

Kerala Panchayat Raj (Profession Tax) Rules, 1996

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Kerala Panchayat Raj (Profession Tax) Rules, 1996

S. R. O. No. 15/96. - In exercise of the powers conferred under Sections 204 and 205 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) read with Section 254 thereof, the Government of Kerala hereby make the following rules, namely: -

1. Short Title And Commencement :-

(1) These rules may be called the Kerala Panchayat Raj (Profession tax) Rules, 1996.

(2) They shall come into force on the 1st day of April, 1996.

2. Definitions :-

In these rules, unless the context otherwise requires, -

(a) Act means the Kerala Panchayat Raj Act, 1994 (13 of 1994);

(b) Bill/Demand notice means a notice of the tax assessed totally and published addressing the tax payer and demand in writing the profession tax and requesting the tax payer to pay profession tax liable to be deducted or collected from the salary of the employee by the employer/head of office, intimation regarding the assessment of tax payable by the tax payer, reply to the objectives, decision of appeal or other actions to realise the arrears. Such intimations/ notices shall have the effect of a "notice specified in Section 240 of the Act;

(c) Transacts Business means

(d) Head of Office or employer means the person authorised to draw or pay the salary of employee of the industry or department or the Administrative Office, Manager, Secretary or head of Office of the Central or State Government or of a public or private sector undertaking;

(e) Requisition means a specific demand made in writing to the employees by the Secretary

* Published in Kerala Gazette No. 14 dt. 02-04-2001 as G.O.(P) No. 23417/N1/2001/LSGD.

** Sub-clauses i, ii, iii shall be omitted in S.R.O No. 322/2006, dtd 28-03-2006 to give the details connected with the levying of tax or intimating the employee for the purpose of levying of tax or service of any bill/demand notice and the due receipt and return of duplicate by the addressee or of the deduction/collection of profession tax from the salary of the employee for prompt payment in the Village Panchayat and includes requisition to give the required particulars for proper recording of accounts or for further action in the matter;

(f) Section means a section in the Act;

(g) Secretary means the Secretary of the Village Panchayat;

(h) Words and expressions used, and not defined in these rules, but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Maximum Rates Of Half-Yearly -Tax :-

(1) For the purpose of assessment of profession tax, companies and persons shall be classified as stated in column (2) of the Schedule below based on half-yearly income and the maximum profession tax to be levied from them for each half year shall be as mentioned in column (3) of the Schedule namely:-

Schedule		
Slab	Halfyearly income Rupees	Maximum half-yearly Tax Rupees
(1)	(2)	(3)
I	from 12,000 to 17,999	120
II	from 18,000 to 29,999	180
III	from 30,000 to 44,999	300
IV	from 45,000 to 59,999	450
V	from 60,000 to 74,999	600
VI	from 75,000 to 99,999	750
VII	from 1,00,000 to 1,24,999	1,000
VII	from 1,25,000 onwards	1,250

(2) Village Panchayat shall determine the tax leviable on each class subject to the maximum rate specified in sub-rule (1):

* Sub-rule (1) Substituted by S.R-O. No. 713/97, dated 11-01-2003 Provided that the tax leviable on any class determined by the Village Panchayat shall be in the multiples of rupees:

Provided further that the proportion which the tax on any class bears to the minimum income of that class shall in no case be smaller than the proportion which the tax on any lower class bears to the minimum income of such lower class.

(3) Village Panchayat may exempt any one or more of the classes in sub-rule (1) of Rule 3 from the liability of profession tax:

Provided that no class shall be exempted from the liability of tax when persons in the lowest class are liable to pay tax.

4. Transaction Of Business And Exercise Of A Profession :-

A company shall be deemed to have transacted business and a person shall be deemed to have exercised a profession, art or calling or held an appointment within a Village Panchayat area if such company or person or persons has an office or place of employment within such Village Panchayat area.

4A. Liability To Pay Tax In Certain Cases :-

(1) If a company or person has an agent or office in the Village Panchayat for the purpose of transacting business, whether or not such office or agent has power to make binding contracts on behalf of the company or persons, that company or person shall be deemed to transact business within the Panchayat area and the person holding the charge of such office or the agent or firm, as the case may be, shall be liable for the tax payable by the company or

person.

(2) The liability of a company or person otherwise liable to pay profession tax under sections 204 and 205 shall not cease to pay such tax solely on the reason that the place from which its or his business is controlled situates outside the Panchayat area or only on the reason that its or his transactions were stopped outside the Panchayat area.

5. Determination Of Tax When The Business Is Confined Exclusively To A Single Village Panchayat Area :-

Where a company or person transacts business in a half year exclusively in the area of a single Village Panchayat, the income of such company or person from the transaction of such business shall, for the purpose of levying profession tax under the Act during that half year be deemed to be-

(a) Where income tax or agricultural income tax or both is/are assessed on such company or person under the Income Tax Act, 1961 (Central Act, 43 of 1961), or the Agricultural Income Tax Act, 1991, for the year, comprising the half year, one half of the amount at which the profits and gains of such business are computed under Section 5 of the Agricultural Income Tax Act, 1991 for the purpose of assessing the income tax or agricultural income tax or the sum of both such amounts and

(b) Where the amount of the said profit and gains of such company or person is not ascertainable or where such company or person is not assessed to income tax or agricultural income tax, such percentage or percentages calculated with reference to Rule 6 of the turn over of the business transacted in the area of the Village Panchayat during the half year or where this is also unascertainable the profit and gains during the corresponding half year of the previous year shall be considered as the income.

6. Percentage Of Turnover :-

For the purpose of calculating the income for levying profession tax, the percentage of turnover or business under clause (b) of Rule 5 and Rule 7 shall be as specified in the following table:

Provided that if in any case, the income so calculated is less than the minimum sum ** Added in S.R.O No.322/2006, dtd 28-03-2006 specified in column (3) of the said table, the percentage shall be enhanced to such a rate as would yield such minimum sum:

TABLE

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	(1)	(2)	(3)
		Percentage	Minimum
1.	Where the turnover of business exceeds 20 lakhs of rupees	3	80,000
2.	Where the turnover of business exceeds 16 lakhs of rupees but does not exceed 20 lakhs of rupees	3	54,000
3.	Where the turnover of business exceeds 8 lakhs of rupees but does not exceed 16 lakhs of rupees	3.5	36,000
4.	Where the turnover of business exceeds 4 lakhs of rupees but does not exceed 8 lakhs of rupees	4	24,000
5.	Where the turn over of business exceeds 2 lakhs of rupees but does not exceed 4 lakhs of rupees	5	15,000
6.	Where the turn over of business exceeds 50,000 rupees but does not exceed 2 lakhs of rupees	6	6,000

7. Determination Of Income When Business Is Transacted In Two Or More Village Panchayat Areas :-

Where a company or person transacts business, partly in the area of a Village Panchayat and partly outside such area the income of such company or person from the transaction of such business in the area of the Village Panchayat shall, for the purpose of levying profession tax under the Act, be deemed to be the percentage calculated with reference to Rule 6 of the turnover of the business transacted in such area during the half year or the corresponding half year of the previous year, as the case may be:

Provided that in the case of a company or person assessable to income tax, the total profits earned by the company or person as disclosed by the income tax assessment for the year comprising the half year for which the profession tax is to be levied, shall be divided in the proportion of the turnover of the business of the company or person in the Village Panchayat area and outside for the purposes of assessment to profession tax.

8. Determination Of Turnover :-

For the purpose of clause (b) of Rule 5 and Rule 7, the turnover of business in any Panchayat area means the aggregate money value of the goods produced, manufactured, purchased or sold or of any other business transacted in such Panchayat area.

Explanation. - In determining the turnover of business under this rule, -

(a) Where the delivery of any goods on account of any purchase

made by any company or person and the delivery on account of the sale thereof by the same company or person is effected in the State, only the latter transaction shall be taken into account;

(b) Where the delivery of any goods on account of any purchase made by any company or person is effected in any place in the State, the later transaction shall be taken into account;

(c) Where the delivery of any goods on account of any purchase made by any company or person is effected in any place in the State and the delivery on account of the sale thereof by the same company or person is effected in any place outside the State, the former transaction shall be taken into account.

(2) The Standing Committee may, when classifying any company or person under sub-rule

(1) do so on general considerations with reference to the nature and reputed value of the business transacted, the quantity and number of articles dealt with, the size and rental of business premises, the number of persons employed, the amount of agricultural income derived, the amount of income tax or agricultural income tax paid by such company or person.

9. Section 9 :-

10. Service Of Notice And The Levy Of Profession Tax :-

(1) If, in the opinion of the **[Secretary] profession tax is or will be due from any company or person for a half year, it shall serve a notice in form No. VI on such company or person in the succeeding half year requiring the company or person to furnish a return within 15 (fifteen) days showing the income on the basis of which, according to such company or person, it or he is liable to be assessed to profession tax for the half year in question. Thereupon such company or person may submit a return showing the income derived by it or him during the half year for which profession tax is claimed or for the corresponding half year of the previous year and produce any evidence on which the company or person may rely in support of the return made.

(2) If the **[Secretary] is satisfied that the return is made as required under sub-rule (1) and that it is correct and complete, it shall levy the profession tax on such company or person on the basis of such return.

Explanation. - In cases not falling under clause (b) of Rule 5 or under Rule 7, if the company or person produces the notice of demand of income tax served on it or him under Section 156 of the

Income Tax Act, 1961 for the year comprising the half year in question, the Standing Committee shall be bound to take one half of the income mentioned in such notice of demand as the income for the purposes of levying under the Act.

(3) If no return is made, as required under sub-rule (1) or if the **[Secretary]** is of the opinion that any return so made is incorrect or incomplete the Standing Committee shall, after giving the company or person a notice for showing cause against the action proposed, in not less than seven days assign to such company or person the class in scale appropriate to the half yearly income of the company or person as estimated by it.

(4) The **[Secretary]** may, when classifying any company or person under sub-rule (3) do so on general considerations with reference to the nature and reputed value of the business transacted, the size and rental of the residential and business premises, the quantity and number of articles dealt with, the number of persons employed, the income tax or agricultural income tax paid and the return if any furnished under sub-rule (1).

11. Accounts Not To Be Called For :-

The **[Secretary]** shall not call for the accounts of any company or person ; but any assessee may produce his accounts to show that the net income derived by him from the exercise of his profession, art or calling or the transaction of his business within the Village Panchayat area falls below the lowest limit of income entered at the head of the class in which the Standing Committee has placed him and the Standing Committee shall revise the assessment if satisfied that the person or company should be placed in a different class.

12. Statements, Return, Etc. To Be Confidential :-

All Statements made, returns furnished or accounts or documents produced, in connection with the assessment of profession tax by any company or person shall be treated as confidential and copies thereof shall not be granted to the public.

13. Requisition On Owner Or Occupier To Furnish List Of Persons Liable To Tax :-

The Secretary may, by notice, require the owner or occupier of any building or land and the Secretary 9. The **[Secretary]** to classify tax. - (1) The **[Secretary]** shall assign to the company or person the class in the scale appropriate to the half yearly income of such company ** Substituted by S.R.O No.322/2006, dtd. 28-03-2006 or manager of a hotel, boarding or lodging house, club or residential

chambers to furnish within a specified time, a list in writing containing the names of all persons occupying such building, land, hotel, boarding or lodging house, club or residential chambers, and specifying the profession, art, or appointment of every such person and the rent, if any, paid by him and the period of such occupation.

14. Requisition On Employers Or Their Representatives To Furnish List :-

The Secretary may, by notice, require any employer or the head or Secretary or Manager of any public or private office, hotel, boarding or lodging house or club or a firm or company,-

(a) to furnish within a specified time, a list in writing, of the names of all persons employed by such employer or by such office, hotel, boarding house or company as officers, servants, dubashes, agents, suppliers or contractors with a Statement of the salary or income of such employed persons, and;

(b) to furnish particulars in regard to any company of which such employer or head. Secretary or manager, as the case may be, is the agent.

15. Intimation Of Change Or Transfer Of Trade :-

Every person liable to pay tax shall, when changes the name of his firm or industry or art or place of business or makes any change in the nature of his industry or transfer his business, inform the Secretary in writing within thirty days from the date of making of such change or transfer.

16. Requisition On Employers To Furnish Particulars Of Income Or Salary Of Employees :-

(1)The Secretary shall, immediately after the expiry of the period required for the determination of profession tax of a half year, require the head of office or employer in Form No. 1, to furnish, within fifteen days, the details of total salary or income of the employees in Form No. II.

(2) The head of office or employer shall submit the particulars required by the Secretary within the specified time in Form No. II and publish a copy of the same in the notice board of that institution inviting the attention of the employees for a period of fifteen days from the date of forwarding of such particulars.

(3) The Secretary shall approve and enter those particulars submitted by the head of office or employer in the concerned register unless the employees objected the correctness of the

particulars by producing records for evidence within fifteen days on receipt of it by the Secretary.

(4) The assessment of profession tax shall begin only if the employer makes available such particulars in Form No. II and the period of limitation for the demand as provided in sub-rule (3) of Rule 8 of the Kerala Panchayat Raj (Taxation, Levy and Appeal) Rules, 1996 shall be deemed to have been commenced only after the receipt of such particulars.

17. Determination Of Tax And Intimation :-

(1) The **[Secretary] shall, as soon as possible on the receipt of particulars in Form No. II assess the tax as required under Rule 7 of the Kerala Panchayat Raj (Taxation, Levy and Appeal) Rules, 1996 and send a copy of the bill or notice of demand of tax so assessed to the concerned head of office or employer to exhibit in the notice board or do in whatever manner they deem fit so that the bill and demand notices have come to the notice of the concerned employees. The employee concerned may, if there is any objection against the assessment of tax, file the same before the employer or head of office within 30 days from the date of receipt of such notice.

(2) Notwithstanding anything contained in any other rules issued under the Act, a public notice issued under sub-rule (1) dispenses with the necessity of issuing tax assessment notice separately to each person.

** Substituted in S.R.O No.322/2006, dtd.28-03-2006(3) If any objection is received from persons by the **[secretay], the same shall be disposed of as early as possible in any manner not exceeding 30 days and the fact shall be intimated to the person concerned.

(4) If there are such objections the amount fixed after disposing of the same shall be the profession tax.

18. Demand Of Leviable Tax :-

(1) The Secretary shall, immediately after the time fixed for submitting objections against the assessment of profession tax and in other cases immediately after the disposal of objections, get two copies of the bill/demand notice to tax payers in Form No. III prepared and forward the same to the employer along with the application (with two copies) in Form No. IV and the employer/Head of Office shall serve the same to the

employees/labourers there within the period specified in the notice and shall return the duplicate with the acknowledgement of its receipt.

(2) The Secretary shall maintain a register in Form No. V for the purpose of watching the progress of demand of profession tax and the time of levy of tax of the employees/labourers for each half-year, under these rules.

(3) The Panchayat shall issue a copy of the register in Form No. V to the head of office or employer for recording all the particulars.

(4) The Secretary shall, at the end of each half year, compare the amount and other particulars in the register maintained by the employer or head of office with that of the similar register kept by the Panchayat and confirm the correctness and shall endorse a certificate of verification with dated signature below the last entry made in the register.

(5) If any *[kind of] difference is noted in the register maintained by the head of office/employer at the time of verification, they shall be informed in writing for rectifying such defects.

(6) The verification officer nominated by the Government shall have the power to verify these registers maintained in Form No. V, and the head of office/employer shall provide all assistance as requested for such verification.

19. Employer To Serve Bill/Demand Notice :-

(1) The head of office/employer shall, immediately on receipt of the notice demanding profession tax to the employees/ labourers,
(a) verify and confirm the correctness of the particulars furnished to the Secretary /Standing Committee in Form No. II under sub-rule (1) of Rule 16 with the addresses of the employees/ labourers;
(b) return the demand notice, if the material particulars, the name or designation in the relevant particulars in the demand notice differ to the particulars in Form No. II rectifying such defects; and
(c) fill up the entries in columns (1) to (5) of the register in Form No. V and the second copy of the demand notice thereto including the statement furnished along with the application.

(2) The head of office/employer shall serve the Bill/Demand notice on the addressee within the date specified in the requisition and shall obtain the dated, signature in the second copy as acknowledgement thereof and shall, after recording in column (6) of the register in Form No. V, submit the same to the Village Panchayat Secretary within 15 days from the date of service of

such notice.

(3) The employer/head of office shall, in case when the labourer/employee refuses to receive the notice treat the date of such refusal as the date of service of notice, record such fact in the ** Substituted in S.R.O No.322/2006, dtd.28-03-2006 original and in the duplicate copy of the Bill/Demand notice and take immediate action on the presumption that the notice has been duly served on them. The head of office/employer shall keep the original of such notice in his possession and return the duplicate to the Secretary with necessary certificate.

20. Deduction Of Profession-Tax From Salary :-

(1) The head of office/employer shall, in case where the employees/labourers who are in the acquittance roll receiving their wages or salary by cheque/ demand draft, immediately on serving the notice to those who are liable to pay profession tax, deduct such profession-tax from the salary or wages for that month.

(2) The particulars of tax so collected shall be entered in columns (7) to (9) of the register in Form No. V.

(3) The amount so deducted shall be remitted in cash or by cheque or demand draft drawn in favour of the Secretary within 10 days along with a statement showing the name of employees and the amount they remitted.

(4) In the case of an employee who is transferred from an office to another office of the same department, the head of office who is relieving the employee shall be liable to recover and remit the amount of profession-tax to be paid by the employee and shall mention that amount also in the Last pay Certificate.

(5) In the case of retirement on superannuation or compulsory retirement of an employee or relieved to other department, salary shall be disbursed only after realising profession-tax from the salary.

21. Payment Of Profession-Tax By Self Drawing Officer :-

(1) A Self drawing officer shall, when he becomes a tax payer, make arrangements to remit the profession-tax in Village Panchayat or bank within the date and time specified in the bill/notice of demand.

(2) He shall inform the head of office or the employer the details of profession-tax to be remitted in the Village Panchayat immediately after the salary or wages is drawn after the time due for the

remittance of profession tax.

(3) Each drawing and disbursing officer and self drawing officer shall furnish a certificate, in the salary bill for the month of February and August of every year, to the effect that the details of income as requested by the Secretary have been furnished and that all amounts due as professiontax have been remitted showing the date on which the details of income have been furnished and the date on which the amount has been remitted.

22. Furnishing Of The Details Of Tax Collected :-

The head of office or the employer shall also submit the details showing the amount of tax collected, the name of tax payer, demand number, the tax amount demanded and the date of collection along with the tax amount or the cheque or demand draft.

23. Issue Of Receipt For The Amount Remitted :-

The Secretary shall, after the remittance of the amount collected on account of tax by cheque or demand draft or in cash by the head of office or employer, issue receipt as per Rule 9 of the Kerala Panchayat Raj (Taxation Levy and Appeal) Rules, 1996, and such receipt shall be given to the tax payers, through the employer by a special requisition for this purpose. The head of office or employer shall enter the details regarding such receipt and its service, in columns (12) and (13) of the register in Form No. V.

24. Offences And Penalties :-

(1) If any person, when required by the Secretary under these rules does not comply with it or furnishes false information shall be liable to be prosecuted and if convicted, shall be punished with fine of Rs. 100.

(2) In addition to and without affecting the above, if the profession-tax included in any bill or demand notice becomes arrear due to the failure on the part of head of office or employer who is liable to deduct or collect such amount by serving notice or to remit such amount shall recovered from such head of office or employer as an arrear from him as provided under Section 210.

(3) Nothing contained in this rule shall prevent Village Panchayat from initiating prosecution against a tax payer or to institute a suit in a Civil Court for recovering any tax arrears due under the Act or the rules.

25. Removal Of Difficulties :-

If any difficulty or doubt arises in giving effect to these rules, such matters shall be referred to the Government and the decision of the Government thereon shall be final.