

GOVERNMENT OF ¹[Khyber Pakhtunkhwa]
EXCISE AND TAXATION DEPARTMENT

NOTIFICATION.

Dated Peshawar, the 12th August, 2004.

NO. SO(TAX)/E&T/4-1/2002: In exercise of the powers conferred by section 14 of the ²[Khyber Pakhtunkhwa] Finance Act, 1996 (³[Khyber Pakhtunkhwa] Act No. 1 of 1996), read with section 11 thereof, and in super session of the ⁴[Khyber Pakhtunkhwa] (Recovery of Tobacco Development Cess) Rules, 2003, the Government of the ⁵[Khyber Pakhtunkhwa] is pleased to make the following rules, namely;

**THE ⁶[Khyber Pakhtunkhwa]
(RECOVERY OF TOBACCO DEVELOPMENT CESS) RULES, 2004.**

1. **Short Title and Commencement.**---These rules may be called the ⁷[Khyber Pakhtunkhwa] (Recovery of Tobacco Development Cess) Rules, 2004.

(2) They shall come into force at once.

2. **Definitions.**---In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say:-

- (a) "Act" means the ⁸[Khyber Pakhtunkhwa] Finance Act, 1996 (⁹[Khyber Pakhtunkhwa] Act No. I of 1996);
- (b) "assessee" means a factory, a company or an individual, assessable to cess under the Act and these rules;
- (c) "District Officer" means Excise and Taxation Officer of the District concerned and includes the officer incharge entrusted with collection of development cess on tobacco; and
- (d) "Director General" -means the Director General, Excise & Taxation Department, ¹⁰[Khyber Pakhtunkhwa];

¹ Subs.by the Khyber Pakhtunkhwa Act No. IV of 2011.

² Subs.by the Khyber Pakhtunkhwa Act No. IV of 2011.

³ Subs.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁴ Subs.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁵ Subs.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁶ Subs.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁷ Subs.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁸ Subs.by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁹ Subs.by the Khyber Pakhtunkhwa Act No. IV of 2011.

¹⁰ Subs.by the Khyber Pakhtunkhwa Act No. IV of 2011.

- (e) "Form" means the forms annexed to these rules.
- (f) "Government" means the Government of the ¹¹[Khyber Pakhtunkhwa];
- (g) "Secretary" means Secretary, to Govt. of ¹²[Khyber Pakhtunkhwa] for Excise & Taxation Department;
- (h) "tobacco" means leaves of the plants *Nicotiana Tabacum Nicotiana Rustica* commonly known as tobacco and used in the manufacturing of cigarettes or for consumption by other modes such as Chillum hookah, niswar, gazari and bidis and also includes Khaka, Kara and roth made of main stalk (dandi) and stem of tobacco.

3. Recovery of Cess in Relation to Quota Fixed by P.T.B. (1) On receipt of figures of quota fixed by the Pakistan Tobacco Board for the crop year in case of a factory, the District Officer shall issue a specified demand notice to the tobacco factory, hereinafter referred to as "assessee", specifying the liability of the assessee for the total amount of cess payable in two equal installments, i.e. first on or before 31st December and the second on or before 31st May of the financial year concerned.

(2) In case of default in payment of the cess or any part thereof by the 31st May, the defaulter shall be liable to pay a penalty at the rate of twenty five percent in addition to the cess due.

(3) The amounts recoverable under these rules in default shall be recovered as arrears of land revenue.

4. Determination of Exact Figures of Quota:- The cess in the case of factories, herein after referred to as "assessee" shall be determined on the basis of tobacco purchased from open market in- addition to quota so fixed by Pakistan Tobacco Board under rule 3; provided that cess on tobacco purchased from open market, if already paid by an assessee referred to in rule 5; shall not be charged again on its re-purchase by the factories.

5. Recovery of Cess other than the Cess Recovered Under Rule 3. (1) Cess other than the cess recovered under rule 3; to be recovered from an assessee, including Tobacco Factories, shall be recovered at the entry point of the cigarette manufacturing factories and re-drying factories or, as the case may be, at the check points established by Government for the purpose. The collection of this cess may be out sourced through public auction or collected by Excise and Taxation Department whichever is deemed proper by Government. In case of collection of cess through contractors, provision shall be made in the agreement to be executed with the contractor to ensure that no cess on the quantity of tobacco already paid by the tobacco manufacturing factories under rule 3; is charged by the contractor. For this purpose a proper record shall be maintained by the factories and the District officer concerned in the form appended to these rules

¹¹ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

¹² Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

and shall be made part of the agreement executed with the contractor.

6. **Check-Post:-** Check-posts for the collection of cess in respect of tobacco will, if necessary, be established at the entry point of Re-drying Centers / Cigarette Manufacturing Factories and Entry / Exit points of ¹³[Khyber Pakhtunkhwa] or any other place that may be deemed proper by Government. Government may, in order to avoid double taxation, monitor / supervise the process of collection at the check post through the Excise & Taxation Department or any other person authorized, for the purpose.

7. In case of dispute between an assessee, and the authorized agent of Government or any other person on behalf of either side, the matter must be referred to the Excise & Taxation Officer concerned for decision, who shall decide the matter within thirty (30) days from the date of reference.

8. Any party aggrieved by the decision of the Excise & Taxation Officer may prefer an appeal to the Director General, within thirty (30) days of such order / decision whose decision in the matter, subject to rule 9 shall be final.

9. Government may, on its own accord or on a revision petition filed with it by any assessee within sixty (60) days of the orders of the Director General, Excise & Taxation, ¹⁴[Khyber Pakhtunkhwa] call for the record of the case and pass such orders as it deems fit.

SECRETARY TO GOVERNMENT OF THE
¹⁵[Khyber Pakhtunkhwa],
EXCISE & TAXATION DEPARTMENT,
PESHAWAR.

¹³ Subs.by the Khyber Pakhtunkhwa Act No. IV of 2011.

¹⁴ Subs.by the Khyber Pakhtunkhwa Act No. IV of 2011.

¹⁵ Subs.by the Khyber Pakhtunkhwa Act No. IV of 2011.