

RELEVANT PROVISIONS OF CONSTITUTION OF INDIA

[AS AMENDED BY THE CONSTITUTION (ONE HUNDRED
AND FIRST AMENDMENT) BILL, 2016 AS PASSED
BY RAJYA SABHA ON 3RD AUGUST, 2016]

ARTICLE 246A

¹[Special provision with respect to goods and services tax.

246A. (1) *Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.*

(2) *Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.*

Explanation.—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect from the date recommended by the Goods and Services Tax Council.]

ARTICLE 248

Residuary powers of legislation.

248. (1) ²[*Subject to article 246A, Parliament*] has exclusive power to make any law with respect to any matter not enumerated in the concurrent list or State List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those lists.

1. Inserted by the Constitution (One Hundred and First Amendment) Bill, 2016.

2. Substituted for "Parliament", *ibid*.

ARTICLE 249

Power of Parliament to legislate with respect to a matter in the State List in the national interest.

249. (1) Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in national interest that Parliament should make laws with respect to ¹[*goods and services tax provided under article 246A or*] any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.

(2) A resolution passed under clause (1) shall remain in force for such period not exceeding one year as may be specified therein:

Provided that, if and so often as a resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1), such resolution shall continue in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

(3) A law made by Parliament which Parliament would not but for the passing of a resolution under clause (1) have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.

ARTICLE 250

Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.

250. (1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to ¹[*goods and services tax provided under article 246A or*] any of the matters enumerated in the State List.

(2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on

1. Inserted by the Constitution (One Hundred and First Amendment) Bill, 2016.

the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

ARTICLE 268

***Distribution of Revenues between the
Union and the States***

Duties levied by the Union but collected and appropriated by the States.

268. (1) Such stamp duties ¹[*******] as are mentioned in the Union List shall be levied by the Government of India but shall be collected—

- (a) in the case where such duties are leviable within any Union territory, by the Government of India, and
- (b) in other cases, by the States within which such duties are respectively leviable.

(2) The proceeds in any financial year of any such duty leviable within any State shall not form part of the Consolidated Fund of India, but shall be assigned to that State.

ARTICLE 268A

Service tax levied by Union and collected and appropriated by the Union and the States.

268A. ²[*Omitted by the Constitution (One Hundred and First Amendment) Bill, 2016.*]

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1. Words “and such duties of excise on medicinal and toilet preparations” omitted by the Constitution (One Hundred and First Amendment) Bill, 2016.
 2. Prior to its omission, article 268A, as inserted by the Constitution (Eighty-eighth Amendment) Act, 2003, w.e.f. 19-2-2004, read as under :

“268A. Service tax levied by Union and collected and appropriated by the Union and the States.—(1) Taxes on services shall be levied by the Government of India and such tax shall be collected and appropriated by the Government of India and the States in the manner provided in clause (2).

(2) The proceeds in any financial year of any such tax levied in accordance with the provisions of clause (1) shall be—

 - (a) collected by the Government of India and the States;*
 - (b) appropriated by the Government of India and the States,*

in accordance with such principles of collection and appropriation as may be formulated by Parliament by law.”

ARTICLE 269**Taxes levied and collected by the Union but assigned to the States.**

269. (1) Taxes on the sale or purchase of goods and taxes on the consignment of goods ¹[*except as provided in article 269A*] shall be levied and collected by the Government of India but shall be assigned and shall be deemed to have been assigned to the States on or after the 1st day of April, 1996 in the manner provided in clause (2).

Explanation. – For the purposes of this clause,–

- (a) the expression “taxes on the sale or purchase of goods” shall mean taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;
- (b) the expression “taxes on the consignment of goods” shall mean taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.

(2) The net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to union territories, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law.

(3) Parliament may by law formulate principles for determining when a sale or purchase of, or consignment of, goods takes place in the course of inter-State trade or commerce.

ARTICLE 269A**¹[Levy and collection of goods and services tax in course of inter-State trade or commerce.]**

269A. (1) *Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.*

1. Inserted by the Constitution (One Hundred and First Amendment) Bill, 2016.

Explanation.—For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

(1A) The amount apportioned to a State under clause (1) shall not form part of the Consolidated Fund of India.

(1B) Where an amount collected as tax levied under clause (1) has been used for payment of the tax levied by a State under article 246A, such amount shall not form part of the Consolidated Fund of India.

(1C) Where an amount collected as tax levied by a State under article 246A has been used for payment of the tax levied under clause (1), such amount shall not form part of the Consolidated Fund of the State.

(2) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.]

ARTICLE 270

Taxes levied and distributed between the Union and the States.

270. (1) All taxes and duties referred to in the Union list, except the duties and taxes referred to in ¹[articles 268, 269 and article 269A], respectively, surcharge on taxes and duties referred to in article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States in the manner provided in clause (2).

²[(1A) *The tax collected by the Union under clause (1) of article 246A shall also be distributed between the Union and the States in the manner provided in clause (2).*

(1B) The tax levied and collected by the Union under clause (2) of article 246A and article 269A, which has been used for payment of the tax levied by Union under clause (1) of article 246A and the amount apportioned to the Union under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2).]

(2) Such percentage, as may be prescribed, of the net proceeds of any such tax or duty in any financial year shall not form part of the Consolidated Fund of India, but shall be assigned to the States within

1. Substituted for “articles 268, 268A and article 269” by the Constitution (One Hundred and First Amendment) Bill, 2016.

2. Inserted, *ibid.*

which that tax or duty is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed in the manner provided in clause (3).

(3) In this article, “prescribed” means,—

- (i) until a Finance Commission has been constituted, prescribed by the President by order, and
- (ii) after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission.

ARTICLE 271

Surcharge on certain duties and taxes for purposes of the Union.

271. Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles ¹[*except the goods and services tax under article 246A,*] by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

ARTICLE 279A

¹[Goods and Services Tax Council.

279A. (1) *The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and First Amendment) Act, 2016, by order, constitute a Council to be called the Goods and Services Tax Council.*

(2) *The Goods and Services Tax Council shall consist of the following members, namely:—*

- (a) *the Union Finance Minister.....* Chairperson;
- (b) *the Union Minister of State in charge of Revenue or Finance*
..... Member;
- (c) *the Minister in charge of Finance or Taxation or any other*
Minister nominated by each State Government.....
Members.

(3) *The Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst*

1. Inserted by the Constitution (One Hundred and First Amendment) Bill, 2016.

themselves to be the Vice-Chairperson of the Council for such period as they may decide.

(4) The Goods and Services Tax Council shall make recommendations to the Union and the States on—

- (a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;*
- (b) the goods and services that may be subjected to, or exempted from the goods and services tax;*
- (c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of Inter-State trade or commerce under article 269A and the principles that govern the place of supply;*
- (d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;*
- (e) the rates including floor rates with bands of goods and services tax;*
- (f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;*
- (g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and*
- (h) any other matter relating to the goods and services tax, as the Council may decide.*

(5) The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

(6) While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

(7) One half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.

(8) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.

(9) Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the

weighted votes of the members present and voting, in accordance with the following principles, namely:—

- (a) *the vote of the Central Government shall have a weightage of one-third of the total votes cast, and*
 - (b) *the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting.*
- (10) *No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—*
- (a) *any vacancy in, or any defect in, the constitution of the Council; or*
 - (b) *any defect in the appointment of a person as a member of the Council; or*
 - (c) *any procedural irregularity of the Council not affecting the merits of the case.*
- (11) *The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute—*
- (a) *between the Government of India and one or more States; or*
 - (b) *between the Government of India and any State or States on one side and one or more other States on the other side; or*
 - (c) *between two or more States, arising out of the recommendations of the Council or implementation thereof.]*

ARTICLE 286

Restrictions as to imposition of tax on the sale or purchase of goods.

286. (1) No law of a State shall impose, or authorise the imposition of, a tax on ¹*[the supply of goods or of services or both, where such supply takes place]*—

- (a) outside the State; or
- (b) in the course of the import of the ²*[goods or services or both]* into, or export of the ²*[goods or services or both]* out of, the territory of India.

Explanation.—^{***}

1. Substituted for “the sale or purchase of goods where such sale or purchase takes place” by the Constitution (One Hundred and First Amendment) Bill, 2016.

2. Substituted for “goods”, *ibid.*

(2) Parliament may by law formulate principles for determining when a ¹[*supply of goods or of services or both*] in any of the ways mentioned in clause (1).

(3) ²[***]

ARTICLE 366

Definitions.

366. In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

(1) “agricultural income” means agricultural income as defined for the purposes of the enactments relating to Indian income-tax;

(2) “an Anglo-Indian” means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only;

(3) “article” means an article of this Constitution;

(4) “borrow” includes the raising of money by the grant of annuities, and “loan” shall be construed accordingly;

(4A) [***]

(5) “clause” means a clause of the article in which the expression occurs;

(6) “corporation tax” means any tax on income, so far as that tax is payable by companies and is a tax in the case of which the following conditions are fulfilled:—

(a) that it is not chargeable in respect of agricultural income;

1. Substituted for “sale or purchase of goods takes place” by the Constitution (One Hundred and First Amendment) Bill, 2016.

2. Omitted, *ibid.* Prior to its omission, clause (3) read as under :

“(3) Any law of a State shall, insofar as it imposes, or authorises the imposition of,—

(a) a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce; or

(b) a tax on the sale or purchase of goods, being a tax of the nature referred to in sub-clause (b), sub-clause (c) or sub-clause (d) of clause (29A) of article 366,

be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify.”

- (b) that no deduction in respect of the tax paid by companies is, by any enactments which may apply to the tax, authorised to be made from dividends payable by the companies to individuals;
- (c) that no provision exists for taking the tax so paid into account in computing for the purposes of Indian income-tax the total income of individuals receiving such dividends, or in computing the Indian income-tax payable by, or refundable to, such individuals;
- (7) “corresponding Province”, “corresponding Indian State” or “corresponding State” means in cases of doubt such Province, Indian State or State as may be determined by the President to be the corresponding Province, the corresponding Indian State or the corresponding State, as the case may be, for the particular purpose in question;
- (8) “debt” includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and “debt charges” shall be construed accordingly;
- (9) “estate duty” means a duty to be assessed on or by reference to the principal value, ascertained in accordance with such rules as may be prescribed by or under laws made by Parliament or the Legislature of a State relating to the duty, of all property passing upon death or deemed, under the provisions of the said laws, so to pass;
- (10) “existing law” means any law, Ordinance, order, bye-law, rule or regulation passed or made before the commencement of this Constitution by any Legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation;
- (11) “Federal Court” means the Federal Court constituted under the Government of India Act, 1935;
- (12) “goods” includes all materials, commodities and articles;
- ¹[(12A) “goods and services tax” means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption;]
- (13) “guarantee” includes any obligation undertaken before the commencement of this Constitution to make payments in the

1. Inserted by the Constitution (One Hundred and First Amendment) Bill, 2016.

event of the profits of an undertaking falling short of a specified amount;

(14) “High Court” means any Court which is deemed for the purposes of this Constitution to be a High Court for any State and includes—

(a) any Court in the territory of India constituted or re-constituted under this Constitution as a High Court, and

(b) any other Court in the territory of India which may be declared by Parliament by law to be a High Court for all or any of the purposes of this Constitution;

(15) “Indian State” means any territory which the Government of the Dominion of India recognised as such a State;

(16) “Part” means a Part of this Constitution;

(17) “pension” means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of any person, and includes retired pay so payable; a gratuity so payable and any sum or sums so payable by way of the return, with or without interest thereon or any other addition thereto, of subscriptions to a provident fund;

(18) “Proclamation of Emergency” means a Proclamation issued under clause (1) of article 352;

(19) “public notification” means a notification in the Gazette of India, or, as the case may be, the Official Gazette of a State;

(20) “railway” does not include—

(a) a tramway wholly within a municipal area, or

(b) any other line of communication wholly situate in one State and declared by Parliament by law not to be a railway;

(21) [* * *]

(22) “Ruler” means the Prince, Chief or other person who, at any time before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was recognised by the President as the Ruler of an Indian State or any person who, at any time before such commencement, was recognised by the President as the successor of such Ruler;

- (23) "Schedule" means a Schedule to this Constitution;
- (24) "Scheduled Castes" means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes for the purposes of this Constitution;
- (25) "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution;
- (26) "securities" includes stock;
- ¹[(26A) "*Services*" means anything other than goods;
- (26B) "*State*" with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature;]
- (27) "sub-clause" means a sub-clause of the clause in which the expression occurs;
- (28) "taxation" includes the imposition of any tax or impost, whether general or local or special, and "tax" shall be construed accordingly;
- (29) "tax on income" includes a tax in the nature of an excess profits tax;
- (29A) "tax on the sale or purchase of goods" includes—
- (a) a tax on the transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;
 - (b) a tax on the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
 - (c) a tax on the delivery of goods on hire-purchase or any system of payment by instalments;
 - (d) a tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;
 - (e) a tax on the supply of goods by any unincorporated association or body of persons to a member thereof

1. Inserted by the Constitution (One Hundred and First Amendment) Bill, 2016.

for cash, deferred payment or other valuable consideration;

- (f) a tax on the supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service, is for cash, deferred payment or other valuable consideration,

and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and a purchase of those goods by the person to whom such transfer, delivery or supply is made;

(30) "Union territory" means any Union territory specified in the First Schedule and includes any other territory comprised within the territory of India but not specified in that Schedule.

ARTICLE 368

Power of Parliament to amend the Constitution and procedure therefor.

368. (1) Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.

(2) An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the terms of the Bill :

Provided that if such amendment seeks to make any change in—

- (a) article 54, article 55, article 73, ¹[*article 162, article 241 or article 279A*], or
- (b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or

1. Substituted for "article 162 or article 241" by the Constitution (One Hundred and First Amendment) Bill, 2016.

- (c) any of the Lists in the Seventh Schedule, or
- (d) the representation of States in Parliament, or
- (e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

(3) Nothing in article 13 shall apply to any amendment made under this article.

(4) No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this article whether before or after the commencement of section 55 of the Constitution (Forty-second Amendment) Act, 1976 shall be called in question in any court on any ground.

(5) For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this Constitution under this article.

SIXTH SCHEDULE

[Articles 244(2) and 275(1)]

PROVISIONS AS TO THE ADMINISTRATION OF TRIBAL AREAS IN THE STATES OF ASSAM, MEGHALAYA, TRIPURA AND MIZORAM

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Powers to assess and collect land revenue and to impose taxes.

8. (1) and (2) **

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(3) The District Council for an autonomous district shall have the power to levy and collect all or any of the following taxes within such district, that is to say—

- (a) taxes on professions, trades, callings and employments;
- (b) taxes on animals, vehicles and boats;
- (c) taxes on the entry of goods into a market for sale therein, and tolls on passengers and goods carried in ferries; ¹[***]

1. Word “and” omitted by the Constitution (One Hundred and First Amendment) Bill, 2016.

(d) taxes for the maintenance of schools, dispensaries or roads,
¹[and]

¹[(e) taxes on entertainment and amusements.]

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SEVENTH SCHEDULE

[Article 246]

LIST I - UNION LIST

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²[84. Duties of excise on the following goods manufactured or produced in India, namely:—

(a) petroleum crude;

(b) high speed diesel;

(c) motor spirit (commonly known as petrol);

(d) natural gas;

(e) aviation turbine fuel; and

(f) tobacco and tobacco products.]

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92. ³[***]

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92C. ⁴[***]

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1. Inserted by the Constitution (One Hundred and First Amendment) Bill, 2016.

2. Substituted, *ibid.* Prior to its substitution, entry 84 read as under :

“84. Duties of excise on tobacco and other goods manufactured or produced in India except—

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics,

but including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.”

3. Omitted, *ibid.* Prior to its omission, entry 92 read as under :

“92. Taxes on the sale or purchase of newspapers and on advertisements published therein.”

4. Omitted, *ibid.* Prior to its omission, entry 92C read as under :

“92C. Taxes on services.”

LIST II - STATE LIST

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52. ¹ [***]		
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² [54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.]		
55. ³ [***]		
**	**	**
⁴ [62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.]		
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1. Omitted by the Constitution (One Hundred and First Amendment) Bill, 2016. Prior to its omission, entry 52 read as under :

“52. Taxes on the entry of goods into a local area for consumption, use or sale therein.”

2. Substituted, *ibid*. Prior to its substitution, entry 54 read as under :

“54. Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List I.”

3. Omitted, *ibid*. Prior to its omission, entry 55 read as under :

“55. Taxes on advertisements other than advertisements published in the newspapers and advertisements broadcast by radio or television.”

4. Substituted, *ibid*. Prior to its substitution, entry 62 read as under :

“62. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.”