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LEGISLATIVE SUPPLEMENT

	Contents	Pages
Part I	Acts	
	<i>Nil</i>	
Part II	Ordinances	
	The Punjab (Institutions and Other Buildings) Tax Ordinance, 2010 (Punjab Ordinance No. 1 of 2011)	1—8
Part III	Delegated Legislation	
	Notification No. S.O.6/P.A.42/1976/Ss. 3 and 4/ 2011, dated the 10th January, 2011, constituting Municipal Corporation of Sahibzada Ajit Singh Nagar (Mohali)	11
Part IV	Correction Slips, Republications and Replacements	
	<i>Nil</i>	
	(iii)	

PART II

DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB

Notification

The 10th January, 2011

No. 1-Leg./2011.—The following Ordinance of the Governor of Punjab promulgated under clause (1) of article 213 of the Constitution of India on the 2nd January, 2011, is hereby published for general information :—

**THE PUNJAB (INSTITUTIONS AND OTHER BUILDINGS) TAX
ORDINANCE, 2010**

(Punjab Ordinance No. 1 of 2011)

AN

ORDINANCE

to provide for levy and collection of tax on certain institutions and buildings situated outside the municipal areas in the State of Punjab and for the matters connected therewith or incidental thereto.

Promulgated by the Governor of Punjab in the Sixty-first Year of the Republic of India.

Whereas the Legislative Assembly of the State of Punjab is not in session and the Governor is satisfied that circumstances exist, which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Punjab is pleased to promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the Punjab (Institutions and Other Buildings) Tax Ordinance, 2010. Short title and commencement

(2) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,—

(a) "appellate authority" means an officer appointed as such by the State Government under this Ordinance ;

(b) "assessing authority" means any person or authority, authorised by the State Government to make an assessment and to collect tax under this Ordinance ; Definitions:

- (c) "building" means any construction or part of a construction or any other structure, whether of masonry, bricks, wood, mud, metal or other material, the covered area of which is more than five hundred square feet, which is being used or intended to be used for commercial, industrial, fun and frolic, amusement park, water park, entertainment, club, recreation, hotel, dhaba or other such like purposes, including any garage, godown, shopping mall, multiplex, marriage palace, showroom, and which is situated outside the municipal area, but does not include any building, being used exclusively for school upto Senior Secondary Level, or residential purpose, cattle shed or poultry shed or for godowns for storing wheat or paddy or rice of the State Government ;
- (d) "competent authority" means any person or authority, authorised to act as such by the State Government for the purposes of this Ordinance ;
- (e) "institution" means an institution, other than the school upto Senior Secondary Level, which is imparting education of any kind, and includes nursing homes, hospitals, universities and colleges (including technical, vocational, professional and medical), situated outside the municipal area ;
- (f) "municipal area" means the territorial area of a municipality, specified or notified by the State Government under the Punjab Municipal Act, 1911 or the Punjab Municipal Corporation Act, 1976, as the case may be ;
- (g) "occupier" includes,—
- (i) a tenant ;
 - (ii) an owner in occupation of, or otherwise using his institution or building or part thereof ;
 - (iii) a rent-free occupant of any institution or building or part thereof ;
 - (iv) a licensee in occupation of any institution or building or part thereof ; and
 - (v) any person, who is liable to pay to the owner damages for the use and occupation of any institution or building or part thereof ;

- (h) "owner" includes a mortgagee in possession, a person, who for the time being is receiving or is entitled to receive the rent or premium of any institution or building, whether on his own account or on account of others or as an agent, trustee, guardian, or receiver for any other person or who should so receive the rent or premium or be entitled to receive the same, if the institution or building was let to a tenant ;
- (i) 'section' means section of this Ordinance ; and
- (j) "State Government" means the Government of the State of Punjab ;

3. (1) Subject to the provisions of this Ordinance, there shall be levied Power to levy tax a tax on the institutions and buildings at such rate, not exceeding rupees ten per square foot of the covered area of the institution or building, as the case may be, as may be specified by the State Government by notification in the Official Gazette from time to time.

(2) The tax levied under sub-section (1), shall be paid on or before the 30th day of June of the financial year by the owner or occupier, as the case may be.

4. (1) On and after the commencement of this Ordinance, every owner Self-assessment or occupier, as the case may be, liable to pay tax under the Ordinance, shall make self-assessment of tax in such manner, and shall file a return for the period, for which tax is to be paid, in such form, as may be specified by the State Government by notification.

(2) Every owner or occupier, as the case may be, liable to pay tax under this Ordinance, shall pay to the assessing authority, the full amount of tax, as assessed by him according to the provisions of this Ordinance.

(3) If any owner or occupier, as the case may be, who has made self-assessment under sub-section (1), later on discovers any *bona fide* error or omission in the self-assessment, he may rectify such error or omission. If such rectification results in a higher amount of tax due than the original tax, he shall make payment of the additional amount of tax within a period of thirty days from the date of rectification. In case, the tax paid is more than the tax due, the excess payment of tax shall be refundable on filing an application to the assessing authority by the owner or the occupier, as the case may be.

5. With a view to ascertain the correctness of returns, the assessing Correctness of returns authority may check the returns, documents or information submitted by the owner or the occupier, as the case may be, liable to pay tax under this Ordinance.

6. (1) Where after filing a return under sub-section (1) of section 4, it is Assessment of tax found that even after adjustment of any tax paid on the basis of such return, an additional tax is still due, an intimation in this regard shall be sent to the owner or the occupier, as the case may be, by the assessing authority, specifying therein, the amount of tax so payable and such intimation shall be deemed to be a demand notice.

(2) Notwithstanding anything contained in sub-section (1), the assessing authority on his own motion or on the basis of the information received by him may, make an assessment to the best of his judgement, of the tax, payable by the owner or the occupier, as the case may be, where,—

- (a) the owner or the occupier fails to file a return under sub-section (1) of section 4 ; or
- (b) there is definite reason to believe that a return, filed under sub-section (1) of section 4 by the owner or the occupier, is not correct or complete.

(3) If, after making assessment under sub-section (2), the assessing authority comes to the conclusion that a tax becomes due from the owner or the occupier, as the case may be, it shall send an intimation to the owner or the occupier by specifying therein the amount of due tax, which shall be deemed to be a demand notice.

(4) The amount of tax found under sub-section (1) or sub-section (3), shall be paid by the owner or the occupier within a period of thirty days from the date of issue of demand notice :

Provided that before directing the owner or the occupier to pay the amount of tax under sub-section (1) or sub-section (3), he shall be given an opportunity of being heard by the assessing authority.

Service of notice
and demand notice

7. The notice, demand notice or any order, passed under this Ordinance, shall be deemed to be duly served, if the same is sent on the address of the institution or building, as the case may be,—

- (a) by registered post ; or
- (b) delivered by any person deputed by the assessing authority ; or
- (c) delivered at the concerned institution or building through courier ; or
- (d) by e-mail.

Penalty for failure
to pay tax when
due

8. If the owner or the occupier, as the case may be, fails to pay the tax in accordance with the provisions of this Ordinance, he shall be liable to pay in addition to the tax so payable, a penalty thereon at the rate of two per cent per month.

Power to seal.

9. If the tax and penalty payable under this Ordinance, are not paid by the owner or the occupier, as the case may be, within a period of sixty days from the date of issue of demand notice, the assessing authority shall make an application to the competent authority for sealing the building or the institution, as the case may be. The competent authority shall seal the institution or building, as the case may be, after giving a notice of thirty days to the owner or the occupier to pay the tax and penalty. The sealing shall remain effective, till the tax and penalty, are recovered.

10. The assessing authority shall be competent to impose penalty under this Ordinance. No penalty shall, however, be imposed, unless the person concerned is afforded an opportunity of being heard.

Authority competent to impose penalty.

11. If any amount of tax leviable under this Ordinance on the owner, is recovered from the occupier, such occupier shall, in the absence of any contract to the contrary, be entitled to recover the same from the owner, and he may deduct the same from the rent payable to the owner.

Recovery of tax payable by the owner

12. No assessment or charge or demand of any tax made under this Ordinance, shall be impeached or affected by reason of any mistake in the name, residence, place of business or occupation of the owner or the occupier, liable to pay tax, or in the description of any institution or building, liable to levy of tax, or of any mistake in the amount of assessment of tax, or by reason of any clerical error or other defect.

Tax not invalid for defect of form.

13. Any amount of tax, payable under this Ordinance, shall be recoverable as arrears of land revenue on an application made in writing by the Assessing Authority to the Collector :

Recovery of arrears of tax.

Provided that it shall not be necessary for the assessing authority to present the application in person.

14. (1) Whenever the title of the owner or the occupier, liable to pay tax under this Ordinance in respect of any institution or building, as the case may be, is transferred to any person, such owner or occupier and the person to whom such title is transferred, shall, within a period of three months from the date of execution of the instrument of transfer or deed of registration or otherwise, as the case may be, give notice in writing of such transfer to the assessing authority.

Notice of transfer of title

(2) In the event of death of the owner or the occupier, mentioned in sub-section (1), the person on whom the estate of the deceased devolves, shall inform in writing of such devolution to the assessing authority within a period of six months from the date of the death of the owner or the occupier.

(3) In case, the owner or the occupier, who transfers the title under sub-section (1), fails to inform the assessing authority in writing, he shall, in addition to any other liability, continue to be liable for the payment of tax, payable under this Ordinance in respect of the institution or building, as the case may be, unless he informs in writing or until the transfer is recorded by the assessing authority.

(4) If any delay occurs in the transfer of title due to any reason, the liability of the transferee to pay tax under this Ordinance shall not cease or diminish due to such delay.

(5) The information shall be furnished by the Registrar or Sub-Registrar to the assessing authority, having jurisdiction under the Registration Act, 1908 as soon as may be, after the registration of an instrument of transfer is effected or, if the assessing authority so requests, by periodical returns at such intervals as the assessing authority may fix.

(6) Notwithstanding anything contained in sub-section (5), the assessing authority may, ask the said Registrar or the Sub-Registrar to furnish such particulars regarding the registration of instrument of transfer of the concerned institution or building, as the assessing authority, may from time to time require.

Notice of construction or reconstruction or enlargement or reoccupation of an institution or building

15. When any new institution or building is constructed or reconstructed or enlarged or reoccupied after its vacation, the person liable for payment of tax under this Ordinance, shall give notice thereof in writing to the assessing authority within a period of thirty days from the date of completion of such construction, reconstruction, enlargement or reoccupation, as the case may be.

Power to enter for assessment

16. The assessing authority, after giving forty eight hours' notice to the owner or the occupier, as the case may be, available at the relevant time, may authorize any person to enter, inspect and measure any institution or building between the sun rise and sun set, for the purpose of assessment of the tax, payable under this Ordinance.

Power of assessing authority to call for information

17. (1) To determine the amount of tax of any institution or building, the assessing authority, may require the owner or occupier of such institution or building, or of any portion thereof to furnish to it within such reasonable period, as the assessing authority may specify in this behalf, the written information, signed by such owner or occupier—

- (a) as to the name and place of residence of the owner or occupier or of both of such institution or building; or
- (b) as to the measurements or dimensions of such institution or building or of any portion thereof.

(2) Every owner or occupier to whom such requisition is made, shall be bound to comply with the same and to give true information.

(3) If any owner or occupier, as the case may be, does not comply with such requisition or fails to give true information, he shall be precluded from objecting to any assessment made by the assessing authority in respect of such institution or building.

17. An appeal against every order passed by the assessing authority in regard to the assessment or levy of tax or any other order passed under this Ordinance, or against the refusal to refund any tax, shall lie to the appellate authority within a period of thirty days from the date of communication of the order.

Appeal

18. No appeal shall be entertained, unless the appellant has paid to the assessing authority, the whole amount of tax due from him up to the date of filing of the appeal.

19. The appellate authority may, after giving an opportunity of being heard to the appellant and to the assessing authority, pass such order, as it may deem appropriate by recording reasons in writing, and the order of the appellate authority so passed, shall be final, unless revised by the State Government under section 20.

20. In discharging its functions, the appellate authority shall have all the powers of a Civil Court conferred under the Code of Civil Procedure, 1908.

21. Notwithstanding anything contained in sub-section (1) of section 17, the appellate authority may, for the reasons to be recorded in writing, condone the delay in filing of an appeal in the interest of justice where appeal is not filed within the stipulated period and the appeal after the expiry of the stipulated period.

Condonation of delay

22. Where a person is aggrieved by an order of the appellate authority, he may, within a period of thirty days from the date of communication to him of the order, make an application in writing to the State Government or to an officer authorized by it for revision against the said order, and the State Government or the officer so authorized, may confirm, alter or rescind the order of the appellate authority :

Revision

23. Provided that no order affecting any person adversely, shall be passed without giving him an opportunity of being heard.

24. No objection shall be entertained to any assessment, nor shall the liability of any person, to be assessed or taxed, be questioned in any manner by any authority other than that, provided in this Ordinance.

Tax, not to be questioned, except under this Ordinance

25. Where any owner or occupier, as the case may be, constructs or constructs or occupies an institution or a building in violation of any of the provisions of the Punjab Capital (Periphery) Control Act, 1952, the Punjab Regional and Town Planning and Development Act, 1995 and the Punjab Apartment and Property Management Act, 1995 or any other enactment, and pays tax under this Ordinance, he shall not be protected from any action for such violation under the aforesaid enactments.

Applicability of other enactments

Explanation.—It is clarified that by merely making payment of tax under this Ordinance, no institution or building shall be deemed to be regularised, if it otherwise contravenes any of the provisions of the aforesaid Acts.

Bar to proceedings.

23. No suit, prosecution or other legal proceedings shall lie against any person, authorized to act or for anything done or purporting to have been done in good faith under this Ordinance.

Bar on jurisdiction.

24. No civil court shall have any jurisdiction in any matter, in respect of which the State Government or an other person or authority is empowered by this Ordinance to take cognizance, and dispose it of, and the manner in which the State Government or such person or authority may exercise any power, vested in it or him by or under this Ordinance.

Power to remove difficulties.

25. (1) If any difficulty arises in giving effect to any of the provisions of this Ordinance, the State Government may, by an order in writing, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Ordinance, as may appear to it, to be necessary for removing the difficulty :

Provided that no order shall be made under this section after the expiry of a period to two years from the date of commencement of this Ordinance.

(2) Every order made under this section, shall be laid before the State Legislature, as soon as may be, after it is made.

Overriding effect of this Ordinance.

26. Save as otherwise provided in this Ordinance, the provisions of this Ordinance shall take effect, notwithstanding anything to the contrary contained in any other law for the time being in force or in any contract.

SHIVRAJ V. PATIL,
Governor of Punjab.

REKHA MITTAL,
Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.

GOVERNMENT OF PUNJAB

DEPARTMENT OF LOCAL GOVERNMENT

(L. G-1 BRANCH)

Notification

The 10th January, 2011

No. S.O. 6/P.A.42/1976/Ss.3 and 4/2011.—Whereas under sub-section (1) of section 3 of the Punjab Municipal Corporation Act, 1976, the area comprising the Municipal Council, Sahibzada Ajit Singh Nagar (Mohali) has been specified to be a larger urban area for the purposes of the said Act,—*vide* Government of Punjab, Department of Local Government, Notification No. S.O. 5/P.A.42/1976/S.3/2011, dated the 7th January, 2011 ;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 3 read with sub-section (1) of section 4 of the Punjab Municipal Corporation Act, 1976, and all other powers enabling him in this behalf, the Governor of Punjab is pleased to constitute for the aforesaid larger urban area, a Corporation to be known as the Municipal Corporation of Sahibzada Ajit Singh Nagar (Mohali).

S. S. RAJPUT

Secretary to Government of Punjab,
Department of Local Government