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ASSAM ACT VI OF 1947

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

(Corrected upto date)

[Published in the *Assam Gazette* of the 2nd April 1947.]

An Act to levy a tax on professions, trades, callings and employments.

Preamble WHEREAS it is expedient to impose a tax on professions, trades, callings and employments ;
It is hereby enacted as follows :—

PRELIMINARY

Short title, extent and commencement.

1. (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 date² as the [State]¹ Government may, by notification in the official Gazette, appoint.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

4. [(a) “assessing authority” in a particular area means the Superintendent referred to in section 6 exercising jurisdiction in that area,]⁴

(aa) “person” includes a company, firm or other association of persons ;

(b) “prescribed” means prescribed by rules made under this Act ;

(c) “previous year” means twelve months ending on the 31st of March next preceding the year for which the assessment is to be made ;

(d) “principal officer” means with reference to—

[(i) a Government, the head of an office or the disbursing Officer]⁵ ;

(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 ;

(e) “[State]³” means the [State]³ of Assam ; and

(f) “total gross income” means aggregate of income derived from all sources.

CHAPTER I

LIABILITY TO AND CHARGE OF TAX

Liability to tax.

3. As from the first day of April 1947 and subject to the provisions of this Act, every person who carries on a

*For Statement of Objects and Reasons see *Assam Gazette* page 35 Part V, 1947.

¹ Substituted by the A. O. 1950 for “Provincial”

² Came into force from 1st May 1947 see Notification No.BB.94/45/50, dated 18th July 1947.

³ Substituted by the A. O. 1950 for “Province”

†Extended to Excluded and P. E. Areas under section 92 of the Government of India Act 1935 see Notification Nos.L.90/47/17, dated 9th April 1948 and No.BB.94/45/74, dated 23rd January 1948.

⁴ Inserted by Assam Act XIII of 1952.

⁵ Substituted by Assam Act XIII of 1952.

[Price 2 annas or 2d.]

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]¹ 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.

Rates of tax.

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

Determination of tax.

5. The tax payable by any person under this Act shall be determined with reference to his gross income during the previous year from his profession, trades, calling or employment :

Provided that the tax payable by any person shall not exceed fifty rupees for any financial year.

² [5A. The provisions of this Act shall not apply to a member of the armed forces of India.]

**CHAPTER II
TAXING AUTHORITIES**

Taxing Authorities.

[6. The Commissioner, Assistant Commissioner, Superintendents, Inspectors and Sub-Inspectors or any other officer appointed under the Assam Sales Tax Act, 1947, shall be the Commissioner, Assistant Commissioner, Superintendents, Inspectors and Sub-Inspectors or such other officer respectively for carrying out the purposes of this Act, and their powers and duties and relation with one another shall be such as may be prescribed.]³

**CHAPTER III
ASSESSMENT**

Returns.

7. (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 9 shall, subject to the provisions in sub-section (3) thereof, be exempt 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 prescribed 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 :

¹ Substituted by A.O. 1950 for "Province".
² Inserted by the Assam Act XXII of 1950 which came into effect from the date of the commencement of Assam Act VI of 1947.
³ Substituted by Assam Act XI of 1952 for original section.

Provided always that a person who is willing to pay tax on the basis of his assessment under the Indian Income-tax Act and who produces satisfactory evidence regarding the amount on which he has been assessed will not be required to file a return and the tax will be levied on the basis of such assessment. Act XI of 1922.

Provided also 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.

Assessment

8. (1) If the assessing authority is satisfied that a return furnished under section 7 is correct and complete or satisfactory evidence of assessment under the Indian Income-tax Act is produced he shall, by an order in writing, assess the person and determine the tax payable by him on the basis of such return or on the basis of such assessment as the case may be. Act XI of 1922.

(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 the date, and at the hour and place to be specified therein, either to attend in person or to produce or cause to be produced evidence in support of the return.

(3) On the days specified in the notice under sub-section (2) or as soon afterward 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 sub-section (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 assessments, 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).]¹

²[8A. 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 requirements 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 a notice issued under that sub-section :

¹ Inserted by Assam Act XIII of 1952.

² Inserted by Assam Act XIII of 1952.

Assessment of Escaped Tax. 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.

Rectification of mistakes. 8B. (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 record 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 11 and the provisions of this Act shall apply accordingly.]

Deduction of tax at sources. 9. (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 returns and within such time as may be prescribed.

(3) The assessing authority may take action, if he thinks fit, in the manner provided by sub-section (2) of section 7 and by section 8, in the case of any person in respect of whom he is satisfied that ¹[no return under sub-section (2) has been furnished or a return furnished under that sub-section] is inaccurate or deficient.

²[(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 13 shall apply to him :

Provided that the assessing authority shall not make a direction under sub-section (2) of section 13 for the recovery of any penalty from such person unless it is satisfied that such person has wilfully failed to deduct and pay the tax.]

Requisition for deduction of tax. ³[9A. 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 officer shall comply with such requisition.]

¹ Substituted for the words "a return furnished under sub-section (2)" by Assam Act XIII of 1952.

² Inserted by Assam Act XIII of 1952.

³ Inserted by Assam Act XIII of 1952.

Indemnity, ¹[9B. The principal officer deducting or paying any tax under the provisions of this Act is hereby indemnified for such deduction or payment thereof.]

CHAPTER IV

APPEALS

Appeals, ²[10. Any person aggrieved by an order passed by an assessing authority under this Act may in the prescribed manner appeal within thirty days of receipt of such order, to the Assistant Commissioner :

Provided that the Assistant Commissioner may admit it after the expiration of thirty days, if he is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause it could not be filed within time :

Provided further that no appeal shall lie against an order of assessment under sub-section (4) of section 8.]

Power of revision, ³[10A. Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Commissioner may, on an application by a person aggrieved by any order, filed within ninety days of that order, or of his own motion, revise any order passed under this Act by any officer subordinate to him :

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

CHAPTER V

DEMANDS, PAYMENT AND RECOVERY

Notice of demand, 11. 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.

Dues when payable, 12. (1) The tax or penalty payable under this Act shall be paid in the manner hereinafter provided.

(2) Every person liable to furnish a return under sub-section (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 9 shall pay the amount to a Government treasury within thirty days of such deduction and shall furnish, along with the returns 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.

1 Inserted by Assam Act XIII of 1952.

2 Substituted for the original section by Assam Act XIII of 1952.

3 Inserted by Assam Act XIII of 1952.

Mode of re-
covery.

¹[13. (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 and such appeal or petition for revision has been admitted, he shall not be deemed, for so long as the appeal or petition for revision remains 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, in his discretion direct that, 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, unless action has been taken under section 9A, order that the amount due shall be recoverable as an arrear of land revenue and shall proceed to realise the amount due as such.]

Refunds.

²[14. 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 VII

OFFENCES AND PENALTIES

Failure to
make re-
turns, etc.

15. Whoever—

(1) 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

(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:

CHAPTER VIII

MISCELLANEOUS

Power to
compel
attendance,
etc.

16. (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.

¹ Substituted for original section by Assam Act XIII of 1952.

² Substituted for original section by Assam Act XIII of 1952.

(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.

Information to be furnished by the principal officer.

¹17. 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 addresses 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.

Prosecution, suits or other proceedings.

¹[17A. 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 thereunder.]

17B. 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.]

Place of assessment.

18. 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.

Power to make rules.

19. The State² Government may, subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

THE SCHEDULE

(see Rule Section 4)

RATES OF TAX

A. In the case of every person other than a Hindu undivided or joint family :—

Where the total gross annual income	Amount of tax Rs.
1. Does not exceed Rs.3,500	Nil
2. Exceeds Rs.3,500 but does not exceed Rs.5,000	24
3. Exceeds Rs.5,000 but does not exceed Rs.10,000	36
4. Exceeds Rs.10,000	50

B. In the case of every Hindu undivided or joint family :—

Where the total gross annual income	Amount of tax Rs.
1. Does not exceed Rs.5,000	Nil
2. Exceeds Rs.5,000 but does not exceed Rs.10,000	36
3. Exceeds Rs.10,000	50

¹ Inserted by Assam Act XIII of 1952.

² Substituted by the A. O. 1950 for "Provincial".

³ See Notification No.BB.94/45/72, dated 21st October 1947.