

## **THE NAGALAND ACT 4 OF 1968**

### **THE NAGALAND PROFESSIONS, TRADES, CALLING AND EMPLOYMENTS TAXATION ACT, 1968.**

Received the assent of the President on the 27<sup>th</sup> September, 1968

[Published in the Nagaland Gazette-Extraordinary, dated 28<sup>th</sup> October, 1968]

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

**Preamble.** – WHEREAS it is necessary to make an addition to the revenues of Nagaland and, for that purpose, it is expedient to impose a tax on professions, trades, callings and employments;

It is hereby enacted in the Nineteenth Year of the Republic of India as follows:-

#### **PRELIMINARY**

**Short title, extent and commencement.** – 1. (1) This Act may be called the Nagaland Professions, Trades, Callings and Employments Taxation Act, 1968.

(2) It extends to the whole of Nagaland.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

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

- (a) “assessing authority” in a particular area means the Superintendent referred in section 7 exercising jurisdiction in that area.
- (b) “person” includes a company, firm or other association of persons;
- (c) “prescribed” means prescribed by rules made under this Act;
- (d) “previous year” means twelve months ending on the 31<sup>st</sup> March next preceding the year for which the assessment is to be made;
- (e) “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 or person;

- (f) “State” means the State of Nagaland; and
- (g) “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 date to be notified by the Government in the Official Gazette 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 in respect of such profession, trade, calling or employment and in additions 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 specify 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 total gross income during the previous year from his profession, trade, calling or employment:

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

6. The provisions of this Act shall not apply to a member of the Armed Forces of India or to a Co-operative Society registered or deemed to have been registered under the Assam Co-operative Societies Act, 1949 (**Assam Act 1 of 1950**).

## **CHAPTER II**

### **TAXING AUTHORITIES**

**Taxing Authorities.** – 7. (1) The State Government may, for carrying out the purposes of this Act, appoints a Commissioner of Taxes, and such other persons to assist him as it thinks fit and their powers and duties and relation with one another shall be such as may be prescribed.

(2) All persons appointed under sub-section (1) shall be deemed to be Public Servants within the meaning of section 21 of the I.P.C. (**Act 45 of 1860**).

## **CHAPTER III**

### **ASSESSMENT**

**Returns.** – 8. (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 12 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 ability to pay tax under his 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.

**Assessment.** – 9. (1) If the assessing authority is satisfied that a return furnished under section 8 is correct and complete he shall, by an order in writing, assess the person and determine the tax payable by him on the basis of such return.

(4) If the assessing authority is not satisfied that a return furnished under section 8 is correct and complete, he shall serve on 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 day 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 8 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)

**Assessment of escaped tax.** – 10. If for any person, any person has not been assessed or has under-assessed for any financial year the assessing authority may, notwithstanding anything contained in sub-section (2) of section 8, 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 8 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:

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.** – 11.(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 have 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 18 and the provisions of this Act shall apply accordingly.

**Deduction of tax at sources.** – 12. (1) The tax payable under this Act by any person in the employment of any Government, local authority, company, firm or other association or persons shall, in the manner prescribed be deducted by the principal officer thereof 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 times may be prescribed.

(3) The assessing authority may take action, if he thinks fit, in the manner provided by sub-section (2) of Section 8 and by section 9 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 section 20 shall apply to him:

Provided that the assessing authority shall not make a direction under sub-section (2) of section 20 for the recovery of any penalty from such person unless it is satisfied that such person has willfully failed to deduct and pay the tax.

**Requisition for deduction of tax.** – 13. The assessing authority may require 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.

**Indemnity.** – 14. 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.** – 15. Any persons 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 prescribed officer:

Provided that such officer 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 9.

**Revision.** – 16. (1) The Commissioner may, out of his own motion call for and examine the records of any proceedings which have been taken under this Act by any officer subordinate to him and revise, subject to the provisions of this Act, and after such enquiry as may be deemed necessary, any order passed in such proceedings:

Provided that no order prejudicial to a person shall be passed under this sub-section without giving him a reasonable opportunity of being heard.

(2) The Commissioner may also on petition filed within sixty days of the service of the order passed under section 15 and after giving the petitioner an opportunity of being heard, pass such order as he thinks fit.

**Delegation of powers.** - 17. The Commissioner may by notification in Official Gazette delegates the powers under section 16 to any other officer.

## **CHAPTER V**

### **DEMANDS, PAYMENT AND RECOVERY**

**Notice of demand.** – 18. 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.** – 19. (1) The tax or penalty payable under this Act shall be paid in the manner hereinafter provided.

(2) Every person liable to furnish return under sub-section (1) of section 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 for such treasury in token of such payment.

(3) The principal officer deducting any tax under section 12 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 (3) 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 any 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.

**Mode of recovery.** – 20. (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 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 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 13, order that the amount due shall be recoverable as public demand under the Bengal Public Demands Recovery Act, 1913 (**Bengal Act 3 of 1913**) and shall proceed to realize the amount due as such.

**Refunds.** – 21. 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 VI**

### **OFFENCES AND PENALTIES**

**Failure to make returns, etc. – 22.** Whoever –

- (1) fails, without reasonable cause, to submit in due time any return 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 cancels 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**

**Power to compel attendance, etc. - 12** (1) The assessing authority may, by a written notice require any person to attend before him and to give evidence or produce document, as the case may be, for the purpose of determining the liability of himself or of any other person to taxation under this Act.

(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. – 24.** 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. – 25.** No suit shall be brought in any civil court to set aside or modify any assessment made or order passed under the provision 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.

**Period of limitation.** – 26. In computing the period of limitation prescribed for any appeal or a revision, the day on which the order complained was made and the time requisite for obtaining a copy of such order shall be excluded.

**Place of assessment.** – 27. 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 exempt .-** 28. The State Government may, by notification in the Official Gazette, either wholly or partially and subject to such conditions as it may think fit to prescribe, exempt any person from the payment of tax under this Act, for any specified period or occasion or as regards any specified class of persons.

**Power to make rules.** – 29. (1) The State Government may, subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made before the Nagaland Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive session, and if, before the expiry of the session in which it is to laid or the session, immediately following, the Nagaland Legislative Assembly agree in making any modification in the rules or the Nagaland 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 annulments shall be without prejudice to the validity of anything previously done under that rule.

## THE SCHEDULE

( See Section 4 )

### RATES OF TAX

Where the total gross annual income -	Amount of tax
1. Does not exceed Rs. 3,500	Nil
2. Exceeds Rs. 3,500 but does not exceed Rs. 5,000	Rs. 24
3. Exceeds Rs. 5,000 but does not exceed Rs. 10,000	Rs. 36
4. Exceeds Rs. 10,000 but does not exceed Rs. 15,000	Rs. 50
5. Exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 70
6. Exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 100
7. Exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 150
8. Exceeds Rs. 30,000 but does not exceed Rs. 35,000	Rs. 200
9. Exceeds Rs. 35,000	Rs. 250