

**Mizoram Professions, Trades, Callings And Employments  
Taxation Act, 1995**

**7 of 1995**

**[06 November 1995]**

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### **Mizoram Professions, Trades, Callings And Employments Taxation Act, 1995**

**7 of 1995**

**[06 November 1995]**

An ACT to levy a tax on professions, trades, callings and employments in the state of Mizoram to make an additional resources to the revenue of Mizoram and, for that purpose, it is expedient to impose a tax on professions, trades callings and employments. Be it enacted by the Legislative Assembly of Mizoram in the forty sixth Year of the Republic of India as follows.

## **CHAPTER 1 LIABILITY TO AND CHARGE OF TAX**

### **1. Short Title, Extent And Commencement :-**

- (1) This Act may be called the Mizoram Professions, Trades, Callings and Employments; taxation Act, 1995.
- (2) It shall extend to the whole of Mizoram excluding the areas of Lai, Mara and Chakma Autonomous District Councils in Chhimtuipui District.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

### **2. Definitions :-**

In this Act, unless the context otherwise requires-

- (a) "Appellate Assistant Commissioner of Taxes" means a persons appointed to be an Appellate Assistant Commissioner of Taxes under sub-section (2) of section 6;
- (b) "assessee" means a person by whom tax is payable under the provisions of this Act;
- (c) "Assessing authority" in a particular area means the Superintendent of Taxes referred to in section 7 exercising

jurisdiction in that area;

(d) "persons" include a company, firm or other association of persons;

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

(f) "previous Years" means twelve months ending on the 31st March next preceding to the year for which assessment is to be made;

(g) "Principal Officer" means with reference to-

(i) a Government, the head of an Office or the disbursing Officer;

(ii) a local authority, company, firm or other association of persons, the Chairman, Secretary, Treasurer, Manager or Agent of such local authority, company, firm or other association of persons ;

(h) "State" means the state of Mizoram

(i) "total gross income" means aggregate of income derived from all sources.

### **3. Liability To Tax :-**

As from the date which may be notified by the State Government in the Official Gazette 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.

### **4. Rate Of Tax :-**

The tax shall be levied at the rates specified in the Schedule annexed to this Act:

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

### **5. Determination Of Tax :-**

The tax payable by any person under this Act shall generally be determined with reference to his total gross income during the previous year from his profession, trade, calling or employment, or with reference to his standing in the profession, trade, calling or

employment as the case may be, and as specified in the Schedule annexed to this Act:

Provided that the provisions of this Act shall not apply to a member of the Armed Forces of India or to a Co-operative Society registered or deemed to have been registered under the Mizoram Co-operative Societies Act, 1991.

## **CHAPTER 2 TAXING AUTHORITIES**

### **6. Taxing Authorities :-**

(1) There shall be the following classes of Taxing Authorities for the purposes of this Act, namely:

- (a) Commissioner of Taxes;
- (b) Deputy Commissioner of Taxes;
- (c) Appellate Assistant Commissioner of Taxes;
- (d) Assistant Commissioner of Taxes;
- (e) Superintendent of Taxes;
- (f) Inspector of Taxes.

(2) The State Government may appoint one Commissioner of Taxes and as many Deputy Commissioner of Taxes, Appellate, Assistant Commissioner of Taxes, Assistant Commissioner of Taxes, Superintendent of Taxes and Inspector of Taxes as it thinks fit.

(3) The Commissioner of Taxes shall perform his functions in respect of whole of the State of Mizoram and the Deputy Commissioner of Taxes, Assistant Commissioner of Taxes, Superintendent of Taxes and Inspector of Taxes shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income 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 person liable to pay tax under this Act shall submit to the Assessing authority a return in such form and within such time as may be prescribed:

Provided that a person in respect of whom the tax has been deducted under the provisions of section 12 shall, subject to the provisions in sub-section (3) thereof, be exempted from the liability to submit a return under this sub.-section.

(2) In the case of any person who has not furnished a return under

sub-section (1) in spite of his liability to pay tax under this Act for any financial year the assessing authority may serve in that year a notice, in the prescribe form on such person requiring him to furnish the return, and such person shall thereupon furnish the return within the period specified in the notice.

Provided that any person offering to pay tax at the highest rate specified in the Schedule shall not be required to submit any return or to produce any evidence.

## **8. Assessment :-**

(1) If the assessing authority is satisfied that a return furnished under section 7 is correct and complete, he shall by an order in writing, assess the person and determine the tax payable by him on the basis of such return.

(2) If the assessing authority is not satisfied that a return furnished under section 7 is correct and complete, he shall serve on the person concerned a notice requiring him, on such date, hour and place to produce evidence in support of the return.

(3) On the day specified in the notice under sub-section (2) or as soon afterwards as may be the assessing authority after hearing such evidence as may be produced and such other evidence as he may require, shall by an order in writing, assess the person and determine the tax payable by him.

(4) If any person fails to make a return as required by section 7 or having made the return fails to comply with the terms of the notice issued under subsection (2), the assessing authority shall, by an order in writing, assess to the best of his judgment the person and determine the tax payable by him.

Provided that before making assessment, the assessing authority may allow the person such further time as he thinks fit to make the return or comply with the terms of the notice issued under sub-section (2).

## **9. 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-section (2) of section 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 requirement which may be included in a notice under sub-section (2) of section 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 subsection:

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

#### **10. Rectification Of Mistakes :-**

(1) The authority which made an assessment or passed an order on appeal or revision in respect thereof, may of his own motion, and shall if an application is filed in this behalf within three years from the date of such assessment or order rectify any mistake apparent from the records of the case:

Provided that no such rectification having adverse effect upon an assessee shall be made unless the assessee has been given a reasonable opportunity of being heard.

(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 section 17 and the provisions of this Act shall apply accordingly.

#### **11. Deduction Of Tax At Sources :-**

(1) The tax payable under this Act by any person in the employment of any Government, local authority, company, firm or other association of persons, shall in the manner prescribed, be deducted by the principal Officer thereon from any amount payable to such person on behalf of such Government, local authority, company, firm or other association of persons.

(2) The principal officer making any deduction under sub-section (1) shall submit to the assessing authority such return and within such time as may be prescribed.

(3) The assessing authority may take action if he thinks fit in the manner provided under sub-section (2) of section 7 and under section 8, in the case of any person in respect of whom he is satisfied that no return under sub-section (2) of section 7 has been furnished or a return furnished under that sub-section is inaccurate or deficient.

(4) Where any principal officer fails to deduct any tax or after deducting fails to pay it as required by or under this Act, he shall, without prejudice to any other consequences he may incur under this Act, be deemed to be a person in default in respect of the tax not deducted or paid and all the provisions of section 19 shall apply to him:

Provided that the assessing authority shall not make a direction under subsection (2) of section 19 for the recovery of any penalty from such person unless it is satisfied after giving the person reasonable opportunity of being heard that such person has willfully failed to deduct and pay the tax.

### **12. Requisition For Deduction Of Tax :-**

The assessing authority may require a principal officer to deduct, from any payment to a person, any tax or penalty due from him and the principal officers to comply with such requisition.

### **13. Indemnity :-**

The principal officer deducting or paying any tax under the provisions of this Act is hereby indemnified for such deduction or payment thereof.

## **CHAPTER 4 APPEALS AND REVISION**

### **14. Appeals :-**

(1) Any person aggrieved by an order passed under this Act, by an assessing authority not being an order passed under this section, may file to the appellate Assistant Commissioner of Taxes against such order within sixty days from the date of service of such order, in the manner prescribed:

Provided that no appeal against an order of an assessment or penalty shall be entertained by the Appellate Assistant Commissioner of Taxes unless he is satisfied that the amount of Tax assessed or penalty imposed if not otherwise directed by him, has been paid.

Provided further that the Appellate Assistant Commissioner of Taxes before whom the appeal is filed, may admit it after expiration of sixty days, if he is satisfied that for reasons beyond the control of the appellant or any other sufficient cause it could not be filed within the specified time.

(2) The Appellate Assistant Commissioner of Taxes 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.

(3) In disposing of the appeal under sub-section (1) against an order of assessment or penalty the Appellate assistant Commissioner of Taxes may,

(a) confirm, reduce, enhance, or annul the assessment;

(b) set aside the assessment and direct a fresh assessment after such enquiry as may be ordered;

(c) confirm, reduce, or annul the order of penalty.

### **15. Revision :-**

(1) The Commissioner may, out of his own motion, call for and examine the records of any proceedings which have been taken under this Act by any Officer subordinate to him and revise, subject to the provisions of this Act, and after such enquiry as may be deemed necessary, any order passed in such proceedings:

Provided that no order prejudicial to a person shall be passed under this subsection without giving him a reasonable opportunity of being heard.

(2) The Commissioner may, also on petition filed within sixty days of the service of the order passed under section 15 and after giving the petitioner an opportunity of being heard, pass such order as he thinks fit:

Provided that the Commissioner before whom the petition is filed may admit if after the expiry of the period of sixty days if he is satisfied that for reason beyond the control of the petitioner or for any other sufficient cause, it could not be filed within time.

### **16. Delegation Of Powers :-**

The Commissioner may, by notification in the official Gazette, delegate the powers under section 15 to any other officer not below the rank of Deputy Commissioner of Taxes.

## **CHAPTER 5 DEMAND, PAYMENT AND RECOVERY**

### **17. Notice Of Demand :-**

Where any tax or penalty 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.

### **18. Dues When Payable :-**

(1) The Tax or penalty under this Act shall be paid in the manner hereinafter provided.

(2) Every person liable to furnish a return under subsection (1) of section 7 shall, before he furnishes the return, pay into a Government treasury the full amount of tax due on the basis of such return and shall furnish, along with the return, a receipt from such Treasury in token of such payment.

(3) The Principal Officer deducting any tax under section 11 shall pay the amount to a Government treasury within thirty days of such deduction and shall furnish, along with the return required to be made under sub-section (2) thereof, a receipt from such Treasury in token of such payment.

(4) The amount of tax or penalty due under this Act

(a) in excess of payment already made or

(b) where no payment has been made, shall be paid by such date as may be specified in the notice of demand and, where no such date is specified, it shall be paid within thirty days of service of the notice of demand.

### **19. Mode Of Recovery :-**

(1) Where any tax or other dues payable under this Act is not paid on or before the due date the person shall be deemed to be in default.

Provided that where a person has presented an appeal or petition for revision which has been admitted, he shall not be deemed, for so long as the appeal or petition for revision remain pending, to be in default in respect of the portion of the dues in dispute.

(2) Where a person is in default, the assessing authority may, after giving him reasonable opportunity of being heard in his discretion direct that, and in addition to the amount due a sum not exceeding that amount shall be recovered from the defaulter by way of penalty,

(3) Where a person is in default, the assessing authority shall order that the amount due shall be recoverable as an arrear of land revenue and shall proceed to realise the amount due as such.

### **20. Refunds :-**

Any person who has paid any tax or penalty in excess of the amount due under this Act, may, within ninety days of the service of the order of assessment or that passed on appeal or revision as

the case may be, apply for a refund and the amount paid in excess shall be refunded accordingly.

## **CHAPTER 6 OFFENCES AND PENALTIES**

### **21. Failure To Make Returns, Etc. :-**

Whoever -

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

(b) 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

(c) fraudulently evades payment of any tax due under this Act, or conceals his liability to 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.

## **CHAPTER 7 MISCELLANEOUS**

### **22. Power To Compel Attendance Etc. :-**

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

### **23. Information To Be Furnished By The Principal Officer :-**

The assessing authority may demand from the principal officer of any Government, local authority, company, firm or other association of persons the names and complete address of all or any of the persons who have been, or are, in the employment of such Government, local authority, company, firm or other association of persons and such principal officer shall thereupon furnish the assessing authority with the names and addresses so

demanded.

#### **24. Prosecution, Suit Or Other Proceedings :-**

No suit shall be brought in any civil court to set aside or modify any 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 there-under.

#### **25. Period Of Limitation :-**

In computing the period of limitation prescribed for an appeal or a revision, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

#### **26. 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.

#### **27. Power To Exempt :-**

The State Government may, by notification in the Official Gazette, either wholly or partially and subject to such condition as it may think fit to prescribe, exempt any person from the payment of tax under this Act, for any specified period or occasion or as regards any specified class of persons.

#### **28. Power To Make Rules :-**

(1) The State Government may make rules for carrying out the provisions of this Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before the Mizoram Legislative Assembly while it is in session for a total period of seven days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Mizoram Legislative Assembly agrees in making any modification in the rule or the Mizoram Legislative Assembly agrees that the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be;

so however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule.

## **29. Repeal And Savings :-**

On and from the commencement of this Act, the Mizo District (Professions, Trades, Callings and Employments Taxation) Regulation, 1963 as adapted and amended from time to time shall stand repealed:

Provided that anything done or any action taken under the said Regulation so repealed shall be deemed to have been done or taken under the corresponding sections of this Act.