

Bihar Tax On Professions, Trades, Callings And Employments Act, 2011

10 of 2011

CONTENTS

1. Short Title, Extent And Commencement
2. Definitions
3. Application Of The Provisions Of The Bihar Value Added Tax Act, 2005 And Rules Made Thereunder
4. Levy And Charge Of Tax
5. Employers Liability To Deduct And Pay Tax On Behalf Of The Employee
6. Registration And Enrolment
7. Tax Returns And Payments
8. Consequences Of Failure To Deduct Or To Pay Tax
9. Recovery Of Taxes, Etc.
10. Appeals
11. Offences And Penalties
12. Offences By Companies
13. Power To Transfer Proceedings
14. Compounding Of Offences
15. Exemptions
16. Local Authorities Not To Levy Profession Tax
17. Power To Amend Schedule
18. Power To Make Rules
19. Power To Remove Difficulties

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An Act To provide for the levy and collection of tax on professions, trades, callings and employments and for matters connected therewith or incidental thereto. Be it enacted by the Legislature of the State of Bihar in the Sixty-Second Year of the Republic of India as follows:-

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Bihar Tax on Professions, Trades, Callings and Employments Act, 2011. (2) It shall extend to the whole of the State of Bihar. (3) It shall come into force on such

date as the State Government may, by notification, appoint.

2. Definitions :-

(1) In this Act, unless the context otherwise requires, - (a) "assessee" means a person or employer by whom tax is payable under this Act; (b) "employee" means a person employed on salary or wages, and includes – (i) a Government servant receiving pay from the revenues of the Central Government or any State Government or the Railway Fund; (ii) a person in service of a body, whether incorporated or not, which is owned or controlled by the Central Government or any State Government where the body operates in any part of the State, even though its headquarters may be situated outside the State; (iii) a person engaged in any employment of an employer not covered by clauses (i) and (ii) above; (c) "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 disbursement 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; (d) "Government" means the State Government of Bihar; (e) "Income" means Income as defined under the Income Tax Act, 1961; (f) "person" means any person who is engaged in any profession, trade, calling or employment in the State of Bihar and includes a Hindu undivided family, firm, company, corporation or other corporate body, any society, club, or association so engaged, but does not include any person who earns wages on casual basis; Explanation- For the purposes of this clause, every branch of a firm, company, corporation or other corporate body, any society, club or association shall be deemed to be a person; (g) "prescribed" means prescribed by rules made under this Act; (h) "profession tax" means the tax on profession, trade, calling and employment leviable under this Act; (i) "salary or wages" includes pay or wages, 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 section 17 of the Income Tax Act, 1961; (j) "tax" means the profession tax; (k) "year" means a financial year. (2) Words and expressions used in this Act but not defined herein shall have the meaning assigned to them under the Bihar Value Added Tax Act, 2005 (Act 27 of 2005).

3. Application Of The Provisions Of The Bihar Value Added Tax Act, 2005 And Rules Made Thereunder :-

Subject to other provisions of this Act and the Rules framed

thereunder the authority empowered for assessment, reassessment, collection of tax and enforce payment of tax, interest and penalty payable by a dealer under the Bihar Value Added Tax Act 2005 (Act 27 of 2005) shall do the work of assessment, reassessment, collection of tax and enforce payment of tax, interest and penalty payable under this Act and for this purpose he may exercise all or any of the powers assigned to them under the said Act and Rules made thereunder for the time being in force including the provisions relating to Tax returns, Tax assessment, Tax reassessment, escaped Tax assessment, recovery of tax, maintenance of accounts, inspection, search and seizure liability in representative character, refund, appeal, revision and reviews, appeal to the High court, compounding of offences and other miscellaneous matter and the provisions of the said Act shall, mutatis mutandis apply accordingly. (2) The powers conferred under sub-Section (1) shall be exercised by the authorities within such areas in respect of which authority has been conferred on them under sub-section (1) of Section 10 of the Bihar Value Added Tax Act 2005 (Act 27 of 2005). (3) Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing, delegate any of his powers and duties under this Act to any of the officers appointed under sub-section (1) of Section 10 of the Bihar Value Added Tax Act 2005 (Act 27 of 2005).

4. Levy And Charge Of Tax :-

(1) There shall be levied and collected a tax on professions, trades, callings and employments in accordance with the provisions of this Act: Provided that the tax payable by a person under this Act in respect of a year shall not exceed two thousand five hundred rupees. (2) Every person engaged in any profession, trade, calling or employment in the State of Bihar shall be liable to pay the tax in respect of his Profession, Trade, Calling or employment at the rate specified in the Schedule appended to this Act.

5. Employers Liability To Deduct And Pay Tax On Behalf Of The Employee :-

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

or the Central Government, the manner in which the employer shall discharge the said liability shall be such as may be prescribed : Provided further that where any person earning a salary or wages 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, that he shall pay the tax himself, then the employer or employers of such person shall not deduct the tax from the salary or wages 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.

6. Registration And Enrolment :-

(1) Every employer, not being an officer of the State Government or the Central Government, liable to deduct tax under section 5 shall be granted a registration number by the Tax assessing authority in the prescribed manner. (2) Every Tax assessee 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 be granted an enrolment number by the Tax assessing authority in the prescribed manner.

7. Tax Returns And Payments :-

(1) Every employer registered under this Act and every enrolled person shall furnish such returns in such form and manner and for such period as may be prescribed. (2) The tax due under this Act shall be deposited by every employer registered under this Act and every enrolled person in such manner as may be prescribed (3) Where an employer or enrolled person, without reasonable cause, fails to file such return or defaults in paying the tax within the prescribed time, the Tax assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees one hundred for each month of delay.

8. Consequences Of Failure To Deduct Or To Pay Tax :-

(1) If Tax assessee, not being an officer of the State Government or the Central 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 payment. (2) Without prejudice to the provisions of sub-section (1), a Tax assessee referred to in that sub-section shall be liable to pay simple interest at the rate of 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 an enrolled 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-section (2).

9. Recovery Of Taxes, Etc. :-

The arrears of tax, penalty, interest or any other amount due under this Act, shall be recoverable as an arrear of land revenue.

10. Appeals :-

(1) Any Tax assessee, not being an officer of the State Government or the Central Government, aggrieved by any order passed by any authority under the provisions of this Act may, within forty-five days from the date on which the order was served on him, appeal to the appellate authority : Provided that the appellate authority may, for sufficient reasons to be recorded in writing, admit an appeal preferred after the expiry of the period of forty-five days aforesaid. (2) No appeal shall be entertained, unless the amount of tax in respect of which the appeal has been preferred has been paid in full.

11. Offences And Penalties :-

Any person or employer who, without reasonable cause, fails to comply with any of the provisions of this Act or the rules made there under shall, on conviction, be punishable with simple imprisonment for tree months or fine which may extend to five thousand rupees or both, and where the offence is a continuing one, with a further fine which may extend to fifty rupees for every day during which the offence continues.

12. Offences By Companies :-

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any

director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.-For the purposes of this section, - (a) "company" means any body corporate and includes a firm or other association of individuals ; and (b) "director" in relation to a firm, means a partner in the firm.

13. Power To Transfer Proceedings :-

The Commissioner or the Additional Commissioner may, after giving the parties a reasonable opportunity of being heard, wherever it is possible so to do, and after recording his reason for doing so, by order in writing, transfer any proceedings or class of proceedings under any provision of 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 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 Tax 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 includes 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 Tax assessee.

14. Compounding Of Offences :-

(1) The Tax assessing authority may, either before or after the institution of proceedings for an offence under this Act, permit any Tax assessee, charged with the offence, to compound the offence on payment of such sum, not exceeding five thousand rupees or double the amount of tax recoverable, whichever is greater. (2) On payment of such sum as may be determined by the assessing authority under sub-section (1), no further proceedings shall be taken against the person in respect of the same offence. (3) Any order passed or proceeding recorded by the Tax assessing authority under sub-section (1), shall be final and no appeal or application for revision shall lie therefrom.

15. Exemptions :-

(1) Nothing contained in this Act shall apply to the members of the armed forces of the Union serving in any part of Bihar. (2) The State Government may, by a notification published in the Official Gazette and subject to such conditions and restrictions as may be specified in the notification, exempt from levy of tax any class or group of persons. (3) Every notification issued under sub-section (2) shall, as soon as it is published, be laid before the Legislative Assembly for a total period of fourteen days which may be comprised in one or more sessions.

16. Local Authorities Not To Levy Profession Tax :-

Notwithstanding anything in any enactment governing the constitution or establishment of a local authority, no local authority shall, on or after the commencement of this Act, levy any tax on professions, trades, callings or employments.

17. Power To Amend Schedule :-

(1) The Government may, by notification, alter, add to or cancel any item or entry in the Schedule. (2) Every notification issued under sub-section(1) shall, as soon as it is published, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions. (3) References made in this Act to the Schedule, or any Entry or item thereof, shall be construed as references to the Schedule or, as the case may be, the Entry or item thereof as for the time being amended in exercise of the powers conferred by this section.

18. Power To Make Rules :-

(1) The Government may, by notification, make rules to carry out all or any of the purposes of this Act. (2) Every rule made under this Act shall be laid as soon as may be after it is made before the State Legislature while it is in session for a total period of fourteen days which may be comprised in one or more sessions.

19. Power To Remove Difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette, make such provisions not inconsistent with the provisions of this Act, and may appear to be necessary for removing the difficulty.