

Tripura Professions, Trades, Callings and Employments Taxation Act, 1976

TRIPURA

India

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Act 2 of 1976

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Tripura Professions, Trades, Callings and Employments Taxation Act, 1976(Tripura Act 2 of 1976)Last Updated 26th February, 2020An Act to levy a tax on professions, trades, callings and employments and matters connected therewith and incidental theretoBe it enacted by the Legislative Assembly of Tripura in the Twenty-Seventh year of the Republic of India as follows :

Chapter I

Preliminary

1. Short title, extent, and commencement.

(1)This Act may be called the Tripura Professions, Trades, Callings and Employments Taxation Act, 1976.(2)It extends to the whole of Tripura.(3)Save as otherwise provided in this Act, it shall be deemed to have come into force on and from the 21st day of February, 1976.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context -(a)"assessing authority" in a particular area means the Superintendent referred to in S. 6 exercising jurisdiction in that area ;(b)"assessee" means a person by whom tax is payable under the provisions of this Act;(c)"assessment year" means the period of twelve months commencing on the 1st day of April every year ;(d)"person" includes a company, firm or other association of persons, Hindu undivided family or joint family ;(e)"prescribed" means prescribed by rules made under this Act;(f)For the purpose of this Act "previous year" means-(i)the twelve months ending on the 31st of March immediately preceding the assessment year ; or(ii)if the accounts of the assessee have been made up

to a date within the said period of twelve months then at the option of the assessee the twelve months ending on such date :Provided that if this option has once been exercised by the assessee, it shall not again be exercised except with the consent of the Commissioner or such other officer as may be authorised by him in this behalf, and upon such conditions as the Commissioner or such other officer may think fit, or(iii)in the case of any person or business or class of persons or business not falling within sub-Cl. (i) or (ii) such period as may be determined by the Commissioner or by any authority authorised by the Commissioner in this behalf ;(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 Tripura ; and(i)"total gross income" means aggregate of income derived from all sources by a person in respect of his profession, trade, calling or employment, but shall not include overtime wages, pension, local allowances, sumptuary allowances, medical allowance, allowances for house rent, conveyance, travelling or such other allowances of compensatory nature as may be specified by the State Government by a notification in the official Gazette.

Chapter II

Liability to and charge of tax

3. Liability to tax.

(1)As from the assessment year commencing from the 1st day of April, 1976 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 with reference to his total gross income of the previous year with regard to 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 the tax payable by any person shall not exceed two hundred and fifty rupees for any financial year.(2)In respect of total gross income chargeable under sub-section (1), tax shall be deducted at the source or paid in advance where it is so deductible or payable under any provision of this Act.Explanation. - For the purposes of this section a person on leave shall be deemed to be a person in employment.

4. Rates of tax.

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

5. Act not to apply in certain cases.

- The provisions of this Act shall not apply to a member of the armed forces of India.

Chapter III

Taxing authorities

6. Taxing authorities and their appointment.

(1) There shall be the following classes of taxing authorities for the purposes of this Act, namely : (a) Commissioner, (b) Deputy Commissioner, (c) Assistant Commissioner, (d) Superintendent, and (e) Inspectors. (2) Commissioner, Revenue, Land Reforms and Taxes shall be the Commissioner under this Act and shall exercise such powers and perform such duties as may be required by him by the Act or the rules made thereunder. (3) The State Government may, by notification in the official Gazette, appoint as many Deputy Commissioners, Assistant Commissioners, Superintendent and Inspectors as may be necessary for carrying out the purposes of this Act and may in the same or like notification define the local limits of their jurisdiction. (4) The powers and duties of the Commissioner, Deputy Commissioner, Assistant Commissioner, Superintendent and Inspectors and their relation with one another shall be such as may be prescribed.

Chapter IV

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 S. 11 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 prescribed form, on such person requiring him to furnish the returns ; 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 S. 7 is correct and complete he shall, by an order in writing, make the assessment 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 S. 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 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 S. 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 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 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 S. 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 S. 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 sub-section :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.

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 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 S. 18 and the provisions of this Act shall apply accordingly

11. Deduction of tax at source.

(1)The tax payable in advance under this Act within the financial year next preceding the assessment year by any person in the employment of any Government, local authority, company, firm or other association of persons, shall be deducted in the manner prescribed 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 :Provided that the advance tax deductible or payable under this sub-section in respect of the total gross income of the previous year relating to the assessment year commencing from the 1st day of April, 1976 shall be deducted or paid in one instalment by 30th day of March, 1976.(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 S. 7 and by S. 8, in the case of any person in respect of whom he is satisfied that no return under sub-section (2)

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 S. 19 shall apply to him :Provided that the assessing authority shall not make a direction under sub-section (2) of S. 19 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.

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 officer shall 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.

14. Payment of advance tax in cases not covered by S. 11.

- The tax shall be payable in advance by an assessee who is not covered by S. 11 of the Act within the financial year next preceding the assessment year in two instalments on the 15th day of March in respect of his estimated total gross income of the previous year'.Provided that the advance tax deductible or payable under this section in respect of the total gross income of previous year relating to the assessment year commencing from the 1st day of April, 1976 shall be paid in one instalment by the 30th day of March, 1976,

Chapter V

Appeals

15. Appeals.

(1)Any assessee objecting to an order passed under this Act by any officer other than the Commissioner or the Assistant Commissioner mentioned in S. 6 of this Act, may, within thirty days from the date of service of such order, appeal to the Assistant Commissioner against such order in the manner prescribed :Provided that no appeal against an order of assessment or penalty shall be entertained by the Assistant Commissioner unless he is satisfied that the amount of tax assessed or penalty levied, if not otherwise directed by him, has been paid ;Provided further that the Assistant Commissioner before whom the appeal is filed 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 also that no such appeal shall be admitted after a period of six months from the date of service of the notice on demand relating to the assessment from the date

of service of the order, as the case may be.(2)Every appeal under sub-section (1) shall be presented in such form, with such fees and shall be verified in such manner as may be prescribed.(3)The Assistant Commissioner shall fix a day and place for hearing of the appeal, and may, from time to time, adjourn the hearing and make or cause to be made such further enquiry as may be necessary.(4)In disposing of the appeal under sub-section (1) against an order of assessment or penalty the Assistant Commissioner may-(a)confirm, reduce, enhance or annul the assessment, or(b)set aside the assessment and direct a fresh assessment after such enquiry as may be ordered, or(c)confirm, reduce or annul the order of penalty.(5)The appellate authority shall, on the conclusion of the appeal, communicate the orders passed by it to the appellant and the assessing authority.

16. Revision.

(1)The Commissioner may call for and examine the records of any proceedings under this Act and if he considers that any order passed therein by any officer other than himself, is erroneous in so far as it is prejudicial to the interest of revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such orders thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.(2)In the case of any order other than an order to which sub-section (1) applies, passed under this Act by any officer other than himself, the Commissioner may, of his own motion, and in the case of an order passed under S. 15 also, subject to such rules as may be prescribed, on a petition by an assessee for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such enquiry or cause such enquiry to be made, and subject to the provisions of this Act, may pass such order thereon not being an order prejudicial to the assessee, as he thinks fit :Provided that the Commissioner may dispense with the enquiry required to be made under this sub-section, if he, for reasons to be recorded, considers such enquiry to be not necessary.(3)In the case of a petition for revision under sub-section (2) by an assessee, the petition shall be made within ninety days from the date on which the order in question was communicated to him or the date on which he otherwise comes to know of it, whichever is earlier :Provided that the Commissioner before whom the petition is filed may admit it after the expiration of the period of ninety days if he is satisfied that for reasons beyond the control of the petitioner or for any other sufficient cause, it could not be filed within time.Explanation. - An order by the Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to the assessee.

17. Delegation of powers.

- The Commissioner may, by notification in the official Gazette, delegate the powers under S. 16 to any other officer.

Chapter VI

Demand, payment and recovery

18. 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.

19. 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 sub-section (1) of S. 8 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 S. 12 shall pay the amount to a Government treasury within thirty days of the 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.

20. 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.(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 the amount of the tax in arrears shall be recovered from the defaulter by way of penalty :Provided that before directing the recovery of any such penalty the assessee shall be given a reasonable opportunity of being heard.(3)Where a person is in default, the assessing authority shall, unless action has been taken under S. 12 order that the amount due shall be recoverable as an arrear of land revenue and shall proceed to realise the amount due as such.

21. 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 VII

Offence and penalties

22. Failure to make returns, etc.

- Whoever-(1)fails, without reasonable cause, to submit in due time any return as required by or under the provisions of this Act or submits 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 VII

Miscellaneous

23. Power to compel attendance on oath etc.

- The appellate authority shall for the purposes of this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Act 5 of 1908) when trying a suit, in respect of the following matters, namely :(a)enforcing the attendance of any person and examining him on oath or affirmation ;(b)requiring the discovery and production of document ;(c)receiving evidence on affidavit ;(d)issuing commissions for the examination of witnesses.

24. 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 addresses of all or any of the persons who have been, or are, in the employment of such Government, local authority, firm or other association of persons and such principal officer shall thereupon furnish the assessing authority with the names and addresses so demanded.

25. Suits in civil courts to be barred.

- 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.

26. Computing the 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.

27. 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.

28. Power to make rules.

(1)The State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.(2)Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the successive session aforesaid the Legislative Assembly agree in making any modification in the rule or the Legislative Assembly agree that the rule should not be made, 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 of anything previously done under that rule.

29. Repeal and savings.

(1)The Tripura Professions, Trades, Callings and Employments Taxation Ordinance, 1976 is hereby repealed.(2)Notwithstanding such repeal, anything done, any action taken, all notifications published, powers conferred, forms prescribed, orders, rules and appointments made under the said Ordinance, shall be deemed respectively to have been done, taken, published, conferred, prescribed or made under the corresponding provisions of this Act.The Schedule[See Section 4]Rates of taxIn the case of every person

Where the total gross annual income-	Amount of Tax	Rs.
1.	does not exceed Rs. 5000	Nil
2.	exceeds Rs. 5000 but does not exceed Rs. 10,000	50
3.	„	„ 10,000 „ „ 15,000 100
4.	„	„ 15,000 „ „ 20,000 150
5.	„	„ 20,000 „ „ 25,000 200
6.	„	„ 25,000 „ „ 30,000 250