of bonded warehouses and the procedure to be followed in entering tobacco into and clearing tobacco from such warehouses;

(vi) impose on growers, curers, wholesale dealers, brokers, commission agents, or manufacturers, the duty of furnishing information, keeping records and making returns, and prescribe the nature of such information and the form of such records and returns, the particulars to be contained therein, and the manner in which they shall be verified;

(vii) provide for the issuing of licences and transport permits and the fees, if any, to be charged therefor;

(viii) provide for the detention of tobacco for the purpose of exacting the duty, the confiscation, otherwise than under section 11, of tobacco in respect of which breaches of the Act or rules have been committed, and the disposal of tobacco so detained or confiscated;

(ix) authorise and regulate the inspection of factories, and the inspection or search of any place or conveyance used for the curing, storage, sale or transport of tobacco;

(x) authorise and regulate the composition of offences against, or liabilities incurred under, this Act or the rules made thereunder;

(xi) provide for the grant of a rebate of the duty paid on tobacco which is exported by sea to any country outside India or shipped for consumption on a voyage to any port outside India;

(xii) exempt any tobacco from the whole or any part of the duty imposed by this Act;

(xiii) authorise the Central Board of Revenue or Collectors appointed for the purposes of this Act to provide, by written instructions, for supplemental matters arising out of any rule made by the Central Government under this section.

(3) In making rules under this section the Central Government may provide that any person committing a breach of any rule shall, where no other penalty is provided by this Act, be liable to a penalty not exceeding two thousand rupees and that the article in respect of which any such breach is committed shall be confiscated.

THE SCHEDULE.

(See section 3.)

Description of tobacco.	Rate of duty.
PART I. Unmanufactured.	
I.—VIRGINIA TOBACCO—	Per lb. Rs. A.
A.— <i>Flue-cured</i> —	
(1) if intended for manufacture into—	
(a) cigarettes—	
(i) containing more than 20 per cent. weight of imported tobacco	1 12
(ii) containing 20 per cent. or less than 20 per cent. weight of imported tobacco	1 4
(iii) containing no imported tobacco	0 8
(b) <i>biris</i>	0 6
(c) cheroots	0 2
(2) if intended for any other purpose	1 12
B.— <i>Air-cured</i>	0 6
II.—COUNTRY TOBACCO—	
(1) if intended for manufacture into—	
(a) cigarettes	0 6
(b) <i>biris</i>	0 6
(c) cigars or cheroots	0 2
(d) hookah tobacco	0 1
(e) snuff	0 6
(2) if intended for sale as chewing tobacco, whether manufactured or merely cured	0 1
(3) if intended for any other purpose	0 0
III.—STALKS, STEMS AND OTHER REFUSE OF TOBACCO—	
(1) if intended for use in the preparation of any form of manufactured tobacco	0 1
(2) if intended to be used for agricultural purposes	0 0

Description of tobacco.	Rate of duty.
PART II. Manufactured.	
	Per hundred. Rs. A.
Cigars and cheroots of which the value—	
(i) exceeds Rs. 30 a hundred	6 0
(ii) exceeds Rs. 25 a hundred but does not exceed Rs. 30 a hundred	5 0
(iii) exceeds Rs. 20 a hundred but does not exceed Rs. 25 a hundred	4 0
(iv) exceeds Rs. 15 a hundred but does not exceed Rs. 20 a hundred	3 0
(v) exceeds Rs. 10 a hundred but does not exceed Rs. 15 a hundred	2 0
(vi) exceeds Rs. 5 a hundred but does not exceed Rs. 10 a hundred	1 0
(vii) exceeds Rs. 2-8-0 a hundred but does not exceed Rs. 5 a hundred	0 8
(viii) exceeds Rs. 1-4-0 a hundred but does not exceed Rs. 2-8-0 a hundred	0 4
(ix) exceeds As. 10 but does not exceed Rs. 1-4-0 a hundred	0 2