

**HARYANA GOVERNMENT
EXCISE AND TAXATION DEPARTMENT
Notification**

The 5th July, 2014

No. Web 6/H.A.6/2003/S.60/2014.- The following draft of the rules further to amend the Haryana Value Added Tax Rules, 2003, which the Governor of Haryana proposes to make in exercise of the powers conferred by sub-section (1) of section 60 of the Haryana Value Added Tax Act, 2003 (6 of 2003), is published below for the information of persons likely to be affected thereby.

Notice is hereby given that the draft of the rules shall be taken into consideration by the Government on or after the expiry of a period of ten days from the date of uploading of this notification on the official web-site www.haryanatax.com together with objections and suggestions, if any, which may be received by the Additional Chief Secretary to Government, Haryana, Excise and Taxation Department, Chandigarh, from any person with respect to the draft of the rules, before the expiry of the period so specified :-

Draft Amendment

1. These rules may be called the Haryana Value Added Tax (Third Amendment) Rules, 2014.
2. In the Haryana Value Added Tax Rules, 2003 (hereinafter called the said rules), in rule 2, in sub-rule(1), after clause (mmm), the following clause shall be inserted and shall be deemed to have been inserted with effect from 1st April, 2014, namely:-

“(mmmm) **‘Developer’** means a person who is engaged in and undertakes the construction of civil structures, flats, dwelling units, buildings, premises, complexes, commercial or otherwise, whether wholly or partly (either himself or through an authorized person) for sale and transfers them in pursuance of an agreement along with land or interest underlying the land to a buyer, where the value of land or interest underlying the land is included in the total consideration received or receivable;”

3. In the said rules, for rule 49, the following rule shall be substituted and shall be substituted with effect from the date of publication of this notification in the Official Gazette, namely:-

“49 LUMP SUM SCHEME IN RESPECT OF CONTRACTORS *OTHER THAN DEVELOPER (Section 9)*

(1) A contractor *other than developer falling under rule 49A* liable to pay tax under the Act, may, in respect of works contract awarded to him for execution in the State, pay in lieu of tax payable by him under the Act on the transfer of property (whether as goods or in some other form) involved in the execution of the contract, a lump sum calculated at *five* per cent of the total valuable consideration receivable for the execution of the contract, by making an application to

the appropriate assessing authority within thirty days of the award of the contract to him, containing the following particulars:

(1) Name of the applicant contractor;

(2) TIN;

(Append application for registration, if not registered or not applied for registration);

(3) Name of the contractee;

(4) Date of award of the contract;

(5) Place of execution of the contract;

(6) Total cost of the contract;

(7) Period of execution,

and appending therewith a copy of the contract or such part thereof as relates to total cost and payments.

(2) The application shall be signed by a person authorised to make an application for registration. On receipt of the application, the assessing authority shall, after satisfying itself that the contents of the application are correct, allow the same and such contractor whose application is allowed shall be called lump sum contractor.

(3) The lump sum contractor shall be liable to make payment of lump sum *monthly* calculated at *five* per cent of the payments received or receivable by him during the *month* for execution of the contract. The payment of lump sum so calculated shall be made within *twenty one* days following the close of the *month* after deducting therefrom the amount paid by the contractee on behalf of the contractor under section 24 for that *month*. The treasury receipt in proof of payment made and certificate(s) of tax deduction and payment obtained from the contractee shall be furnished with the quarterly return.

(4) The lump sum contractor shall file returns at quarterly intervals in Form VAT-R6 within a month of the close of the quarter and shall pay lump sum, if any, due from him according to such return after adjusting the amount paid under sub rule (3).

(5) The lump sum contractor shall be entitled to make purchase of goods for use in execution of the contract both on the authority of declaration in Central form C as well as Form VAT-D1 prescribed under clause (a) of sub-section (3) of section 7 and for this purpose he shall be deemed to be a manufacturer.

(6) The lump sum contractor shall maintain complete account of, declarations in Central form C and Form VAT-D1 used by him and, the utilization of the goods purchased on the authority of these forms. He shall be required to make use of declaration(s) in Form VAT-D3 for carrying goods of which he shall keep account. He shall also keep complete account of, payments receivable by him for the execution of the contract and, the payments actually received by him.

(7) A lump sum contractor shall have to pay lump sum in respect of every works contract awarded to him after the award of the contract in respect of which he first elected to pay lump

sum and he shall continue to pay tax in respect of contracts awarded before as if he is not a lump sum contractor.

(8) A lump sum contractor may at any time by appearing before the appropriate assessing authority himself or through an authorised agent express in writing his intention to opt out of the scheme of payment of lump sum in lieu of tax payable under the Act. Such contractor in respect of the contracts awarded to him thereafter shall not be liable to pay lump sum in lieu of tax payable under the Act but in respect of the other contract(s) he shall continue to pay lump sum in lieu of tax payable under the Act till the completion of each of such contract(s).

(9) A lump sum contractor may, when rate of lump sum is revised, opt out of the scheme of payment of lump sum in lieu of tax payable under the Act by appearing before the appropriate assessing authority himself or through an authorised agent within *fifteen* days of such revision and expressing in writing his intention to opt out of the scheme of payment of lump sum. Such contractor shall be liable to pay lump sum for the period before the revision in lump sum rate at the un-revised rate and in respect of transfer of property in any goods, whether as goods or in some other form, involved in the execution of the contract(s) thereafter he shall be liable to pay tax as a contractor not being a lump sum contractor.

(10) A lump sum contractor shall be eligible to claim set off of TDS only if on the date of filing of return, he is in possession of original TDS Certificate issued to him by the person making the deductions.

(11) The Excise & Taxation Commissioner shall be competent to issue the detailed guidelines, specify the procedure and the forms etc for the purpose of availing, compliance and monitoring of the above scheme.”;

4. In the the said rules, after rule 49, the following rule shall be inserted and shall be deemed to have been inserted with effect from 1st April, 2014, namely:-

**“49-A LUMPSUM COMPOSITION SCHEME IN RESPECT OF DEVELOPERS
(Section9)**

(1) A Developer liable to pay tax under the Act, and duly registered may pay, **as an option**, in lieu of tax payable by him under the Act, by way of composition a lump sum tax calculated at the compounded lump sum rate of **one percent** of entire aggregate amount specified in the agreement or value specified for the purpose of stamp duty, whichever is higher, in respect of the said agreement. The Developer opting for this scheme here-in-after shall be referred to as the composition developer.

(2) The composition developer opting for composition under this scheme, shall

(i) not purchase or receive goods from any place outside Haryana to be used in the execution of the contract at any time during the period for which the composition remains in force under this Scheme:

Provided that if the goods purchased or received in the course of inter-state trade and commerce or transferred from other states or imported from out of India have been used in the execution of the contract, then the composition developer shall pay the tax on their **purchase price** at the rate/s applicable on the sale of such goods in the State along with interest as applicable under the Act and such tax shall not be adjustable towards his composition tax liability;

- (i) be treated as non-vat dealer and not eligible to claim input tax credit under section 8 of the Act;
- (ii) not collect any amount by way of tax under the Act;
- (iii) not issue 'Tax Invoices';
- (iv) retain the originals of all tax invoices and all the retail invoices for all his purchases;
- (v) not be entitled for any refund.

(3) The tax period for the composition developer shall be monthly and the payment of lump sum in lieu of tax shall be paid by the composition developer within 15 days of the close of the month:

Provided that if a composition developer fails to make the payment of tax in time under this scheme, then he shall be liable to pay interest as per the provision of sub-section (6) of section 14 of the Act.

(4) Where the composition developer awards any portion of his contract to a contractor or sub-contractor, such composition developer shall not be eligible for any deduction on account of any tax paid by the contractor or the sub contractor under the Act.

(5) A composition developer, , whose assessment has not achieved finality, may opt for this scheme with effect from 1st April, 2007, subject to the following restrictions and conditions; namely:-

(a) The composition developer shall calculate his tax liability according to the rates prescribed here-in-above on the prescribed turnover and shall meet and pay his tax liability voluntarily along with interest and apply to the concerned assessing authority declaring his intention to opt the scheme retrospectively and once the assessing authority confirms the acceptance of his option with retrospective date, the dealer shall henceforth withdraw all his appeals/revision/review/petitions pending before the appropriate authorities or courts and intimate the same to the assessing authority simultaneously:

Provided that any proceedings initiated by the departmental authorities against such composition developer shall stand dropped, once the composition dealer makes the full payment of his lump sum tax liability as per the scheme and intimate the same with proof of payment to the authority concerned.

(b) The composition developer shall pay at least 75% of the tax (with interest) calculated and payable by him after adjusting the tax paid earlier while exercising the option from retrospective period and the balance 25% of the tax (with interest) shall be paid within thirty days of the communication of acceptance by the assessing authority.

(c) The assessing authority shall communicate the result of the retrospective option within thirty days of the receipt of the same with prior approval from a Committee comprising of the

Joint Excise and Taxation Commissioner (Range) of the concerned range as Chairman, other two members being the Deputy Excise and Taxation Commissioner (ST) in-charge of the concerned district and the concerned assessing authority.

(d) If it is found that the composition developer has made a wrong or false declaration or calculation, then the tax paid, if any, with the option shall stand forfeited.

(6) The Excise and Taxation Commissioner shall be competent to issue the detailed guidelines, specify procedure and the forms etc for the purpose of availing, compliance and monitoring of the above scheme.

(7) For the removal of doubts, it is hereby declared that nothing contained here-in-above shall be construed as conferring any benefit, concession or immunity on the composition dealer other than the benefit, concession or immunity granted under the above scheme.

Hardeep Kumar,
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Excise and Taxation Department