

ACT No. IX OF 1868.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 2nd April 1868).

An Act for taxing Professions and Trades.

WHEREAS it is expedient to impose a tax on all persons exercising professions and trades in British India; It is hereby enacted
 Preamble. as follows:—

I.—PRELIMINARY.

1. In this Act—unless there be something repugnant in the subject or
 Interpretation clause. context—“Magistrate” means any person exercising the
 “Magistrate.” powers of a Magistrate, or of a Subordinate Magistrate
 of the first class, and includes a Magistrate of Police and a Justice of the
 “Person.” Peace, and “person” includes a firm, and “defaulter” a
 “Defaulter.” firm making default under this Act.

2. Acts No. XXI of 1867 (*for the licensing of professions and trades*)
 Repeal of Acts. and No. XXIX of 1867 (*to explain and amend Act*
 No. XXI of 1867) are hereby repealed; but save as afore-
 Saying of other laws relating to taxes or licenses. said nothing in this Act shall be construed to affect the
 provisions of any other law relating to taxes or licenses.

Exemptions from Act. 3. Nothing in this Act shall apply to—

(1).—Officers of Her Majesty's Forces or of Her Majesty's Indian Forces, whose pay and allowances do not exceed rupees 6,000 per annum, and who are not in Civil employment other than employment in the Police:

(2).—Non-Commissioned Officers and Privates of either of the said Forces, whose pay and allowances do not exceed rupees 6,000 per annum:

(3).—Officers of any Police Force whose pay and allowances do not exceed rupees 6,000 per annum; or

(4).—Any

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(4).—Any part of British India, tribe or class of persons exempted by order under section 4 of the said Act No. XXI of 1867.

And no cultivator of land who does not keep a shop or factory for the sale or manufacture of the produce of such land;

no servant or clerk (whether of Government, a Corporation, a Company, a Municipal Committee, a firm or an individual) whose pay, as such, amounts in the year to less than rupees 1,000; 1200

and no member of a Company or firm which is for the time being certificated under this Act—

shall be liable, as such, to take out a certificate under this Act.

4. The Governor General of India in Council may from time to time, by order, wholly exempt from the operation of this Act any part of British India, or any tribe or class of persons in British India or in any such part.

Power to exempt from Act.

The Governor General of India in Council may revoke any such order and any order made under the said section 4 of Act No. XXI of 1867.

All orders and revocations made under this section shall be published in the *Gazette of India* and also in the local *Gazette*.

II.—CERTIFICATES.

5. Every person who, on or after the first day of May 1868, exercises any profession or trade and whose annual profits from his profession or trade, professions or trades, are rupees 500 or upwards, shall take out a certificate and shall annually pay in advance for the same the sum specified in schedule A hereto annexed.

Certificates to be taken out.

6. Every such certificate shall have effect and continue in force from the day of the date thereof until the thirtieth day of April next following, on which day in each year all such certificates shall expire.

Continuance of certificate.

7. Every person who has taken out any such certificate and who intends to continue any profession or trade for which such certificate was granted, shall take out a fresh certificate for the year following, to expire on the day last hereinbefore mentioned, and shall so renew the

Renewal of certificate.

the same from year to year so long as he continues such profession or trade, and shall pay, in each such case, the duty for the time being thereupon imposed.

8. In cases where the certificate is so renewed, the new certificate shall bear date from the day of the expiration of the current certificate before granted.

Date of certificate.

In all other cases the certificate shall bear date from the day of the application made therefor, although it may be delivered at any day subsequent to the application.

9. If any person, after the first day of May in this or any subsequent year, commences any profession or trade for the exercise of which a certificate is hereby required, such person not having before taken out any such certificate, the Collector may grant such certificate for the remainder of the current year in which it is taken out, ending on the thirtieth day of April next following the date of the commencement of the said profession or trade, upon payment of such proportional part of the duty thereupon imposed as hereinafter mentioned (that is to say) :—

Certificate to persons commencing business.

If the profession or trade be commenced at any time in the quarter expiring on the thirty-first day of July of the current year in which it is commenced, the person taking out the certificate shall pay the whole duty imposed thereon ;

If the profession or trade be commenced at any time in the quarter expiring on the thirty-first day of October of such current year, he shall pay three-fourth parts of the said duty ;

If the profession or trade be commenced at any time in the quarter expiring on the thirty-first day of January of such current year, he shall pay one-half of the said duty ; and

If the profession or trade be commenced at any time in the quarter expiring on the thirtieth day of April of such current year, he shall pay a fourth part only of such duty.

10. Every certificate under this Act shall be granted by, and the sum payable therefor shall be paid to, the Collector of land revenue for the place or district at or in which the person requiring the certificate exercises his profession or trade :

Officer to grant certificates.

Provided

Provided that, if such person exercises his profession or trade at or in more than one place or district, the certificate shall be granted and payment made by and to the Collector for the place or district at or in which the principal place of business in British India of the person requiring the certificate is situate.

Every such certificate shall be signed by the Collector granting it, or by such other officer as he shall from time to time empower in this behalf, and such signature shall be judicially noticed.

Contents of certificate.

11. Every such certificate shall specify—

- (1).—The year or portion of the year for which it is granted ;
- (2).—The name and profession or trade of the holder ;
- (3).—The sum paid for the certificate, and
- (4).—The place or places, district or districts, where the holder intends to exercise his profession or trade until the thirtieth day of April next following ; and shall be received in evidence as *prima facie* proof of all matters contained therein.

12. The Collector shall from time to time determine what persons are liable to take out certificates under this Act, and under which of the classes mentioned in the said schedule every person to whom a certificate may be granted under this Act shall be assessed ; and also, in the case of a person commencing a profession or trade, what shall be deemed to be, for the purposes of section 9, the date of such commencement.

13. As soon as may be after the first day of May in every year, the Collector shall prepare a list of the persons liable to take out certificates under this Act for the current year, and may from time to time alter and add to the said list.

Such list shall state—

- (1).—The profession or trade of each person therein named ;
- (2).—The class under which he is assessed ; and
- (3).—The sum payable for his certificate.

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clear that persons must
pay the tax before
they*

The list shall be filed in the Collector's office, and the list or such part or parts thereof as he thinks fit shall be filed in such other places as he directs, and shall be open to public inspection at all reasonable times without the payment of any fee.

14. Any person named in such list and objecting to the class under which he is assessed, or denying his liability to be assessed under this Act, if he has paid the sum in which he was assessed under this Act, or (where such sum equals or exceeds rupees forty) if he has paid one moiety thereof, may, within thirty days from such payment, apply by petition to the Collector in order to establish his right to have his name transferred to another class, or removed from the list.

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The petition shall bear a stamp of eight annas, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints.

Whoever makes a statement in any such petition which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

15. The Collector shall fix a day for the hearing of the petition, and, on the day so fixed, shall hear such petition and pass such order thereupon as to him seems fit.

If the order be in favour of the petitioner, the Collector shall at once refund the value of the said stamp together with the excess paid by the petitioner, or (when the order is that the petitioner's name be removed from the list) the whole sum so paid by him.

Any person dissatisfied with any order under this section may, within fifteen days from the date thereof, present an appeal in writing to the Commissioner of Revenue of the Division, whose decision upon such appeal shall be final.

Every appeal preferred under this section shall bear a stamp of one rupee, and shall be accompanied by a copy of the petition, and the Collector's order thereon

thereon (both of which may be on unstamped paper), and all other documents (if any) connected with the case.

When the decision on such appeal is in favour of the appellant, the value of the stamp on his appeal, together with the excess paid by him, or (when the decision is that his name be removed from the list) the whole sum so paid, shall at once be refunded.

Power to summon persons to give necessary information.

16. The Collector or Commissioner and every officer or person exercising the powers of a Collector or Commissioner under this Act, may summon any person whom he thinks able to give evidence for the purpose of enabling him to determine under which of the said classes the petitioner should be assessed, and may examine on oath the person so summoned and the petitioner, and may require each of them to produce any documents in his possession or power relating to the petitioner's profession or trade, or to the amount of the annual profits accruing therefrom.

III.—PENALTIES.

Penalty for not taking out a certificate.

17. If at any time not less than fifteen days after the name of any person has been included in the list mentioned in section 13, the Collector has caused a notice to be served on such person stating the class under which he has been assessed, and requiring him within seven days from the date of the service to take out a certificate and to pay for the same the sum (mentioning it) payable therefor under the provisions of this Act ;

and if the person so served does not within the period specified in the said notice take out a certificate and pay for the same as required by the said notice, he shall on conviction before a Magistrate be fined twice the sum mentioned in such notice.

On the recovery of the fine from the person so convicted, the Collector shall grant him a certificate without any further payment.

Every such certificate shall bear date from the recovery of the fine, and, save as aforesaid, the provisions of this Act relating to certificates shall apply to certificates granted under this section.

18. Every

18. Every person required by this Act to take out a certificate, who, without reasonable excuse, neglects or refuses to produce and show his certificate when required so to do by the Collector or by an officer generally or specially empowered in writing by the Collector to make such requisition, shall, on conviction before a Magistrate, be liable to a fine not exceeding one hundred rupees.

19. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras or Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

In the case of a firm, the Magistrate imposing the fine may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the firm which may be found within his jurisdiction, and (if the firm has not sufficient property within such jurisdiction whereon to levy the fine) of any moveable property belonging to the members of the firm or any of them, which may be found within the same jurisdiction.

20. No person shall be proceeded against for any offence under section 17 or section 18 except at the instance of the Collector.

21. In sections 193 and 228 of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act.

IV.—COMPANIES.

22. The Treasurer, Secretary or principal Agent or Manager in India of every Company carrying on business in British India on or after the first day of May 1868, whose stock or funds is or are divided into shares and transferable, whether such Company be incorporated or not, and whether its principal place of business be situate in British India or not, shall take out a certificate on behalf of such Company, and annually pay in advance for such certificate the sum of rupees 500 and a further sum of rupees 500 for each of the Company's Branches and Agencies (if any) in British India;

India; or, if he shall prefer so to do, the sum of one per cent. on the dividend declared by such Company during the year ending on the thirty-first day of March in the year of assessment.

Every such Treasurer, Secretary or principal Agent or Manager is hereby indemnified for all payments made in pursuance of this Act.

Such Treasurer, Secretary or principal Agent or Manager shall in every year in which he prefers to pay the aforesaid per-centage, be legally bound to prepare, and, on or before the thirtieth day of April in such year, to deliver to the Collector for the place or district at or in which the Company's principal place of business in British India is situate, a return in writing signed by him and stating the dividend declared by the Company during the year ending on the thirty-first day of March in the year of assessment.

All the other provisions of this Act relating to certificates and to persons required to take out certificates shall apply, *mutatis mutandis*, to certificates taken out under this section and to every such Treasurer, Secretary or principal Agent or Manager as if he were liable to take out a certificate on his own behalf and to pay for the same the sum payable under this section.

V.—GOVERNMENT OFFICIALS.

23. Every person holding any paid office, employment or commission Provision as to Gov-
ernment officials. under Her Majesty or under the Government of India, or under any Local Government, other than the persons exempted under section 3 or by order under section 4, shall be deemed to exercise a profession within the meaning of this Act: Provided that he shall not be required to take out a certificate under this Act in respect of such office, employment or commission.

The sum which, but for this proviso, he would have paid for a certificate shall, notwithstanding anything hereinbefore contained, be one per cent. of the amount of his pay, and shall be deducted therefrom at the time of payment by the Examiner of Claims or other proper officer, and shall be deemed to be a tax paid under this Act.

In determining under which of the classes mentioned in the said schedule A any person holding any such office, employment or commission, and permitted

mitted, nevertheless, to exercise a profession or trade shall be assessed, the Collector shall neglect the amount of the pay which such person receives in respect of his office, employment or commission.

VI.—SERVANTS OF COMPANIES. *Take as to be...*

24. No person holding a paid employment under any such Company as is mentioned in section 22 shall be liable, as such, to take out a certificate under this Act: but one per cent. of the amount of his pay, when such pay amounts in the year to rupees 1,000 or upwards, shall be deducted therefrom at the time of payment by the Treasurer or other officer whose duty it is to make such payments, and shall be deemed to be a tax payable under this Act. *1 per cent. of the amount of his pay...*

Provision as to servants of Companies.

Every such Treasurer or other officer shall, as soon as may be after making such deductions, pay to the credit of the Government of India, or as such Government shall from time to time direct, the amount of such deductions, and shall be answerable to such Government for such payment.

Every Company, Treasurer or other officer as aforesaid is hereby indemnified for all deductions and payments made in pursuance of this section.

The Treasurer, Secretary or principal Agent or Manager of every such Company shall be legally bound to prepare, and, on or before the thirtieth day of April in this and every subsequent year, to deliver to the Collector of the place at which its principal place of business in British India is situate, in such form as may from time to time be prescribed by the Governor General of India in Council, a return in writing showing the names of all persons holding at the date of the said return paid employments under the Company whose pay, as such, amounts in the year to rupees 1,000 or upwards, together with the salaries payable by the Company to such persons respectively.

In determining under which of the classes mentioned in the said schedule A any person holding any such employment and exercising, nevertheless, a profession or trade, shall be assessed, the Collector shall neglect the amount of the pay which such person receives in respect of his said employment.

VII.—PAYMENT

VII.—PAYMENT OF THE TAX.

25. All taxes under this Act, except when they are deducted under section 23 or section 24, shall be payable on the first day of May in each year :

Instalments.

Provided that, in every case where the amount so payable equals or exceeds rupees forty, it may be paid in each year by two instalments : the first instalment to be paid on some day not later than fifteen days after the name of the person paying the same shall have appeared in the list mentioned in section 13, and the second instalment on the first day of November ;

If in any such case the whole amount be paid on or before the day on which the said first instalment is to be paid as aforesaid, the person paying such whole amount shall be entitled to a discount of two and a half per cent. on the amount of the second instalment.

26. When any person pays only such first instalment, and, between the first day of May and the second day of November, dies, or is by sickness or other infirmity rendered incapable of exercising the profession or trade in respect of which his certificate was granted, or takes the benefit of any Act for the relief of insolvent debtors, the amount of the second instalment shall not be claimable.

When any firm pays only such first instalment, and, between the first day of May and the second day of November, dissolves partnership, or takes the benefit of any Act for the relief of insolvent debtors, the amount of the second instalment shall not be claimable.

27. When any person pays the whole amount as aforesaid, and, between the first day of May and the second day of November, dies, or is by sickness or other infirmity rendered incapable of exercising the profession or trade in respect of which his certificate was granted, or takes the benefit of any Act for the relief of insolvent debtors, one moiety of such amount, less the said discount (if any), shall be paid to his representative or himself or his assignee, as the case may be.

When

When any firm pays the whole amount as aforesaid, and, between the first day of May and the second day of November, dissolves partnership, or takes the benefit of any Act for the relief of insolvent debtors, one moiety of such amount, less the said discount (if any), shall be re-paid under such rules as the Governor General of India in Council shall from time to time prescribe.

Firm paying whole amount and dissolving partnership or becoming insolvent.

Recovery of Second Instalment.

28. If the Collector has caused a notice to be served on any person liable to pay the said second instalment and requiring him within seven days from the date of the service to pay the amount of such instalment (mentioning it), and if the person so served does not within that period pay such amount as required by the said notice, he shall on conviction before a Magistrate be fined twice the amount so mentioned.

Recovery of second instalment.

Recovery under Revenue-law.

29. In any case arising outside the local limits of the towns of Calcutta, Madras or Bombay, the Collector may, if he thinks fit, recover the amount of any tax or instalment payable under this Act as if it were an arrear of land revenue :

Optional recovery under revenue-law.

Provided that, at some time not less than fifteen days after the name of the defaulter has been included in the list mentioned in section 13, the Collector has caused a notice to be served on him stating to the effect mentioned in section 17 or section 28 (as the case may be) : provided also, that the defaulter has not, within the period specified in such notice, complied with the requirement made therein.

On the recovery of the tax from the defaulter, the Collector shall grant him a certificate without any further payment.

Every such certificate shall bear date from the recovery of the tax, and, save as aforesaid, the provisions of this Act relating to certificates shall apply to certificates granted under this section.

Payment of Taxes and Fines.

Payment of taxes levied and fines recovered under this Act.

30. All taxes levied and all fines recovered under this Act shall be paid to the credit of the Government of India, or as such Government shall from time to time direct.

VIII.—MISCELLANEOUS.

VIII.—MISCELLANEOUS.

Powers of Collector and Commissioner under this Act may be exercised by other officers.

31. All or any of the powers and duties conferred and imposed by this Act on a Collector and on a Commissioner of Revenue, may be exercised and performed by such other officers or persons as the Local Government shall from time to time appoint in this behalf.

32. Service of any notice under this Act shall be made by delivering or tendering a copy thereof under the signature of the Collector.

Service of notices.

Whenever it may be practicable, the service of the notice shall be on the person therein named, or, in the case of a firm, on some member thereof.

When such person or member cannot be found, the service may be made on any adult male member of his family residing with him ; and if no such adult male member can be found, the serving officer shall fix the copy of the notice on the outer door of the house in which the person therein named is dwelling, or, in the case of a firm, in which the business thereof is ordinarily carried on.

33. When any Company such as is mentioned in section 22, or any person, has several places of business in the territories subject to different Local Governments, the Governor General of India in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be the principal place of business, and, when any such Company has several Agents or Managers, which of them shall, for the purposes of this Act, be deemed to be the principal Agent or Manager.

Power to declare principal place of business.

When any such Company or any person has several places of business in the territories subject to a single Local Government, such Government shall have power to declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

The powers given by this section may be delegated to and exercised by such officers as the Governor General of India in Council or the Local Government, as the case may be, shall from time to time appoint in this behalf.

34. The

34. The Local Government may, with the previous sanction of the Governor General of India in Council, assign such salaries as such Government may from time to time deem proper to the officers appointed under this Act, and allow such establishments for their respective offices as may be necessary for the purposes of this Act.

35. The Governor General of India in Council may from time to time make rules consistent with this Act for the guidance of officers in matters connected with its enforcement, and may delegate to any Local Government the power given by this section so far as regards the territories subject to such Government.

36. This Act shall come into operation on the first day of May 1868.

SCHEDULE A.

TAX ON PROFESSIONS AND TRADES.

CLASS I.

Persons whose annual profits shall be assessed at rupees 400,000 and upwards	Rupees. 6,400
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CLASS II.

Persons whose annual profits shall be assessed at rupees 200,000, or at more than rupees 200,000 and less than rupees 400,000	3,200
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CLASS III.

Persons whose annual profits shall be assessed at rupees 100,000, or at more than rupees 100,000 and less than rupees 200,000	1,600
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CLASS IV.

Persons whose annual profits shall be assessed at rupees 50,000, or at more than rupees 50,000 and less than rupees 100,000	800
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CLASS V.

Persons whose annual profits shall be assessed at rupees 25,000, or at more than rupees 25,000 and less than rupees 50,000	400
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CLASS VI.

ACT No. IX OF 1868.

CLASS VI.

	Rupees.
Persons whose annual profits shall be assessed at rupees 10,000, or at more than rupees 10,000 and less than rupees 25,000... ..	160

CLASS VII.

Persons whose annual profits shall be assessed at rupees 5,000, or at more than rupees 5,000 and less than rupees 10,000	80
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CLASS VIII.

Persons whose annual profits shall be assessed at rupees 2,500, or at more than rupees 2,500 and less than rupees 5,000	40
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CLASS IX.

Persons whose annual profits shall be assessed at rupees 1,000, or at more than rupees 1,000 and less than rupees 2,500	16
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CLASS X.

Persons whose annual profits shall be assessed at rupees 500, or at more than rupees 500 and less than rupees 1,000	8
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SCHEDULE B.

Form of Petition under section 14.

Stamp eight annas.

TO THE COLLECTOR OF

The

day of

186 .

The petition of *A. B.* of

SHEWETH—

1st.—That in the list filed in your office pursuant to the 13th section of Act No. IX of 1868, on the day of 186 , your petitioner's name appears under the *ninth* of the classes mentioned in schedule A to the said Act annexed, that he has been assessed in the sum of rupees *sixteen* for the certificate granted to him under such Act, and that he has paid such sum accordingly.

2nd.—That the profits of your petitioner's profession [*or trade*] of [*here state petitioner's profession or trade*] for the year ending the thirtieth day of April last were rupees

[*more*

[*more than rupees 500 and less than rupees 1,000 or less than rupees 500*], as will appear from the documents marked _____ presented herewith, and to which your petitioner craves leave to refer.

Your petitioner therefore prays that you will remove his name from the *ninth* to the *tenth* of the said classes, that he may be assessed accordingly, and that the excess of rupees *eight* so paid by him and the value of the stamp on this petition may be refunded, [*or that his name be removed from the said list and that the sum of rupees sixteen so paid by him and the value of the stamp on this petition may be refunded*].

(Signed) A. B.

Form of Verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) A. B.