

# **The Jammu and Kashmir Agricultural Income Tax Act, 1962**

JAMMU & KASHMIR

India

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### **Act 21 of 1962**

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The Jammu and Kashmir Agricultural Income Tax Act, 1962 Act No. 21 of 1962 [Received the assent of the Sadar-i-Riyasat on 18th July, 1962 and published in Government Gazette dated 21st July, 1962.] An Act to provide for the imposition of a tax on agricultural income. Be it enacted by the Jammu and Kashmir State Legislature in the Thirteenth Year of the Republic of India as follows :-

## **Chapter I Preliminary**

### **1. Short title, extent and commencement.**

(1) This Act may be called the Jammu and Kashmir Agricultural Income Tax Act, 1962. (2) It extends to the whole of the State. (3) [ It shall come into force with effect from 1st day of April, 1965.] [Sub-section (3) substituted by Act No. XV of 1965.]

### **2. Definitions.**

- In this Act, unless the context otherwise requires, -(1) [ "agricultural income" means-(a) any rent or income derived from land which is either assessed to land revenue or subjected to a local rate assessed and collected by the officer of the Government as such, and is used for (i) cultivation of saffron ; (ii) production of fruit and fruit plants. (iii) production of vegetables or seeds of vegetables, flowers or bulbs of flowers or flower plants ; (b) any income derived from such land by-(i) production or cultivation of saffron, fruit or fruit plants, vegetables or seed of vegetables, or flowers or bulbs of flowers, flower plants or plants and trees bearing fruit ; or (ii) the performances by a cultivator or receiver of rent-in-kind of any process ordinarily employed by the cultivator or receiver of rent-in-kind to render the produce as described in clause (i) raised or received by him fit to be taken to market ; or (iii) the sale by a cultivator or receiver of rent in kind of the produce as described in

clause (i) raised or received by him in respect of which no process has been performed other than the process of the nature described in sub-clause (ii) above.](2)"agricultural income tax" means tax payable under, this Act ;(3)"appellate authority" means an authority appointed by the Government for the purposes of this Act ;(4)"assessee" means a person by whom agricultural income tax is payable ;(5)"assessing authority" means a person authorised by the Government to assess agricultural income tax ;(6)"Commissioner" means a person appointed by the Government to perform the duties of the Commissioner under this Act ;[(6-a) "firm", "partner" and "partnership" have the meaning respectively assigned to them in the Jammu and Kashmir Partnership Act, Svt. 1996 ;(6-b) "Hindu undivided family" means a Hindu undivided family governed by the Mitakshara School of Hindu Law ;] [Clauses (6-a) and (6-b) inserted by Act No. XVIII of 1966.](7)"person" means an individual or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for that of another, either, as owner, trustee, receiver, manager, administrator or executor or in any capacity recognised by law, and includes an undivided Hindu family, firm or company but does not include a local authority ;(8)"prescribed" means prescribed by rules made under this Act ;(9)[ "previous year" means the twelve months ending on the 31st day of March preceding the year for which the assessment is to be made, if the accounts of the assessee have been made up to a date within the said year then at the option of the assessee, the 12 months ending on the date on which his accounts have been so made up :Provided that where an assessee has exercised his discretion that in his case the term "previous year" shall be taken as the period of twelve months, ending on a particular date, he shall not be entitled to vary the meaning of the term "previous year" except with the consent of the assessing authority and upon such conditions as the assessing authority may think fit to impose ;] [Clause (9) substituted by Act No. XVIII of 1966.](10)[ "registered firm" means a firm registered under the provisions of section 6-A of this Act ;(11)"total agricultural income" means the aggregate of the amounts of agricultural income as determined in the manner laid down in this Act ;(12)"receiver" used with reference to the receipt of agricultural income by a person shall include-(i)receipt by an agent or servant on behalf of the principal or master respectively ;(ii)receipts by other persons which are deemed to be his receipts under the provisions of this Act and shall also include receipts of agricultural income by way of adjustment of accounts with any other person ;(13)"unregistered firm" means a firm which is not a registered firm.] [Clauses (10), (11), (12) and (13) inserted by Act No. XVIII of 1966.]

## Chapter II

### 3. Charge of agricultural income tax.

- Agricultural income tax at the rate or rates specified in the Schedule shall be charged for each year in accordance with and subject to the provisions of this Act and the rules framed thereunder on the agricultural income of the previous year of every person :[Provided that such tax shall not be payable by a person whose agricultural income of the previous year does not exceed rupees six thousand :] [Proviso substituted by Act No. XV of 1965.][Provided further that such tax shall not be payable by a Hindu undivided family whose total agricultural income of the previous year does not exceed rupees eight thousand.] [Second proviso substituted by Act No. XVII of 1966.]

#### **4. [ Determination of agricultural income. [Sub-section 4 (1) substituted by Act No. XV of 1965.]**

(1)The agricultural income mentioned in section 3 shall deemed to be [the sum received, accrued or arisen] [Sub-section (1) substituted by Act No. XVIII of 1966.] in the previous year on account of agricultural income after deducting an amount equivalent to twenty-five per cent of such income ;Provided that in the case of an assessee who produces complete accounts which are found to have been properly maintained by the assessing authority, the following amounts shall be deducted if so requested by the assessee, instead of the amount of 25% mentioned in this' sub-section(a)the sum actually paid in the previous year as revenue to the Government or as rent to the landlord or any local cess or rate, in respect of the land from which such agricultural income is derived ;(b)interest paid on any amount borrowed and actually spent on any capital expenditure incurred exclusively for the benefit of the land, from which such agricultural income is derived ;(c)any interest paid on any mortgage or any other kind of debt or any interest paid on other capital charge incurred exclusively for the purpose of acquiring the property from which such agricultural income is derived;(d)depreciation at the rate of 5% on any machinery or plant purchased or acquired exclusively for the benefit of the land from which agricultural income is derived or for the purpose of deriving such agricultural income therefrom :Provided that the aggregate of all depreciation allowance made under this act shall in no case exceed the original cost of such machinery or plant of the assessee ; and(e)any other expenditure incurred by the assessee not being in the nature of capital expenditure or personal expenditure, laid out wholly or exclusively for the purpose of deriving such agricultural income from such land.](2)In computing the agricultural income of any individual, there shall be included all such income as arises directly or indirectly-(i)to the spouse of such individual from assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart;(ii)to a minor child, not being a married daughter of such individual from assets transferred directly or indirectly to the minor child by such individual otherwise than for adequate consideration ; and(iii)to any person or association of persons from assets transferred otherwise than for adequate consideration to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his or her spouse or minor child (not being a married daughter) or both.

#### **5. Exclusion of income from trust, etc.**

- Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes and, in the case of property so held in part only for such purposes, the income applied or finally set apart for application thereto, shall be exempt from liability to tax under this Act.

#### **6. Agricultural Income accruing in the State to persons residing outside the State.**

- In the case of any person residing outside the State all Agricultural Income accruing or arising to such person whether directly or indirectly through or from any land in the State shall be deemed to be derived within the State and shall be chargeable to Agricultural Income-tax in accordance with the provisions of the Chapter.

#### **6A. [ [Section 6-A inserted by Act No. XVII of 1956.]**

(i)An application may be made to the assessing authority on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners, for registration for the purpose of this Act.(ii)The application shall be made by such person or persons and at such times and shall contain such particulars and shall be in such form, and be verified in such manner as may be prescribed and shall be dealt with by the assessing authority in such manner as may be prescribed.]

### **Chapter III**

## **Assessment and Exemption**

#### **7. Return of Income.**

(1)The assessing authority shall, on or before the 1st day of April or on such day as may be fixed by the Government, give notice by publication in the Government Gazette, and in such other manner as may be prescribed, requiring every person whose agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income tax, to furnish to such assessing authority and within such period, not being less than thirty days as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner :Provided that the assessing authority may in his discretion extend the date for the delivery of the return in the case of any person or class of persons.(2)In the case of any person whose agricultural income is, in the opinion of the assessing authority, such amount as to render such person liable to payment of agricultural income tax in any year, he may serve in that year a notice in the prescribed form requiring such person to furnish within such period, not being less than thirty days as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner :Provided that the assessing authority may in his discretion extend the date for the delivery of the return.(3)If any person having furnished a return under sub-section (1) or (2) discovers any omission of wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made and any return so made shall be deemed to be made in due time under this section.

#### **8. Assessment.**

(1)If the assessing authority is satisfied that a return made under section 7 is correct and complete, he shall assess the agricultural income of the assessee and shall determine the sum payable by him on the basis of such return.(2)If the assessing authority has reason to believe that a return made under section 7 is incorrect or incomplete, he shall serve on the person who made the return a notice

requiring him on the date to be specified therein either to attend at the office of the assessing authority or to produce or to cause to be produced any evidence in support of the return.(3)On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be, the assessing authority, after examining such evidence as such person may produce and such other evidence as the assessing authority may require on specified points, shall, by an order in writing, assess the agricultural income of the assessee and determine the sum payable by him on such assessment.(4)[ If any person fails to make a return required by any notice, given under sub-section (1) or sub-section (2) of sub-section 7, or having made the return, fails to comply with all the terms of the notice issued under sub-section (2) or to produce any evidence required under sub-section (3), the assessing authority shall make the assessment to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment :Provided that before making such assessment, the assessing authority may allow the assessee such further time as he thinks fit to make the return or comply with the terms of the notice or to produce the evidence.(5)Notwithstanding anything contained in the foregoing sub-section, when the assessee is a firm and the total income of the firm has been assessed under sub-section (1) or sub-section (3) or sub-section (4), as the case may be, then-(a)In the case of a registered firm, the sum payable by the firm itself shall not be determined but the total income of such partner of the firm including therein his share of his agricultural income of the previous year, shall be assessed, and the sum payable by him on the basis of such an assessment shall be determined :Provided that if such share of any partner is a loss, it shall be set off against his other income :Provided further that when any of such partners is a person not resident in the State, his share of the agricultural income of the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally and the sum so determined as payable shall be paid by the firm, and(b)in the case of an unregistered firm, the assessing authority may, instead of determining the sum payable by the firm itself, proceed in the manner laid down in clause (a) if, in his opinion, the aggregate amount of the agricultural income tax payable by the partners under such procedure would be greater than the aggregate amount which would be payable by the firm and partners individually if the firm were assessed as an unregistered firm.]

## **8A. [ [Sections 8-A and 8-B inserted by Act No. XVIII of 1966.]**

Notwithstanding anything contained in sections 7 and 8, the Commissioner may, in such circumstances, under such conditions and for such period as may be prescribed, permit any assessee applying in this behalf, to pay in lieu of the amount of tax payable by him under the provisions of this Act, a lump sum determined in the prescribed manner by way of composition and the sum so compounded shall be payable by assessee.

## **8B. Assessment after partition of a Hindu undivided family.**

(1)Where, at the time of making an assessment under section 8, it is claimed by or on behalf of any member of a Hindu undivided family hitherto assessed as undivided that partition has taken place among the members or groups of members of such family, the assessing authority shall make due enquiry into the matter and if a certified copy of a decree of a competent Civil Court for partition of the joint family property or a document purporting to show that there is separate possession and

enjoyment of such property is produced, or in the case of a document other than a certified copy of decree, the assessing authority is satisfied that such document has been acted upon by the parties thereof, or if the assessing authority is otherwise satisfied that the Hindu undivided family has ceased to exist as such and the agricultural income is being enjoyed separately by the members or groups of the members of such family in definite shares, he shall in that case record an order to that effect :Provided that no such order shall be recorded until notice of the enquiry has been served on all the members of the family.(2)Where such an order has been passed, the assessing authority shall make an assessment of the total agricultural income received by or on behalf of the joint family as such, as if no partition had taken place and each member of group or members shall, in addition to any agricultural income tax for which he or it may be separately liable, be liable for a share of agricultural income tax on the agricultural income so assessed according to the portion of the joint family property allowed to him or it, and the assessing authority shall make assessment accordingly on the various members and groups of members in accordance with the provisions of section 8 :Provided that all the members or groups of members whose joint family property has been partitioned during the previous year shall be liable jointly and severally for the agricultural income tax assessed on the total agricultural income received by or on behalf of the joint family as such up to the date of partition.(3)Where such an order has not been passed in respect of a Hindu undivided family hitherto assessed as undivided, such family shall be deemed for the purposes of this Act to continue to be a Hindu undivided family.] [Sub-sections (4) and (5) inserted by Act No. XVIII of 1966.]

## **9. Penalty for concealment of income.**

- If an assessing authority in the course of any proceedings before him under this Act is satisfied that the assessee has concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars of such income and has thereby returned it below its real amount, he may direct that the assessee shall, in addition to the agricultural income tax payable by him, pay by way of penalty a sum not exceeding the amount of agricultural income tax which would have been avoided if the agricultural income so returned by the assessee had been accepted as the correct income :Provided that no such order shall be made unless the assessee has been heard or has been given a reasonable opportunity of being heard :Provided further that no prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

## **10. Notice of demand.**

- When the assessing authority has determined the sum payable by an assessee under section 8 or when an order has been passed under section 9 for the payment of penalty, the assessing authority shall serve on the assessee a notice of demand in the prescribed form specifying separately the amount of tax and penalty.

## **11. Appeal against assessment under this Act.**

(1) Any assess objecting to the amount of rate at which he is assessed under section 8 or denying his liability to be assessed under this Act or objecting to any order against him [under section 4-A, 8-B and 9] [Substituted by Act No. XVIII of 1966 for 'under section 9'.] made by the assessing authority may appeal to the appellate authority. (2) Every appeal under this section shall be presented within the prescribed period, but the authority before whom the appeal is filed may admit an appeal after the expiration of the prescribed period if it is satisfied that the applicant had sufficient cause for not presenting it within the prescribed period. (3) Every appeal under this section shall be presented in the presented form and shall be verified in the prescribed manner. (4) In disposing an appeal, the appellate authority may—(a) in the case of an order of assessment, confirm, reduce, enhance or annul the assessment or set aside the assessment, and direct the assessing authority to make a fresh assessment after such further enquiry as may be directed and (b) in the case of an order under section 9, confirm, cancel or vary such orders : Provided that no enhancement of an assessment shall be made under section, unless the appellant has had a reasonable opportunity of showing cause against such enhancement. (5) A copy of the order disposing of the appeal should be served by the appellate authority on the appellant.

## **12. Revision.**

(1) The Commissioner may, on his own motion or on an application, call for the record of any proceeding under this Act pending before or decided by any authority subordinate to him and after such enquiry as he deems necessary may pass such orders as he thinks fit : Provided that no such application shall be entertained in any case where an appeal lay against the order but the applicant failed to prefer it within the time prescribed therefor : Provided further that the Commissioner shall not pass any order prejudicial to an assessee without giving him a reasonable opportunity of being heard. (2) The application under sub-section (1) shall be made within six months from the date of service of the order complained of, but the Commissioner may, on proof of sufficient cause, entertain an application after the period so fixed.

## **13. Communication to assessee of order passed under section 11 or 12.**

- An authority passing any final order under section 11 or section 12 shall communicate such order to the assessee.

## **14. Income escaping assessment.**

- If for any reason any agricultural income chargeable to agricultural income tax has escaped assessment for any year or has been assessed at too low a rate the assessing authority may, at any time within three years of the end of that year, serve on the person liable to pay agricultural income tax on such agricultural income a notice containing all or any of the requirements which may be included in a notice under section 7 and may, upon service of such notice, proceed to assess or re-assess such income, and the provisions of this Act shall, so far as may be, apply accordingly as if

the notice were a notice were a notice issued under that section :Provided that the tax shall be charged at the rate at which it would have been charged if such income had not escaped assessment or full assessment as the case may be.

## **15. Rectification of mistake.**

- Any authority which passed an order of assessment or any order in appeal or revision may, on his own motion, or on an application by the assessee, at any time within three years from the date of such order, rectify any mistake apparent on the face of the record of the assessment, appeal or revision, as the case may be :Provided that no such rectification shall, if it has the effect of enhancing the assessment, be made unless the assessee has been given reasonable opportunity of being heard.(2)Where any such rectification has the effect of reducing the assessment, the assessing authority shall refund the excess amount to the assessee.'

## **16. Power to take evidence on oath.**

- The assessing authority, the appellate authority and the Commissioner shall, for the purposes of this chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, Svt. 1977 when trying a suit in respect of the following matters, namely :-(a)enforcing attendance of any person and examining him on oath or affirmation,(b)compelling the production of any document, and(c)issuing commission for the examination of any witness.

# **Chapter IV**

## **Recovery of Tax and Penalty**

## **17. Tax how payable.**

(1)The amount specified in any notice of demand under section 10 or in any order communicated under section 13 shall be payable in four equal instalments.(2)The first instalment shall be paid within one month of the service of the notice of demand or communication of the order, as the case may be, and each-subsequent instalment within two months of the previous instalment.(3)If any instalment is not paid within the time allowed under subsection (2), the assessee shall be in default-Provided that when an assessee has presented an appeal under section 11, the appellate authority, on application, may, on such terms and conditions as he may specify, direct that the assessee shall be treated as not being in default :

## **18. Penalty for default.**

(1)When an assessee is in default in making a payment of agricultural income tax, the assessing authority may, in his discretion, direct that, in addition to the amount of the arrears, a sum not exceeding one quarter of that amount shall be recovered from the assessee by way of penalty.(2)For the purposes of sub-section (1), the assessing authority may direct the recovery of any sum less than



one quarter of the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default so that the total sum so directed to be recovered shall not exceed one quarter of the amount of the arrears payable.

### **18A. [ [Section 18-A inserted by Act No. XVIII of 1966.]**

The Assessing authority may, at any time or from time to time, by notification in writing (copy of which shall be forwarded to the assessee at his last address known to the assessing authority), require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee to pay the assessing authority either forthwith upon the money becoming due or being held at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the assessee in respect of arrears of tax or fee or the whole of the money when it is equal to or less than the arrears of tax or fee.(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 and 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 making any payment 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 payment made or to the extent of the liability of the assessee for the amount due under this Act, whichever is less.(5)Where any person to whom a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by him 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 the sum demanded, or any part thereof, to the assessing authority.(6)Any amount 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 shall, if it remains unpaid, be a charge on the properties of the said person and may be recovered as if it were an arrear of land revenue.Explanation. - For the purposes of this section, the amount due to an assessee or money held for or on account of any assessee by any person shall be computed after taking into account such claims, if any, as may have fallen due for payment by such assessee to such and as may be lawfully subsisting.]

### **19. Recovery of penalties and time for recovery of any sum payable under this Act.**

- The Collector may, on the motion of the assessing authority, recover any sum imposed by way of penalty under the provisions of this Act or where an assessee is in default the amount assessed as agricultural income tax as if it were an arrears of land revenue.

## **Chapter V**

### **Offences and Penalty**

## **20. False verification.**

- If any person makes a statement in a verification mentioned in section 7 or section 11 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed the offence described in [section 177] [Substituted by Act XXVIII of 1966 for 'section 127'.] of the Jammu and Kashmir State Ranbir Penal Code, Svt. 1989.

## **21.**

(1)A person shall not be proceeded against for an offence under section 20 except at the instance of the Commissioner.(2)Before instituting proceedings against any person under sub-section (1), the Commissioner shall call upon such person to show cause why proceedings should not be instituted against him.

## **22. Failure to furnish return or to supply information.**

- If any person fails without reasonable cause or excuse to furnish in due time any of the returns mentioned in section 7 or section 14, he shall be punishable with fine which may extend to twenty rupees for every day during which the default continues.

## **23. Bar of suits in Civil Courts.**

- No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act and no prosecution, suit or other proceedings shall lie against any officer or the Government for anything in good faith done or intended to be done under this Act.

# **Chapter VI**

## **Miscellaneous**

## **24. Appearance by authorised representative.**

- Any assessee who is entitled or required to attend before any income-tax authority in connection with any proceeding under this Act, may attend either in person or by any person authorised by him in writing in this behalf.

## **25. Receipt to be given.**

- A receipt shall be given for any money paid or recovered under this Act.

## 26. Power to make rules.

(1)The Government may make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality, of the foregoing power, such rules may-(a)prescribe the form of notice to be given by the assessing authority and the forms of return to be furnished by the assessee under section 7;(b)prescribe the form of the notice of demand mentioned in section 10 ;(c)prescribe the manner in which and the period, not being less than thirty days, within which appeal under section 11 shall be filed and the manner in which the memorandum of appeal shall be verified ;(d)prescribe the method by which assessment of agricultural income as determined under section 6 shall be made in the case of an assessee who does not reside in the State or of any assessee who resides in the State and is temporarily absent therefrom ;(e)prescribe the manner in which tax payable by an assessee who has died after the date of the assessment made on him shall be payable ;(f)prescribe the circumstances under which and the manner in which refunds of the tax paid under this Act shall be made ;(g)prescribe the authority by whom and the place at which assessment shall be made in the case of an assessee having agricultural income in the jurisdiction of more than one assessing authority ;(h)provide for any other matter which by this Act may be prescribed.(3)The power to make rules conferred by this section shall be subject to condition of previous publication.

## Schedule

(See section 3)Rate of Agricultural Income-Tax(A)[. In the case of every individual, Hindu undivided family, unregistered firm and other associations of persons:- [Schedule substituted by Act No. XVIII of 1916.]

(i) on the first	Rs. 6,000	Nil
(ii) on the next	Rs. 4,000	8%
(iii) on the next	Rs. 10,000	11%
(iv) on the next	Rs. 30,000	20%
(v) on the balances of agricultural income	25%	

The exemption limit for agricultural income tax in the case of assessee other than the Hindu undivided families referred to in (B) below is Rs. 6,000.(B)In the case of Hindu undivided families which had at the end of the previous year at least 3 members entitled to partition the exemption limit is fixed at Rs. 8,000.]