

**OFFICE OF THE PRINCIPAL  
ACCOUNTANT  
GENERAL (AUDIT): ASSAM GUWHAATI**

**Revenue audit manual  
On  
The Assam Professions, Trade, Callings and Employments  
Tax, 1947**

**[Second Edition]**

## **Preface to the first edition**

This Manual has been prepared for guidance of the officers and staff auditing the professions, Trade, Callings and Employment Tax receipts and refunds of the Government of Assam and Meghalya. The salient provisions of the law and the procedure for assessment and collection of the tax have been set out in this Manuals. The Officers and the staff should, however, acquaint themselves with the provisions of the Assam Professions, Trade, Calling and Employment Taxation Act., 1974, the Rules framed there under and the executive instructions issued by the Government and the Commissioner of Taxes from time to time for proper administration of the Act.

The Manual should be treated as a guide only and the audit checks indicated in it should not be taken as exhaustive. The provisions of this Manual should not be quoted as authority in the course of audit or in any correspondence outside this office. In such case the relevant provisions of the Act, the Rules or the executive instructions, as the case may be, should be quoted as reference or authority.

The Revenue Audit Wing (State) Headquarters, will be responsible for keeping the Manual upto date by issue of correction slips.

Suggestions for improving the Manual and pointing out of errors and omissions, if any, therein will be welcomed.

Shillong

The 1 1 1 1 1 1 1 1 1 1 1992

Sd/-  
Accountant General (Audit)  
Assam, Meghalya, Mizoram & Arunachal Pradesh.  
Shillong

## **PREFACE TO THE SECOND EDITION**

In this edition of revenue audit Manual on Assam Professions, Trades, Callings and Employments Tax Act, the materials contained in the First edition has been updated/modified on the basis of Notification/Amendments/Instructions issued by the State Government.

2. All out efforts have been made to include all the available fresh material to make the manual truly useful to all concerned.
3. The important points to be seen during audit have also been setout in this manual. There are, however, in the nature of guidance and do not profess to be an exhaustive list.
4. While preparing Audit and Inspection Note a particular reference to the provisions of the Acts and Rules framed thereunder should be given and not to the paras of this Manual.
5. Though the instructions contained in this Manual need full compliance, but these do not debar audit staff from looking out for any other point of interest during the course of audit.
6. Receipt Audit Wing (State) headquarters will be responsible for keeping the Manual up-to-date.
7. An error/omission noticed in the Manual and suggestion for its improvement may be brought to the notice of the Pr. Accountant General (Audit), Assam, Guwahati.

**Guwahati**

**Dated: 02.08.07**

**Principal Accountant General (Audit)  
Assam, Guwahati**

## CONTENTS

<b><u>CHAPTER – 1</u></b>	<b><u>Para No.</u></b>
Introduction	1.1
Legislative background	1.2
<b><u>CHAPTER – 2</u></b>	
Organisational set up	2.1
<b><u>CHAPTER – 3</u></b>	
Definitions	3.1
Liability to and charge of tax	3.2
Rate of tax	3.3
Employer liability to deduct and pay tax on behalf of employees	3.4
Registration and enrolment	3.5
Returns	3.6
Assessment	3.7
Assessment of escaped tax	3.8
Appeals	3.9
Revision	3.10
Notice of demand	3.11
Payment of dues	3.12
Consequent of failure to deduct or pay tax	3.13
Penalty for non payment of tax	3.14
Mode of recovery	3.15
Refund	3.16
Offences and penalties	3.17
<b><u>CHAPTER – 4</u></b>	
Register and returns	4.1
<b><u>CHAPTER – 5</u></b>	
Audit checks	5.1
Extent of audit	5.2
Audit of internal controls	5.3
Appendix	

## **CHAPTER-1**

### **1.1.1. Introduction**

THE comptroller and Auditor General of India derives his powers, in so far as they relate to audit of receipts of the Union and the States, from Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of services) Act, 1971. In exercise of those powers the audit of receipts under the principal heads of revenue of the State Governments is being conducted by the Indian Audit and Accounts Department.

This Manual is aimed at supplementing the General Principles governing the audit of receipts as enunciated on Chapter IV of Section 11 of the Comptroller and Auditor General's Manual of Standing Orders (Technical).

It is to be borne in mind that the main purpose of audit is to ensure that the moneys due to Government have been collected and accounted for properly and the executive has not granted unjustified and un-authorized remissions and exemptions to tax payers. The most important function of audit is to ensure that proper regulations and procedure have been prescribed by the Finance (Taxation) Department of the Government to secure an effective check on the assessment, collection and accounting of tax and to satisfy itself that such regulations and procedure are actually being followed.

In the subsequent chapter of the Manual, the basic provisions of the laws and the rules on tax on Professions, Trades, Callings and Employments, and the checks to be exercised in audit of assessment, collection refund of the tax are set out.

### **1.2 Legislative Background**

The Assam Professions, Trades, Callings and Employments Tax Act is pre-constitution Statue enacted in 1947 and brought into force with effect from 1<sup>st</sup> May 1947. The power to levy this tax was derived by the Provisional Legislature from entry 46 List 11 of the Government of India Act, 1935. This power was subject to the provisions of section 142 A of the said Act. The corresponding provisions in the

constitution of India are contained in Entry 60 of List 11 of the seventh Schedule to the Constitution of India and Article 276 thereof. Article 276 of the Constitution of India provide that a tax on professions will not be void on the ground that it is a tax on income. It limited the tax payable in respect of a person to Rs. 250 per annum. This limit was subsequently raised to Rs. 2500 per annum from 21<sup>st</sup> December 1988 by the 60<sup>th</sup> Amendment Act, 1988 of the Constitution of India.

## **CHAPTER –2**

### **2.1 Organisation set up**

The Government in the Finance Department administers the provisions of the Act, the Rules frames thereunder through the Commissioner of Taxes, who is the Head of the Organisational Set Up in terms of sections 6 of the Act. He is assisted by the Deputy Commissioners of Taxes, the Assistant Commissioners of Taxes, the Assistant Commissioners of Taxes (Appeals), the Superintendents of Taxes and the Inspectors of Taxes. The Assistant Commissioner of Taxes/Superintendent of Taxes of the different areas are the assessing and collecting officers in their respective areas.

## CHAPTER- 3

Procedure to levy, assessment and collection of Assam Professions, Trade, Callings and Employments Taxation Act, 1947 (APTCE)

### 3.1 Definitions

In this Act unless there is anything repugnant in the subject or context:-

- (a) "assessing authority" in a particular area means the Assistant Commissioner of Taxes and Superintendent of Taxes exercising jurisdiction in that area.
- (b) Deputy Commissioner of Taxes (Appeals) means a person appointed to be a Deputy Commissioner of Taxes (Appeals)
- (c) "employee" means a person employed on salary or wages, and includes:-
  - (i) a Government servant receiving pay from the revenue of the Central Government or any State Government or the Railway Fund.
  - (ii) a person in the service of a body, whether in incorporated or not, which is owned or controlled by the Central Government or any State Government, where the body operated in any part of the State, even though its headquarters mat outside the State.
  - (iii) a person engaged in any employment of an employer, not covered by items (i) and (ii).
- (d) "employer" in relation to an employee earning any salary or wages on regular basis under him, means the person or the officer who is responsible for disbursement of such salary or wages, and includes the head of the office or any establishment as well as the manager or agent of the employer.
- (e) "Person": includes a company, firm, a Hindu undivided family, a corporation, a corporate body, a society, a club or other association of persons.

"Person" means any person who is engaged in any Profession, Trade, Calling or employment in Assam but does not include any person who earns wages on a casual basis not exceeding one hundred eight days in a year.

- (f) "Salary or Wages" includes pay, dearness allowances and all other remuneration received by any person on regular basis, whether payable in



cash or in kind, and also includes perquisites and profits in lieu of salary, as defined in section 17 of the Income Tax Act.

### **3.2 Liability to and charge of tax**

Every person who carries on a trade either by himself or by an agent on representative or who follows a profession or callings or who is employment either wholly or in part within the State is liable to pay for each financial year a tax under the Act in respect of such trade, profession, calling or employment and in addition to any tax, rate, duty or fee which is liable to pay under any other enactment for the time being in force.

Any person above the age of 60 years is exempted from payment of tax under this Act subject to the condition that his gross income does not exceed Rs. 5.00 lakh in a financial year.

### **3.3 Rate of Tax**

The tax shall be levied at the rates specified in the schedule to the Act from time to time.

### **3.4 Employer liability to deduct and pay tax on behalf of employees**

The tax payable by any person earning a salary and wages shall be deducted by his employer from the salary or wage payable to such person before such salary or wages is paid to him, and such employer shall, irrespective of whether such deduction has been made or not when salary or wage is paid to such persons, be liable to pay the tax on behalf of all such persons.

[Section 5 & Rule 10 of A.P.T.C.E. Act & Rules]

### **3.5 Registration and enrolment.**

- (i) Every employer liable to pay tax shall obtain a certificate of registration from the assessing authority.
- (ii) Every person liable to pay tax shall obtain a certificate of enrolment from the assessing authority.
- (iii) Assessing authority shall mention in every certificate of registration or enrolment the amount of tax payable by the holder according to the schedule and the date by which it shall be paid.

- (iv) An employer or a person liable for registration or enrolment fails to apply for such certificate within 90 days of his becoming liable to pay tax, the assessing authority of being hears, impose upon him a penalty not exceeding rupees twenty for each day of delay in cases of an employer and not exceeding rupees five for each day of delay in case of others.
- (v) An employer or a person liable for registration or enrolment has deliberately given false information, the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees one thousand.

[Section 5 A of the A.P.T.C.E.T. Act & Rules]

### **3.6 Returns**

1. Every employer registered under this Act shall furnish to the assessing a return in Form III on or before last day of every month showing there in the salaries and wages paid by him in respect of the month immediately preceding that month and the amount of tax deducted by him from the said salaries and wages.
2. Every return shall be accompanied by a treasury challan in proof of payment of full amount of tax due according to the return.
3. Am employer, without reasonable cause, fails to file such return within the prescribed time, the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees five fir each day of delay.

[Section 7 of A.P.T.C.E.T. Act & Rule 12 of A.P.T.C.E. Rule]

### **3.7 Assessment**

- (i) If the assessing authority is satisfied that the return filed by an employer is correct and complete, it shall accept the return. If not satisfied that the return field is correct and complete, it shall serve upon the employer a notice requiring him to produce accounts and papers in support of the return.

(ii) (a) The assessing authority shall, on examination of the account and papers, by an order in writing, assesses the amount of tax payable by the employer.

(b) If the employer fails to comply with the terms of the notice, or if in the opinion of the assessing authority 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 has been given a reasonable opportunity of being heard.

[Section 8 B of A.P.T.C.E.T. Act]

### **3.8 Assessment of escaped tax**

If not any reason any person has not been assessed or has been under assessed for any financial year the assessing authority may serve on the person liable to pay the tax, a notice containing all or any of the requirement, and may proceed to assess or reassess him under the provision of the Act.

Provided that tax shall be charged at the rate at which it would have been charged if the person would not escaped assessment or full assessment, as the case may be.

[Section 8 A of A.P.T.C.E.T. Act]

### **3.8 (a) Rectification of mistakes**

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 files in this behalf, within three years from the date of such assessment or order rectify any mistake apparent from the records of the case.

### **3.9 Appeals**

(i) Any person aggrieved by an order under this Act by an assessing authority not being an order passes under this section, may appeal to the Deputy Commissioner of Taxes (Appeals) against such order within thirty days from the day of service of such order.

Provided that no appeal against an order of an assessment or penalty shall be entertained by Deputy Commissioner of Taxes (Appeals) unless he is satisfied that the

amount of tax assessed or penalty imposed; if not otherwise directed by him, has been paid.

The memorandum of appeal upon which a fee of Rs.2 in court fee stamp shall be payable shall contain amongst other, the following particulars:

- (a) a statement of the facts of the case
- (b) the ground on which the petition is filed and
- (c) the date of service of the order appealed

The memorandum of appeal shall be duly stamped and accompanied by a certified copy of the order appealed against and shall be signed, verified and endorsed by the appellant or his agent to the effect.

- (a) that the tax not in dispute has been paid and
- (b) that to the best of his knowledge and belief that facts set out in the memorandum are true.

In disposing of an appeal, the appellate authority may

- (a) confirm, reduce, annul or enhance the assessment or set aside the assessment and direct a fresh assessment after such inquiry as may be ordered,
- (b) confirm, reduce or annul the order or penalty.

### 3.10 Revision

- (i) The Commissioner of Taxes may revise an order passed by any officer subordinate to him if the order is erroneous and prejudicial to the interest of revenue, after giving the assessee an opportunity of being heard and after making or causing to be made an enquiry as he deems necessary.
- (ii) Any other order passed by any officer subordinate to him may also be revised by the Commissioner of Taxes in favour of the assessee suo moto or on an application by the assessee.

In the case of a petition for revision by an assessee, the petition shall be made within ninety days from the date on which the order in question was communicated to him to the date on which he otherwise comes to know of it, whichever is earlier. The Commissioner may, however, admit any revision petition after the expiration of ninety days if he is satisfied that for reasons beyond the control of the petitioner or any other sufficient cause it could not be filed within time.

In computing the period of ninety days, the day on which the order complained of was made and the time requisite for detaining a copy of such order shall be excluded.

The revision petition shall be made in the same manner and shall contain all the particulars as required in the case of an appeal, but with a fee of Rs. 5 in court fee stamps.

(Sections 10A, 178 of the A.P.T.C.E.T. Act & Rule 23A of the A.P.T.C.E.T Rules)

### **3.11 Notice of demand**

Where any tax or penalty or interest is payable in consequent of any order passes under or in consequent of the Act, the assessing authority shall serve on the person concerned a notice of demand in Form V prescribed under the Rules.

(Sections 11 of the A.P.T.C.E.T. Act read with Rule 24 of the A.P.T.C.E.T Rules)

### **3.12 Payment of dues**

(1) The amount of tax due from enrolled persons for each year as specified in their certificate of enrolment shall be paid

(a) in respect of a person who stands enrolled before the commencement of a year and is enrolled or before the 31<sup>st</sup> day of August of a year

Before the 30<sup>th</sup> day of September of that year

(b) in respect of a person who is enrolled after the 31<sup>st</sup> day of August of a year

Within one month of the date of enrolment

[Section 12 of A.P.T.C. & E.T. Act.]

### **3.13 Consequent of failure to deduct or pay tax**

In an employer person fails to pay the tax as required by or under this Act, he shall be liable to pay a simple interest at two percentum of the amount of tax due for each month or part thereof for the period for which the tax remained unpaid.

[Section 12A of A.P.T.C. & E.T. Act.]

### **3.14 Penalty for non-payment of tax**

If any person or an employer fails without reasonable cause, to make payment of any amount of tax within the time, the assessing officer may, after giving him a reasonable opportunity of being heard impose a penalty not exceeding fifty percentum of the amount of tax due.

[Section 12B of A.P.T.C.E.T. Act.]

### **3.15 Mode of recovery**

All arrears of tax, penalty, interest and fees due under this Act from any person shall be recoverable as an arrear of land revenue and the assessing authority shall proceed to realize the arrear as such from such person.

[Section 13 of A.P.T.C.E.T. Act.]

### **3.16 Refund**

Assessing authority shall refund to a person the amount of tax, penalty, interest and fees paid by such person in excess of the amount due from him. The refund may be made either by cash payment or at the option of such person.

No claim to any refund shall be allowed unless it is made within ninety days from the day of original order of assessment ninety days of the final order passed on appeal or revision, as the case may be, in respect of such assessment.

An application for refund shall be made to superintendent and shall include, among other, following particular

- (i) the name of the assessee
- (ii) assessment year for which refund is claimed.
- (iii) The amount of dues already paid together with the challan No. and date of payment.
- (iv) The amount of refund claimed and grounds thereof.

[Section 14 of A.P.T.C.E.T. Act read with section 31, 31B of A.P.T.C.E.T Act Rules]

### **3.17 Offences and penalties – whoever -**

- (a) fails, without reasonable cause, to submit in due time any return as required by or under the provisions of the Act or submits a false returns; or

- (b) fails or neglects, without reasonable cause, to comply with any requirement made of, or any obligation laid on him under the act, or
- (c) fraudulently evades payment of any tax due under this Act or conceals his liabilities 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 amt extend to six months or with a fine not exceeding Rs. 5000 or with both.

[Section 15 of the A.P.T.C.E.T. Act.]

3.18 Fees- Besides the fees payable upon a memorandum of appeal and upon a petition for revision, the following fees will be payable:\_

1. Upon any miscellaneous petition other than appeal and revisions -25 paise
2. For certified copies -
  - (a) An application fee - 25 paise
  - (b) Authentication fees for every 360 words - 50 paise
  - (c) Urgent fee Rs. 1 if the copy is to be furnished on the day of submission of application.
  - (d) A searching fee of Rs. 1 if a copy of the order or document which is more than one year old is wanted.

For obtaining certified copies, one impressed folio for not more than 150 (English) words and extra folio for every 150 additional words or less are to be provided by the applicant.

All fees are to be paid in Court Fee Stamps.

(Rules 35, 35A and 36 of the A.P.T.C.E.T. Rules)

## CHAPTER – 4

### 4.1 Register and returns.

- (1) Every employer registered under the Act shall furnish a monthly return in Form IIA.

[Section 12 (1) of APTECT Rules]

- (2) Receipt of challan shall be entered by the Superintendent Taxes/Assistant Commissioner of Taxes in the Assessment Register in Form VII D.

[Section 30 of APTECET Rules]

- (3) A register in Form IX shall be maintained where in all particulars of all applications for refund and the order passes there on shall be entered.



## CHAPTER-5

### 5.1 Audit Checks

In the audit of receipts and refunds of Taxes or professions, Trades, Callings and Employment, the accounts and records maintained in the Office of the Superintendents of Taxes are checked locally. The audit scrutiny would aim at finding out:-

- (i) Whether the department is conducting periodical survey to ascertain the level of income of various persons with a view to bringing them under the tax net.
- (ii) Whether action has been taken to make the principal officers of various Government and Non-Government offices and firms, companies and other organizations aware of their responsibility as regards deduction of tax at source and thereof submission of returns after deposit of the tax into Government treasury.
- (iii) Whether reports of survey are being acted upon by using notices to various persons and principal officers. Whether follow-up action is taken regularly.
- (iv) Whether adequate system and arrangements are there to watch the receipt of returns from various persons and principal officers liable to pay the tax.
- (v) Whether issue of notice in respect of any assessee or principal officer has been so delayed as to render the assessment time-barred.
- (vi) Whether assessments are completed by the assesses/principal officers at the correct rate.
- (vii)
  - (a) Whether demand notices are issued promptly.
  - (b) Whether the demand and collection register is maintained properly.
  - (c) A small percentage of entries in the said register may be test checked to verify their correctness with reference to entries of credit in the daily collection register.
- (viii) Whether penalty proceedings are initiated against the defaulters in deserving cases.
- (ix) Whether Assessment Register, Refunds Register and other relevant records have been properly maintained.

- (x) Whether the claims for refunds, and application for appeal and revisions were received in time and whether all the particulars and supporting documents were furnished by the applicants.
- (xi) Whether refunds were allowed after proper scrutiny and refund cases were entered in the Refund Register.
- (xii) Whether reconciliation between the entries in the Assessment Register and the Treasury Advice List is regularly done by the Superintendent of Taxes in order to ensure that tax was actually deposited into treasury by the assesses/principal officers and no fake challans were produced by them.
- (xiii) Whether guidelines, if any, issued by the department to check evasion of taxes have been duly observed by the Inspectors/ Assessing authority.
- (xiv) It should be particularly seen that whether the order of exemptions, refunds, remission etc. of taxes have been issued by the competent authority and whether the orders conform to the provisions of the Act/Rules.
- (xv) Whether appropriate action is taken to realize the unpaid tax and penalty as arrear land revenue Test Check of individual cases of assessment/refund and also test check of Treasury Advice List with reference to Assessment Register and Refunds Register are to be conducted.

## 5.2 Extent of audit

Records and Registers to be checked	Quantum of audit checks for each category of registers and cases
(a) Return filed by the assesses	Returns submitted by the assesses for a month in a year may be check in details with reference to tax paid and assessed. The entries relating to the payment of tax in respect of these returns may be traced to the Demand Collection Register and the challan Register.
(b) Challan and challans Register	Challans for four selected months in a year may be traced to challan Register/assessment

	files and Demand, Collection Register. In addition, remittances through these challans should be verified with reference to treasury records.
(c) Refunds	IOC percent
(d) Register of Appeal/Appeal Cases	General Review
(e) Offence cases and composition of offence	General Review
(f) Revision	General Review
(g) Assessment	General Review

### **5.3 Audit of internal controls:**

The most important function of Audit and the area of audit concern in relation to assessments and refunds is to satisfy itself, by such check as it may consider necessary, that the internal procedures adequately provide for and actually ensure:

- (i) the collection and utilization of data necessary for the computation of the demand or refund under laws,
- (ii) that the computation and realization of various taxes, fees etc. are in accordance with the applicable tax laws,
- (iii) the prompt revising of demands on taxpayers in the manner required by law,
- (iv) the regular accounting of demands, collections and refunds,
- (v) the correct accounting and allocation of collections and their credit to Consolidated Fund,
- (vi) that the relevant and requisite records are being maintained properly,
- (vii) that proper arrangements are in place to safeguard against negligence or omission to levy or collect taxes or to authorize refund;
- (viii) that adequate control and monitoring mechanisms have been devised to prevent loss or leakage of revenue,
- (ix) that there has not been any loss or leakage or revenue on account of lacunae or loopholes in the rules frames for the purpose or on account of avoidable delays in the issue of the necessary notification, and orders,

- (x) that the machinery for detection of cases of evasion is adequate,
- (xi) that double refunds, fraudulent or forged refund orders or other losses of revenue through fraud, default or errors are promptly brought to light and investigated.
- (xii) that cases pending in courts of law or before appellate authorities have been pursued adequately and appeals whenever justified or considered necessary, have been filed within the period of limitation and
- (xiii) that the estimates of revenue have been realized at the end of the financial year.

## **APPENDIX**

### **Important notifications/circulars/order etc.**

- 1) Circular No. CTP/4/78/197 dt. 25.11.1994
- 2) Circular No. CTP/4/78/Part/566 dt. 19.4.1995
- 3) Circular No. CTP/4/78/208 dt. 1.8.1997
- 4) Circular No. CTP-1/96/39 dt. 13.2.1997

### **Levy of Tax**

- 1) Circular No. CTP/4/78/Part/576 dt. 29.8.1997
- 2) Circular No. CTP-1/96/184/ dt. 13.7.1999
- 3) Notification No. FTX 35/98/59 dt. 28.1.1999
- 4) Notification NO. FTX 29/92/Pt-III/54 dt. 31.1.2001
- 5) Notification LGL/42/93/87 dt. 3.5.2003
- 6) Notification No. LGL/55/2005/7 dt. 6.5.2005

### **Exemption**

- 1) Notification NO. FTX/76/2006/2 dt. 4.11.2006

**GOVERNMENT OF ASSAM**  
**FINANCE (TAXATION) DEPARTMENT**

**No. FTX.29/92/Pt-III/54**

**Dated Dispur, the 3<sup>rd</sup> Jan, 2001**

From: Sri P. D. Kalita, ACS  
Deputy Secretary to the Government of Assam  
Finance (Taxation) Department,

To: The Commissioner of Taxes, Assam  
Kar-Bhawan, Dispur, Guwahati-6

SUB: Liability to pay professional Taxes by individual branches of Nationalized Banks.

Ref: Your letter No. CTP-1/96/280 dtd. 8.4.2000.

Sir,

With reference to your letter cited above, I am directed to say that the employees of the Nationalized Banks are liable to pay professional Tax under the Assam Professions, Trades, Calling and Employments Taxation Act, 1947 as amended from time to time. But so far as the establishments of Nationalized Banks are concerned, only the Assessee of the principal place Professions/Trades in the State is liable to pay tax under the said Act, i.e. their branches are not liable to pay tax separately.

Yours faithfully,

Sd/-

Deputy Secretary to the Govt. of Assam  
Finance (Taxation) Department

**GOVERNMENT OF ASSAM**  
**FINANCE (TAXATION) DEPARTMENT**

**No. FTX.35/98/59**

**Dated Dispur, the 28<sup>th</sup> Jan, 1999**

**OFFICE MEMORANDUM**

Sub: Clarifications regarding the term 'Salary' under Assam Professions, Trades, Callings and Employments Taxation (Amendments) Act, 1998.

It has come to notice of Government that the term 'Salary' or 'Wage' has been mis-interpreted by many of the Drawing and Disbursing Officer as well Treasury Officers while deducting the professional Tax from the monthly pay and allowances or wages of the Government employees/wage earners.

It is hereby clarified that under Section 2 (g) of the Assam Professions, Trades, Callings and employments Taxation (Amendment) Act, 1992, as published in the Assam Gazette, Extraordinary dt. 6-6-1992, the term 'Salary' and 'Wage' includes pay, dearness allowances and all other remunerations received by any person on regular basis, whether payable in cash or in kind and also includes perquisites and profits in lieu of salary as defined in Section 17 of the Income Tax Act, 1961.

All Drawing and Disbursing Officers and Treasury Officers will ensure strict compliance of the above provision while preparing/passing the monthly pay bills/wages bills of the Government employees or wage earners.

Sd/- P. D. Kalita, ACS  
Deputy Secretary to the Government of Assam  
Finance (Taxation) Department

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

**Circular No. 20/99**

**No.CTP-1/96/184**

**dated, the 13<sup>th</sup> July 1999**

To : All senior Superintendent of Taxes and Superintendents of Taxes  
Sub : Realization of professional tax under the Assam Professions, Trades, Callings  
and Employments Taxation Act, 1947.

It has observed that the matter relating to realization of professional tax under the Assam professions, Trades, Callings and Employments Taxation Act, 1947 is processed in the Unit Officers in files separate from those in which matters relating to tax under the Assam General Sales Tax Act, 1993 of the concerned dealers are processed, this sometimes leads to avoidable delay in processing the files under the Assam General Sales Tax Act, 1993 are done in time. In order to ensure proper and timely actions under the Assam professions, Trades, Callings and Employments Taxation Act, 1947 in respect of a dealer, the matter relating to realization of tax under the Act in respect of the same dealer should be processed in a sub-file and the same should be kept along with the file on the Assam General Sales Tax, so that action under both the Acts in respect of the dealer can be taken simultaneously.

You are hereby directed to enforce the procedure mentioned above with immediate effect and take all actions in the matter relating to the realization and assessment of professional tax from such sub-files.

This may be brought to the knowledge of all concerned including all other Sr. Superintendent of Taxes/Superintendents of Taxes of your immediately.

**T.R. Dey**  
**Commissioner of Taxes, Assam**  
**Guwahati**



**Circular**

**No..CTP-1/96/39**

**dated, the 31 March, 1997**

To : The Deputy Commissioner of Taxes (All)  
Sub : Realization of professions tax from the Public carrier Vehicle owners under the A.P.T.C. and E.T. Act 47.

You are aware that owner of public carrier vehicles Viz-Truck, Bus, Taxi, etc. are liable to pay profession tax under section 3 of the A.P.T.C. & E.T. Act, 47. It has come to my notice that most of such vehicles owners have not paid dues taxes. It also been observed that no proper steps has been taken by the Assessing Officer in respect of realization of tax from such owners and as a result Government has been losing a substantial amount of revenue.

You are therefore, requested to instruct the Superintendent of taxes under your jurisdiction to collect particulars in respect of vehicle permit holders from the office of the Commissioner of Transport, Assam and the District Transport Officer by deputing the Inspector of Taxes under his control so that the Assessing Officer can take necessary action as regards realization of profession taxes as per provision of the Act immediately.

You should also keep strict vigil as regards the performance of the Assessing Officer in the matter.

Please treat this as most urgent and inform the undersigned the action taken in this respect.

**MGVK Bhanu**  
**Commissioner of Taxes, Assam,**  
**Guwahati**

**Circular No.6/97**

**No. CTP-4/78/208**

**dated, the 1<sup>st</sup> August, 1997**

To : The Senior Superintendent of Taxes/Superintendent of Taxes (All)

It has been brought to my notice that some of the Central Government Departments/ organizations have been paying less tax under Assam professions, Trades, Callings and Employments Taxation Act, 1947 in respect of their employees by calculating such tax on the basis of basic pay only.

According to definition of "Salary" under Section 2 of the Assam professions, Trades, Callings and Employments Taxation (Amendments) Act, 1992, "salary" includes pay, dearness allowances and all other remuneration received by any person on regular basis whether payable in cash or in kind, and also includes perquisites and profits in lieu of salary as defined in section 18 of the Income Tax Act, 1961.

In view of the above, you are requested to examine the matter of fixation of tax under the Assam Professions, Trades, Callings and Employments Taxation Act of the employees of big Public/private Sector organizations and also of the Central Government Departments and to ensure that due taxes on proper calculation on the basis of "Salary" as defined in the Act is paid.

**T. R. Dey**  
**Commissioner of Taxes, Assam,**  
**Guwahati**

**Circular**

**No. CTP-4/78/Part/576**

**dated, the 29<sup>th</sup> August, 1997**

To : The Senior Superintendent of Tax (All)  
The Superintendent of Taxes

Sub: Liability to pay tax under the Assam professions, Trades, Callings and Employments Taxation Act, 1947

Under Section 7 of the Assam professions, Trades, Callings and Employments Taxation Act, 1947 (Assam Act VI of 1947) every employer registered under the Act is to furnish return to the Assessing Authority showing therein the salaries and wages paid by him, and the amount of tax deducted by him, which should be accompanied by a treasury challan in proof of payment of full amount of tax due according to the return.

Under Section 8 of the said Act the Assessing Officer is to make assessment to such employer as laid down therein.

Under Section 5-A(1) of the said Act, every employer (Not being an employer of the Govt.) liable to pay tax under section 5 is to obtain a Certificate of Registration from the Assessing Authority.

Under Section 5A (2) every person liable to pay tax, under the Act (other than a person earning salary or wages in respect of whom the tax is payable by his employers) is to obtain a Certificate of Enrolment from the Assessing Authority.

Under Section 5A (5) of the Act, the Assessing Authority is to mention in every Certificate of Registration or Enrolment the amount of tax payable by the holder according to the Schedule of the Act and the date by which it shall be paid and such Certificate shall serve as a notice of demand for the purpose of section 11 of the Act.

You are requested to let the undersigned know whether all categories of persons, specified in the schedule, attached to the Act, has been properly roped in under the Act in your respective jurisdiction and the due taxes have been paid in this respect. If not what step has been taken by you, to levy and realize tax from such defaulting persons.

Section 12 A of the Act further provides levy of interest to the employer or enrolled person in case of any defaulting of payment of such tax.

You are requested to let the undersigned know whether such measures of levy of interest has been taken by you. Whether you have maintained a separate column of interest in the daily collection register as well as in the assessment, demand register to ascertain the magnitude of such amount of interest levied and realized.

You should also furnish a detailed report whether you have experienced any difficulties in proper implementation of the Assam professions, Trades, Callings and Employments Taxation Act, 1947 (as amended by Assam Act No. XI of 1992). In case it is in affirmative, you should give your specific report and proper suggestion of any remedial measure thereof.

**H. R. Keot**  
**Commissioner of Taxes, Assam**  
**Guwahati**

## **CIRCULAR**

**No.CTP-4/78/Part/566**

**dated, the 19<sup>th</sup> April, 1995**

To : The All Senior Superintendent of Taxes and All  
Superintendent of Taxes

Sub : Tax under the Assam professions, Trades, Callings and Employments  
Taxation Act, 1947.

Consequent upon amendment of the Assam professions, Trades, Callings and Employments Taxation Act, 1947 by Assam Act No. IX of 1992, the rates of Tax in the Schedule, specified under Section 4 of the said Act have been charged and the assesses of different categories became liable to pay tax under the said Act. But it has been brought to my notice that many person in greater Guwahati and their important Commercial areas are yet to be roped in as the assesses under the Act and they are evading their liabilities to pay tax making a loss to the State Exchequer.

This has been possible, as no proper survey works have been done by the filed officers and the Assessing Officer have not supervised the works of the Field Officer in proper manner.

In order to avert further leakage of revenue a Survey-fortnight programme has been chalked out, which will be observed from 2-5-95 to 20-5-95 (excluding the holidays and Sunday).

You are therefore, to organize the programme with right earnest at your Unit level and see that no assessee is left out under any circumstances. You should utilize the services of the Field offices (Inspector of taxes) and personally supervise their works during the fortnight.

Each Inspector of Taxes shall maintain a survey Register area wise, route wise, where the detail particulars of the assesses with the source of earning and other relevant particulars should be recorded.

The Inspector of Tax shall submit reports to you and you should initiate the process of assessment latest by 31.5.95 against all such report receipt.

The undersigned will visit personally in each unit office and inspect the performance of each officer in this respect.

Each office will have to take full responsibility for any omission and in action to complete the unlevy or failure to take time action for levy and realization of taxes.

I want that each Senior Superintendent of Taxes, Superintendent of Taxes-in-charge of the unit should submit a detailed report in this respect latest by 4.6.95.

Please acknowledge receipt of this letter.

**P. Basumatary  
Commissioner of Taxes, Assam  
Guwahati**

**Circular**

**No.CTP-4/78/197**

**Dated, the 25<sup>th</sup> November, 1994**

To : All Superintendent of Taxes of Unit Officers  
Sub : Effective implementation of the Assam Professions, Trade, Calling and  
Employments Tax (Amendment) Act, 1992.

You are all aware that Government has brought into force the above Act with a view to brining new classes and categories of assesses under its purview and making it board-based. But the effective implementation of the Act to achieve good result from it depends entirely on your effort in this direction. I hope all liable assessee including employees of your circle must have been brought under the purview if the Act. If this is not done already you are hereby strictly directed that this must be completed without

delay. The Inspector of Taxes attached to your circle should be engaged for the whole time to complete survey and to report above new assesses within a short time.

It will be the joint responsibility of both Superintendent of Taxes and Inspector of Taxes of a circle to complete all necessary works in this matter. They will be held personally responsible of any person of employer of their circle liable to pay tax was found not being served with notice and not being followed up and will be proceeded against accordingly.

We have seen that the Audit (A.G.) often from filed information about employers who are not yet booked under the Act. Of late, the Public Accounts Committee took a very serious view for not taking action certain persons and employers in time for which their assessment become time-barred resulting in loss of revenue to Government. The Committee in fact, wanted to take actions against officers responsible for it but it was somehow prevailed upon to desist from doing it for this time.

So, you are cautioned that in future you will personally have to face Public Accounts Committee with all consequences if serious lapses occur on your part in the matter of implementation of the provisions of the aforesaid Act.

This may be treated as most urgent.

**H. R. Keot**  
**Commissioner of Taxes, Assam**  
**Guwahati**

## **NOTIFICATION**

The 30<sup>th</sup> April, 2005

**No.LGL.55/2005/7.-** The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

### **1428 THE ASSAM GAZETTE, EXTRAORDINARY, MAY 6, 2005**

ASSAM ACT NO. XVII OF 1005

(Received the assent of the Governor on 28<sup>th</sup> April, 2005)

THE ASSAM PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS

TAXATION (AMENDMENT ACT, 2005

AN

ACT

Further to amend the Assam Professions, Trades, Callings and Employments Taxation  
Act, 1947

Preamble: Whereas it is expedient further to amend the Assam Professions, Trades  
Callings and Employments Taxation Act, 1947, hereinafter referred to as  
the principal Act, in the manner hereinafter appearing:

It is hereby enacted in the Fifty-sixth year of the Republic of India as follows:-

Short title, extent and commencement:

1. (1) This Act may be called the Assam Professions, Trades Callings and  
Employments Taxation (Amendment) Act, 2005.
- (2) It shall have the like extent as the Principal Act.
- (3) It shall come into force on such date as the State Government may, by  
notification in the official Gazette, appoint.

Amendment

of section 3:



2. In the principal Act, in section 3, at the end of the second proviso, for the punctuation mark „.“, the punctuation mark „:“ shall be substituted and thereafter the following proviso shall be inserted, namely:-

„Provided also that the State Government, if considers it necessary in the public interest so to do, may by notification in the Official Gazette, subject to such conditions and residions as it may impose, exempt any person who carries on a trade either by himself or by an agent or representative, or who follows a profession to calling, or who is in employment, either wholly or in part within the State, fully or partially from payment of tax under this Act and the State Government may also grant such exemption retrospectively. The State Government may withdraw any such exemption ay any time, as it may think fit and proper.

Insertion of a new section 3A:

3. In the principal Act, after section 3, the following new sections 3A shall be inserted, namely:-

3A Restriction to renewal of licence, permit and registration:-

Notwithstanding anything in any other law for the time being in force, where a person liable to pay tax under this Act is required to obtain licence, permit of registration from time to time from other authorities, no such authorities shall either register any such person or assign or renew any licence or permit or registration unless payment of tax under this Act has been made by the person concerned.

Amendment 4 In the principal Act, in section 4, for the punctuation mark „.“  
section 4. Occurring at the end of the proviso, the punctuation mark „:“  
Shall be submitted and thereafter the following proviso shall be  
inserted, namely:-

„Provided further that the State Government may, by notification in the Official Gazette, add to, delete, amend or otherwise modify the said schedule and also very the rates of tax of the entries specified in the schedule and thereupon the said

schedule and also may vary the rates of tax of the entries specified in the schedule and thereupon the said schedule shall be deemed to have been amended accordingly.

Amendment 5. In the principal Act, in section 12B, for the word "fifty", the word of "hundred" shall be substituted.  
section 12B

Substitution 6. In the principal Act, for the existing schedule, the following of existing schedule shall be substituted, namely:-  
schedule

### THE SCHEDULE

(Section 4)

Rate of tax

Sl. No.	Class of persons	Rate of tax
(1)	(2)	(3)

1. Salary and wage earners such persons whose monthly salaries or wages are:-

(i)	Less than Rs. 3500/-	NIL
(ii)	Rs. 3500/- or more but less than Rs. 5000/-	Rs. 30/- per mensem
(iii)	Rs. 5000/- or more but less than Rs. 7000/-	Rs. 75/- per mensem
(iv)	Rs. 7000/- or more but less than Rs. 9000/-	Rs. 110/- per mensem
(v)	Above Rs. 9000/-	Rs. 208/- per mensem

2. (a) Legal practitioners including and Notaries Public;  
 (b) Medical Practitioners including medical consultant and dentists;  
 (c) Technical and professional consonants including Architects, Engineers, Chartered accounts, Actuaries, Management Consultants and Tax Consultants;  
 (d) Chief Agent, Principal Agents, special Agents and Surveyors or Loss Assessors registered or licensed under Insurance Act, 1938 (4 of 1938);  
 (e) Any other person who is engaged in any profession, trade, calling or employment but not mentioned in any other entry of the Schedule;

Where the annual gross Income in the profession of any of the persons mentioned above is:-

(i)	Less than Rs. 40,000/-	NIL
(ii)	Rs. 40,000/- or more, but less than Rs. 60,000/-	Rs. 480/- per annum
(iii)	Rs. 60,000/- or more but less than Rs. 1,00,000/-	Rs. 1000/- per annum
(iv)	More than Rs. 1,00,000/-	Rs. 2500/- per annum

Provided that any person, who is the recipient of any cultural, literary or sports pension, shall not be required to pay any tax under this Act even if such person is engaged in any other profession, trade callings o employment.

Provided further that the societies providing education to the physically and mentally challenged persons shall not be required to pay any tax under this Act.

3. (a) Member of Associations recognized under the Forward Contracts (Regulation) Act, 1956 (42 of 1956) Rs. 2500/- per annum
- (b) (i) Member of Stock Exchange recognized Rs. 2500/- per annum  
under the Securities Contracts (Regulation)  
Act, 1956 (42 of 1956)
- (ii) Remises recognized by a Stock exchange Rs. 1850/- per annum
4. Estate agents or brokers or building contractors Rs. 2500/- per annum
5. Directors (other than those nominated by Government) Rs. 2500/- per annum  
or Companies Registered under the  
Companies Act, 1956 (1 of 1956)
6. Dealers including owners of any mills/industry within  
the meaning of a sales tax law in Assam such dealers  
whose annual gross turnover of all sales is:-
  - (i) Less than Rs. 1,00,000/- NIL
  - (ii) Rs. 1,00,000/- or more but less than Rs. 3,00,000/- Rs. 1000/- per annum
  - (iii) Above Rs. 3,00,000/- Rs. 2500/-
7. Occupiers of factories as defined in the Factories

Act, 1948 (63 of 1948) who are not dealers covered by entry 6 such occupiers of factories:

- (a) Where not more than five workers are working Rs. 350/- per annum
- (b) Where the number of workers is five or more but less than fifteen Rs. 2000/- per annum
- (c) Where the number of workers is more than fifteen Rs. 2500/- per annum

8. Employees of shops and establishments within the meaning of the Assam shops and Establishment Act, 1971 who are not sealers, covered by entry 6, such employer of establishment

- (a) Where there are no employees NIL
- (b) Where not more than five people are employed Rs. 300/- per annum
- (c) Where more than five, but not more than ten people are employed Rs. 1500/- per annum
- (d) Where more than ten people are employed Rs. 2500/- per annum

9. Owners of lessees of Petrol/Diesel filling stations and service stations Rs. 2500/- per annum

- 10. (a) Licensed foreign liquor vendors and employers of residential hotels Rs. 2500/- per annum
- (b) Proprietors of cinema houses and theatres Rs. 2500/- per annum

11. Holders of permits for transport vehicles, granted under the Motor Vehicles Act, 1988 (59 of 1988), which are used or adopted to do used for hire or reward:

- (a) in respect of each taxi owner and four wheelers small-goods vehicles (for carrying either goods or passenger) Rs. 500/- per annum
- (b) In respect of each truck or bus provided that the total amount payable by the same holders shall not exceed Rs. 2500/-.

12. Licensed money holders under the Assam Money Lenders Act, 1934 Rs. 2500/- per annum
13. Individuals or institutions conducting Chit Funds Rs. 2500/- per annum
14. Banking Companies as defined in the Banking Regulation Act, 1949 (10 of 1949) Rs. 2500/- per annum
  - (i) Scheduled Banks Rs. 2500/- per annum
  - (ii) Other Banks Rs. 2500/- per annum
15. Companies registered under the Companies act, 1959 (1 of 1956) and engaged in any profession, trade or calling Rs. 2500/- per annum
16. Firms registered under the Indian Partnership Act, 1932 (9 of 1932) and engaged in any profession, trade or calling Rs. 250000/- per annum
17. Owners of nursing homes, X-Ray Clinic, Pathological testing laboratories and Hospitals Rs. 2500/- per annum
18. Dry cleaners, interior decorates and owners of beauty parlours Rs. 2000/- per annum
19. Film distributors and Travel agents Rs. 2500/- per annum
20. (A) Self employed person in the motion picture Industry
  - (i) Director, Actors and Actress (excluding the junior artists), Play back singers, Cameraman, Recordist, Editors and skill Photographers Rs. 2000/- per annum
  - (ii) Junior Artist, Production managers, Assistants directors, Assistant cameraman, Assistant recordist, Assistant editors, Musicians and Dancers. Rs. 700/- per annum(B) Self employed person in the mobile theatre group NIL

Notwithstanding anything contained in this Schedule, where a person is covered by more than one entry in this Schedule, the higher rate of tax specified under any of those entries shall be applicable in his case.

M.K. DEKA,  
Commissioner & Secretary to the Government of Assam,  
Legislative Department, Dispur

**NOTIFICATION**

The 3<sup>rd</sup> May 2003

**No. LGL. 42/93/87.**-The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

**ASSAM ACT NO. XIII OF 2003**

(Received the assent of the Governor on 3<sup>rd</sup> May, 2003)

**THE ASSAM PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS  
TAXATION (AMENDMENT) ACT, 2003**

AN

ACT

Further to amend the Assam Professions, Trade, Callings  
And Employments Taxation Act, 1947.

Preamble: Whereas it is expedient further to amend the Assam Professions, Trades Callings and Employments Taxation Act, 1947, hereinafter referred to as the principal Act, in the manner hereinafter appearing:

It is hereby enacted in the Fifty-sixth year of the Republic of India as follows:-

Short title,  
Extent and  
commencement.

1. (i) This Act may be called the Assam Professions, Trades, Callings and Employments Taxation (Amendment) Act, 2003.

(2) It shall have the like extent as the Principal Act.

(3) It shall come into force at once.

Amendment 2. In the principal Act, in section 2, in clause (a), for the words  
of                      "Senior Superintendent of Taxes", the words "Assistant  
Section 2.                      Commissioner of Taxes" shall be substituted.

Amendment 3. In the principal Act, in section 6,  
of  
Section 6.

- (i) in sub-section (1), in clause (f), for the words "Senior Superintendent of Taxes", the words "Assistant Commissioner of Taxes" shall be substituted.
- (ii) In sub-section (2), for the words "Senior Superintendent of Taxes", the words "Assistant Commissioner of Taxes", shall be substituted.
- (iii) In sub-section (3), for the words "Senior Superintendent of Taxes", the words "Assistant Commissioner of Taxes" shall be substituted.

**K. D. PHUKAN**  
**Secretary to the Govt. of Assam,**  
**Legislative Department**

## **NOTIFICATION**

The 4<sup>th</sup> November, 2006

No.FTX. 76/2006/2: In exercise of the powers conferred by third proviso to section 3 of the Assam Professions, Trade, Callings and Employments Taxation Act, 1947 (Assam Act VI of 1947), the Governor of Assam is hereby pleased to exempt any person above the age of 60 years from payment of tax under this Act subject to the condition that his gross income does not exceed Rs. 5.00 lakhs in a financial year.

This notification shall be deemed to have come into force with effect from 1<sup>st</sup> April, 2006.

**H.S. Das,**  
**Commissioner and Secretary to the Government of Assam,**  
**Finance (Taxation) Department, Dispur.**