

## CHAPTER I

### LIABILITY TO AND CHARGES OF TAX

3. **Liability to Tax.**- As from the first day of April, 1947 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 an 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, call in or employment and in addition to pay any tax, rate 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:

Provided further that notwithstanding anything contained in this section the provisions of this Act shall not apply to a member of the Armed forces of India and to a Co-operative Society registered or deemed to have been registered under the Assam Co-operative Societies Act, 1947:

*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 restrictions 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 or 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 at any time, as it may think fit and proper.*

**Amendments :** Second proviso was inserted w.e.f. 1-4-1992 by Assam Act No XI of 1992 , published in the Assam Gazette of 6<sup>th</sup> June,1992.

***Amendment: Third proviso has been inserted w.e.f. 8- 06-2005 by Assam Act No. XVII of 2005, published in the Assam Gazette vide Notification No.LGL.55/2005/7 Dtd. the 30<sup>th</sup> April, 2005***

***3A. Restriction to renewal of licence, permit and registration: - Notwithstanding anything contained 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 or registration form 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***

***Amendments:- A new section 3A has been inserted w.e.f. 8- 06-2005 by Assam Act No. XVII of 2005, published in the Assam Gazette vide Notification No.LGL.55/2005/7 Dtd. the 30<sup>th</sup> April, 2005***

4. Rates of Tax.- The tax under section 3 shall be payable by every person specified in that section and falling under one or the other of the classes mentioned in the second column of the Schedule annexed to this Act at the rate mentioned against the class of such persons in the third column of the Schedule :

Provided that entry 21 in the Schedule shall apply only to such classes of persons as may be specified by the State Government b notification from time to time:

*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 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.*

**Amendments:** Section 4 has been substituted w.e.f 1-4-92 by Assam Act No. XI Of 1992, published in the Assam Gazette of 6<sup>th</sup> June, 1992.

*Amendment:- Second proviso has been inserted w.e.f. 8- 06-2005 by Assam Act No. XVII of 2005, published in the Assam Gazette vide Notification No.LGL.55/2005/7 Dtd. the 30<sup>th</sup> April, 2005*

**5. Employer's liability to deduct and pay tax on behalf of employees.** - The tax payable under this Ac by any person earning a salary or wage shall be deducted by his employer from the salary or wage payable to such person before such salary or wage 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:

Provided that if the employer is an officer of the Government, the State Government may, notwithstanding anything contained in this Act, prescribed by rules the manner in which the employer shall discharge the said liability :

Provided further that where any person earning a salary or wage is also covered by one or more entries other than entry 1 in the Schedule or is simultaneously engaged in employment of more than one employer, and such person furnishes to his employer or employers a certificate in the prescribed form declaring, inter alia, that he shall obtain a certificate of enrolment under sub section (2) of Section 5A and pay the tax himself then the employer or employers of such person shall not deduct the tax from the salary or wage payable to such person and such employer or employers, as the case may be, shall not be liable to pay tax on behalf of such person.(see: Rule10(16)/Form IIB,IIC)

**Amendments:** Section 5 has been substituted w.e.f 1-4-9 by Assam Act No. XI of 1992, published in the Assam Gazette of 6<sup>th</sup> June, 1992.

**5A. Registration and enrolment.** - (1) Every employer (not being an officer of the Government) liable to pay tax under Section 5 shall obtain a certificate of registration from the

assessing authority in the prescribed manner.

(See: Rule 10/Form1, 1A)

- (2) Every person liable to pay tax under this Act (other than a person earning salary or wages, in respect of whom the tax is payable by his employer), shall obtain a certificate of enrolment from the assessing authority in the prescribed manner. (See: Rule 10(4) from II, IIA)
- (3) Notwithstanding anything contained in this section and section 5, where a person is a citizen of India and is in employment of any diplomatic or consular office or trade commissioner of any foreign country situated in any part of Assam such person, if liable to pay tax, shall obtain a certificate of enrolment as provided in sub section (2) and pay the tax himself.
- (4) Every employer or person required to obtain a certificate of registration or enrolment shall, within the 30<sup>th</sup> day of June, 1992, or if he was not engaged in any profession, trade, calling or employment on that date, within ninety days of his becoming liable to pay tax, or, in respect of any person referred to in sub section (2) or sub section (3) within ninety days of his becoming liable to pay tax at a rate higher or lower than one mentioned in his certificate of enrolment, or a revised certificate of enrolment, as the case may be, to the assessing authority, shall, after making such enquiry, as may be necessary, within thirty days of the receipt of the application, grant him such certificate, if the application is in order. The application, if it is not in order, shall be rejected:

Provided that the State Government may, for good and sufficient reason, in any case or class of cases, extend the time for making an application under this sub section.

- (5) The 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, and such certificate shall serve as a notice of demand for the purposes of section 11.
- (6) Where an employer or a person liable for registration or enrolment wilfully fails to apply for such certificate within the required time as provided for in sub section (4), the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees twenty for each day of delay in case of an employer and not exceeding rupees five for each day of delay in the case of others.
- (7) Where an employer or a person liable for registration or enrolment has deliberately given false information in any application submitted under this section, the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees one thousand.

**Amendments:** Section 5A has been substituted w.e.f 1-4-92 by Assam Act No. XI of 1992, published in the Assam Gazette of 6<sup>th</sup> June, 1992.