

**ASSAM PROFESSIONS, TRADES, CALLINGS AND
EMPLOYMENTS TAXATION ACT, 1947**

6 of 1947

[29th March, 1947]

CONTENTS

1. Short title, extent and commencement
2. Definitions

CHAPTER 1 :- Liability to and charge of tax

3. Liability to tax
4. Rates of tax
5. Employers liability to deduct and pay tax on behalf of employees
- 5A. Registration and enrolment

CHAPTER 2 :- Taxing authorities

6. Taxing authorities

CHAPTER 3 :- Assessment

7. Returns
8. Assessment of employers
- 8A. Assessment of escaped tax
- 8B. Rectification of mistakes
9. Deduction of tax at source
- 9A. Requisition for deduction of tax
- 9B. Indemnity

CHAPTER 4 :- Appeals

10. Appeals
- 10A. Revision

CHAPTER 5 :- Demand, payment and recovery

11. Notice of demand
12. Payment of dues
- 12A. Consequence of failure to deduct or to pay tax
- 12B. Penalty for non-payment of tax
13. Mode of recovery
- 13A. Special mode of recovery
14. Refunds

CHAPTER 6 :- Offences and penalties

15. Failure to make returns, etc

15A. Offence by companies

15B. Composition of offences

CHAPTER 7 :- Miscellaneous

16. Power to compel attendance etc

16A. Accounts

16B. Production and inspection of accounts and documents and search of premises

17. Information to be furnished by employer

17A. Prosecution, suits or other proceedings

17B. Power to transfer proceedings

18. Place of assessment

19. Power to make rules

SCHEDULE 1 :- Rate of Tax

ASSAM PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS TAXATION ACT, 1947

6 of 1947

[29th March, 1947]

An Act to levy a tax on professions, trades, callings and employments Whereas it is expedient to impose a tax on professions, trades, callings and employments ; It is hereby enacted as follows :

1. Short title, extent and commencement :-

(1) This Act may be called the Assam Professions, Trades, Callings and Employments Taxation Act, 1947.

(2) It extends to the whole of Assam.

(3) It shall come into force on such dates as the State Government may, by notification in the official Gazette, appoint.

2. Definitions :-

In this Act, unless there is anything in the subject or context

(a) "assessing authority" in a particular area means the Senior Superintendent of Taxes and Superintendent of Taxes referred to in S. 6 exercising jurisdiction in that area and includes any other officer referred to in that section and specifically authorised by the State Government in that behalf ;

(b) "Deputy Commissioner of Taxes (Appeals)" means a person appointed to be a Deputy Commissioner of Taxes (Appeals) under sub-S. (2) of S. 6 ;

(d) "employer" in relation to an employee earning any salary or wages on regular basis under him, means the person or the officer who is responsible for distursement of such salary or wages, and includes the head of the office or any establishment as well as the manager or agent of the employer ;

(e) "prescribed" means prescribed by rules made under this Act ;

(f) "person" includes a company, firm, a Hindu undivided family, corporation, a corporate body, a society, a club or other association of persons ;

(g) "salary" or "wage" includes pay, dearness allowance and all other remunerations received by any person on regular basis, whether payable in cash or in kind, and also includes perquisites and profits in lieu of salary, as defined in S. 17 of the Income-tax Act, 1961 (43 of 1961) ;

(h) "State" means the State of Assam.

CHAPTER 1

Liability to and charge of tax

3. Liability to tax :-

As from the first day of April, 1947 and subject to the provisions of this Act, every person who carries on a trade either by himself or by an agent or representative, or who follows a profession or calling, or who is in employment, either wholly or in part within the State, shall be liable to pay for each financial year a tax in respect of such profession, trade, calling or employment and in addition to any tax, rate, duty or fee which he is liable to pay under any other enactment for the time being in force :

Provided that for the purposes of this section a person on leave shall be deemed to be a person in employment ;

Provided further that notwithstanding anything contained in this section the provisions of this Act shall not apply to a member of the Armed Forces of India and to a co-operative society registered or deemed to have been registered under the Assam Co-operative Societies Act, 1949.

4. Rates of tax :-

The tax under S. 3 shall be payable by every person specified in that section and falling under one or the other of the classes mentioned in the second column of the Schedule annexed to this Act at the rate mentioned against the class of such persons in the third column of the Schedule :

Provided that Entry 21 in the Schedule shall apply only to such classes of persons as may be specified by the State Government by notification from time to time.

5. Employers liability to deduct and pay tax on behalf of employees :-

The tax payable under this Act by any person earning a salary or wage shall be deducted by his employer from the salary or wage payable to such person, before such salary or wage is paid to him, and such employer shall, irrespective of whether such deduction has been made or not when the salary or wage is paid to such persons, be liable to pay the tax on behalf of all such persons :

Provided that the tax payable by any person shall not exceed two thousand five hundred rupees for any financial year ;

Provided that if the employer is an officer of the Government, the State Government may, notwithstanding anything contained in this Act, prescribe by rules the manner in which the employer shall discharge the said liability ;

Provided further that where any person earning a salary or wage is also covered by one or more entries other than Entry 1 in the Schedule or is simultaneously engaged in employment of more than one employer, and such person furnishes to his employer or employers a certificate in the prescribed form declaring, inter alia, that he shall obtain a certificate of enrolment under sub-S. (2) of S. 5-A and pay the tax himself then the employer or employers of such person shall not deduct the tax from the salary or wage payable to such person and such employer or employers, as the case may be, shall not be liable to pay tax on behalf of such person.

5A. Registration and enrolment :-

(1) Every employer (not being an officer of the Government) liable to pay tax under S. 5 shall obtain a certificate of registration from the assessing authority in the prescribed manner.

(2) Every person liable to pay tax under this Act (other than a person earning salary or wages, in respect of whom the tax is payable by his employer), shall obtain a certificate of enrolment from the assessing authority in the prescribed manner.

(3) Notwithstanding anything contained in this section and S. 5, where a person is a citizen of India and is in employment of any diplomatic or consular office or trade commissioner of any foreign country situated in any part of Assam such person, if liable to pay tax, shall obtain a certificate of enrolment as provided in sub-S. (2) and pay the tax himself.

(5) The assessing authority shall mention in every certificate of registration or enrolment the amount of tax payable by the holder according to the Schedule, and the date by which it shall be paid, and such certificate shall serve as a notice of demand for the purposes of S. 11.

(6) Where an employer or a person liable for registration or enrolment wilfully fails to apply for such certificate within the required time as provided for in sub-S. (4) the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees twenty for each day of delay in case of an employer and not exceeding rupees five for each day of delay in the case of others.

(7) Where an employer or a person liable for registration or enrolment has deliberately given false information in any application submitted under this section the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees one thousand.

CHAPTER 2

Taxing authorities

6. Taxing authorities :-

(2) The State Government may appoint one Commissioner of Taxes and as many Additional Commissioners of Taxes, Joint Commissioners of Taxes, Deputy Commissioners of Taxes (Appeals), Deputy Commissioners of Taxes, Senior Superintendents of Taxes, Superintendents of Taxes, All Assam Investigation Officers and Inspectors of Taxes as it thinks fit.

(3) The Commissioner of Taxes shall perform his functions in respect of the whole of the State of Assam and Additional

Commissioner of Taxes, Joint Commissioner of Taxes, Deputy Commissioner of Taxes (Appeals), Deputy Commissioner of Taxes, Senior Superintendent of Taxes, Superintendent of Taxes. All Assam Investigation Officer and Inspector of Taxes shall perform their functions in respect of areas or of such persons or classes persons or of such incomes or classes of incomes or of such cases or classes of cases as the Commissioner of Taxes may, by notification in the official Gazette, direct.

CHAPTER 3 Assessment

7. Returns :-

(1) Every employer registered under this Act shall furnish to the assessing authority a return in such form, for such periods and by such dates as may be prescribed, showing therein the salaries and wages paid by him and the amount of tax deducted by him in respect thereof.

(2) Every return shall be accompanied by a treasury challan in proof of payment of full amount of tax due according to the return, and a return without such proof of payment shall not be deemed to have been duly filed

8. Assessment of employers :-

(1) If the assessing authority is satisfied that the return filed by any employer is correct and complete, it shall accept the return.

(4) If an employer fails to get himself registered or being registered fails to file any return, the assessing authority shall, after giving the employer a reasonable opportunity of being heard and after holding such inquiry as it may deem fit or otherwise, pass an order assessing the amount of tax due to the best of its judgment.

(5) The amount of tax, so assessed, shall be paid within fifteen days of receipt of the notice of demand from the assessing authority.

8A. Assessment of escaped tax :-

If for any reason any person has not been assessed or has been under-assessed for any financial year the assessing authority may, notwithstanding anything contained in sub- S. (2) of S. 7, at any time within three years of the end of that year, serve on the person liable to pay the tax, a notice containing all or any of the

requirements which may be included in a notice under sub-S. (2) of S. 7 and may proceed to assess or reassess him and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were issued under that sub-section :

Provided that the tax shall be charged at the rate at which he would have been charged if the person would not have escaped assessment or full assessment, as the case may be.

8B. Rectification of mistakes :-

(2) Where any such rectification has the effect of reducing the assessment, the assessing authority shall order any refund which may be due to such person.

(3) Where any such rectification has the effect of enhancing the assessment or reducing the refund, the assessing authority shall serve on the person a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under S. 11 and the provisions of this Act shall apply accordingly.

9. Deduction of tax at source :-

Deleted vide Assam Act XI of 1992].

9A. Requisition for deduction of tax :-

Deleted vide Assam Act XI of 1992].

9B. Indemnity :-

Deleted vide Assam Act XI of 1992]

CHAPTER 4

Appeals

10. Appeals :-

(2) The Assistant Commissioner of Taxes (Appeals) shall fix a day and place for hearing the appeal, and may, from time to time, adjourn the hearing and make such further enquiry as he thinks fit.

10A. Revision :-

(1) The Commissioner may call for and examine the record of any proceeding under the Act, and if he considers that an order passed therein by any officer other than himself, is erroneous in so far as it is prejudicial to the interest of the revenue, he may after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such orders

thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

CHAPTER 5

Demand, payment and recovery

11. Notice of demand :-

Where any tax or penalty or interest is payable in consequence of any order passed under or in pursuance of this Act, the assessing authority shall serve on the person concerned a notice of demand in the prescribed form specifying the amount so payable.

12. Payment of dues :-

(2) In other case the amount of tax due shall be paid in accordance with the provisions of sub-S. (5) of S. 5-A.

12A. Consequence of failure to deduct or to pay tax :-

(1) If an employer (not being an officer of the Government) fails to pay the tax as required by or under this Act, he shall, without prejudice to any other consequences and liabilities which he may incur, be deemed to be an assessee in default in respect of such tax.

(2) Without prejudice to the provisions of sub-S. (1), an employer referred to in that sub-section shall be liable to pay simple interest at two per centum of the amount of tax due for each month or part thereof for the period for which the tax remains unpaid.

(3) If any person fails to pay the tax as required by or under this Act, he shall be liable to pay simple interest at the rate and in the manner laid down in sub-S. (2) above.

12B. Penalty for non-payment of tax :-

If any person or a registered employer fails, without reasonable cause, to make payment of any amount of tax within the time or date specified in the notice of demand, the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding fifty per centum of the amount of the tax due.

13. Mode of recovery :-

All arrears of tax, penalty, interest and fees due under this Act from any person shall be recoverable as arrears of land revenue and the assessing authority shall proceed to realise the arrear as such from

such person.

13A. Special mode of recovery :-

(2) The assessing authority may, at any time or from time to time, amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the assessee, the receipt of the assessing authority shall constitute a good and sufficient discharge of the liability of such person, to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the assessee after receipt of the notice referred to in this section shall be personally liable to the assessing authority to the extent of the liability discharged, or the extent of the liability of the assessee for tax, penalty and interest, whichever is less.

(5) Where a person to whom a notice under this section is sent proves to the satisfaction of the assessing authority that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then, nothing contained in this section shall be deemed to require such person to pay any sum or part thereof, as the case may be, to the assessing authority.

(6) Any amount of money which a person is required to pay to the assessing authority or for which he is personally liable to the assessing authority under this section, if it remains unpaid, be recoverable from such person as an arrear of land revenue.

14. Refunds :-

The assessing authority shall refund to a person the amount of tax, penalty, interest and fees (if any) paid by such person in excess of the amount due from him. The refund may be made either by cash payment or, at the option of such person, by deduction of such excess from the amount of tax, penalty, interest and fee due from him : provided that such excess shall first be applied towards the recovery of any amount due in respect of which a notice under S. 8 has been served and thereafter the balance, if any, shall be refunded.

15. Failure to make returns, etc :-

Whoever

(1) fails, without reasonable cause, to submit in due time any return as required by or under the provisions of this Act or submits a false return ; or

(2) fails or neglects, without reasonable cause, to comply with any requirement made of, or any obligation laid on, him under the provisions of this Act ; or

(3) fraudulently evades payment of any tax due under this Act or conceals his liability to such tax ; shall, on conviction before a Magistrate and in addition to any tax or penalty or both that may be due from him, be punishable with imprisonment which may extend to six months or with fine not exceeding five hundred rupees or with both.

15A. Offence by companies :-

15B. Composition of offences :-

(2) On payment of such sum, no further proceeding shall be taken against the person concerned in respect of the same offence.

CHAPTER 7

Miscellaneous

16. Power to compel attendance etc :-

(1) The assessing authority may, by a written notice, require any person to attend before him and to give evidence or produce documents, as the case may be, for the purpose of determining the liability of himself or of any other person to taxation under this Act.

(2) Such person shall on such requisition be legally bound to attend and give evidence or produce documents, if in his power and possession, as the case may be, at the place and time specified in such notice ; and whoever is required to produce a document may either attend and produce it or cause it to be produced.

16A. Accounts :-

(1) If the assessing authority is satisfied that the books of account and other documents maintained by an employer in the normal course of his business are not adequate for verification of the

returns, filed by the employer under this Act, it shall be lawful for the assessing authority to direct the employer to maintain the books of accounts or other documents in such manner as he may, in writing direct and thereupon the employer shall maintain such books of account or other documents accordingly.

(2) Where an employer fails to maintain the books of account or other documents as directed under sub-S. (1), the assessing authority may, after giving him an opportunity of being heard, impose upon him a penalty not exceeding rupees five for each day of delay.

16B. Production and inspection of accounts and documents and search of premises :-

Any authority referred to in S. 6 of this Act may inspect and search any premises where any profession, trade, calling or employment liable to taxation under this Act is carried on or is suspected to be carried on and may cause production and examination of books, registers, accounts or documents relating thereto, and may seize such books, registers, accounts or documents as may be necessary :

Provided that if such authority removes from such premises any book, register, account or document, it shall give to the person in charge of the place, a receipt describing the book, register, accounts or document so removed by it and retain the same only for so long as may be necessary for the purposes of examination thereof or for prosecution.

17. Information to be furnished by employer :-

The assessing authority may demand from the employer the names and complete addresses of all or any of the persons in relation to whom he is the employer and such employer shall thereupon furnish the assessing authority with the names and addresses so demanded. ,

17A. Prosecution, suits or other proceedings :-

No suit shall be brought in any civil court or set aside or modify an assessment made or order passed under the provisions of this Act, and no prosecution, suit or other proceedings shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act or the rules made thereunder.

17B. Power to transfer proceedings :-

The Commissioner o" Taxes may, after giving the parties concerned

an opportunity of being heard, wherever it is possible to do so, and after recording his reasons for doing so, by order in writing, transfer any proceedings or class of proceedings under this Act, from himself to any other officer, and he may likewise transfer any such proceedings (including a proceeding pending with any officer or already transferred under this section) from any officer to any other officer or to himself :

Provided that nothing in this section shall be deemed to require any such opportunity to be given where the transfer is from any officer to any other officer and the offices of both are situated in the same city, locality or place.

Explanation. In this section the word "proceedings" in relation to any assessee whose name is specified in any order issued thereunder, means all proceedings under this Act in respect of any year, which may be pending on the date of such order or which may have been completed on or before such date, and include also all proceedings under this Act which may be commenced after the date of such order in respect of any year in relation to such assessee.

18. Place of assessment :-

Any person liable to pay tax under this Act shall ordinarily be assessed by the assessing authority of the area in which he carries on a trade, or follows a profession or calling or is in employment.

19. Power to make rules :-

The State Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act :

Provided that it shall not be necessary to make previous publication as aforesaid, of any rules required to be made on the first occasion in order to give effect to the provisions of the Assam Professions, Trades, Calling and Employment Taxation (Amendment) Act, 1992.

SCHEDULE 1

Rate of Tax

SCHEDULE	
Rate of Tax	
[See Section 4]	
Class of persons (1)	Rate of

	tax (2)	
1.	Rs.	
Salary and wage earners : Such persons whose monthly salaries or wages are	Nil	
	40	p. m.
	50	„
	65	„
	80	„
	95	„
	110	„
	125	„
	140	„
	155	„
	170	„
	185	„
2.		
(a) Legal practitioners including Solicitors and Notaries Public ;		
	Nil	
	1,000	p.a.
	1,250	„
	1,750	„
	2,250	„
3.		
(a) Members of Associations recognised under the Forward Contracts (Regulation) Act, 1956 (74 of 1956)	2,250	„
	2,250	„
	1.200	

4.		2,250	„
Estate agents or brokers or building contractors			„
5.		2,250	„
Director (other than those nominated by Government) of Companies registered under the Companies Act, 1956 (1 of 1956)			
6.			
(a) Dealers within the meaning of a sales tax law in Assam except Companies Registered under the Companies Act, 1956 and firms registered under the Partnership Act, 1932 :			
Such dealers whose annual gross turnover of all sales is	Rs.		
	Nil		
	250	P.A	
	700	„	
	1,200	„	
	2,250	„	
	2,250	„	
	2,250	„	
7.			
Occupiers of factories as defined in the Factories Act, 1948 (63 of 1948) who are not dealers covered by entry 6 :			
Such occupiers of factories			
	225	„	
	1,200	„	
	2,250	„	
8.			
Employers or shops and establishments within the meaning of the Assam Shops and Establishments Act, 1971 who are not dealers covered by entry 6 : such employer's of establishment			
	Nil		
	300	P.A	
	1,200	„	

	2,250	„
9. Owners or lessees of petrol/diesel filling stations and service stations	2,250	„
10. (a) Licensed foreign liquor vendors and employers of residential hotels	2,250	„
	2,250	„
11. Holders of permits for transport vehicles, granted under the Motor Vehicles Act, 1988 (59 of 1988) which are used or adopted to be used for hire or reward :		
	300	P.A.
	750	„
12. Licensed money lenders under the Assam Money Lenders Act, 1934	2,250	„
13. Individuals or institutions conducting Chit Funds	2,250	„
14. Banking Companies as defined in the Banking Regulation Act, 1949 (10 of 1949)		
	2,250	„
	1,500	„
15. Companies registered under the Companies Act, 1956 (1 of 1956) and engaged in any profession, trade or calling	2,250	„
16. Firms registered under the Indian Partnership Act, 1932(9 of 1932) and engaged in any profession, trade or calling	1,500	„
17. Owners of nursing homes, X-ray clinics, pathological testing laboratories and hospitals	2,250	„
18. Dry cleaners, interior decorators and owners of beauty parlours	1,000	„
19.		

19.		
Film distributors and travel agents	2,250	„
20.		
Self-employed persons in the motion picture industry		
	2,250	„
	1,000	„
21.		
Persons, other than those mentioned in any preceding entries, who are engaged in any profession, trade, calling or employment :		
Where the annual gross income in the profession of any of the persons is-	Rs.	
	Nil	
	1,000	„
	1,250	„
	1,750	„
	2,250	„