

THE ASSAM PROFESSIONS, TRADES, CALLINGS AND
EMPLOYMENTS TAXATION (AMENDMENT) BILL, 2021

A
Bill

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

Preamble

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

Assam Act No.
VI of 1947

It is hereby enacted in the Seventy-second Year of the Republic
of India, as follows:-

Short title,
extent and
commencement

- (1) This Act may be called the Assam Professions, Trades,
Callings and Employments Taxation Act, 2021.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.

Amendment of
section 3

- In the principal Act, in section 3, after the third proviso, the
following explanation shall be inserted, namely:-

“*Explanation.* The words ‘members of the Armed Forces of
India’ in the second proviso of section 3 means the persons
who are subject to the Army Act, 1950, the Navy Act, 1957 or
the Air Force Act, 1950 and are serving/posted in any part of
the State of Assam.”

Central Act No.
46 of 1950,
Central Act
No.62 of 1957,
Central Act No.
45 of 1950

Insertion of a
new section 5B

- In the principal Act, after section 5A, the following new
section 5B shall be inserted, namely:-

“Deemed
Registration

5B. Notwithstanding anything contained in
section 5A of the Act, any person or
employer who is already registered under
the Assam Goods and Services Tax Act,
2017, the Assam Value Added Tax Act,
2003, the Assam Taxation (On Specified
Lands) Act, 1990, the Assam Agricultural
Income Tax Act, 1939 and the Assam
Electricity Duty Act, 1964, shall be deemed
to have been registered or enrolled as the
case may be under this Act and such person
or employer shall be liable to make payment
of tax and also liable to furnish return as per
provisions of this Act:

Assam Act No.
XXVIII of 2017,
Assam Act No.
VIII of 2005,
Assam Act No.
XII of 1990,
Assam Act No.
IX of 1939, and
Assam Act No.
XXX of 1964

Provided that State Government may by
notification published in the Official Gazette
extend application of the provision to any
other State Act.”

Amendment of
section 7

- In the principal Act, in sub-section 3, of section 7, for the
words, “rupees five for each day of delay”, the words “rupees
one-hundred for each day of delay or a maximum of rupees
five thousand only, whichever is less”, shall be substituted.

Insertion of
new section
18A and 18B

5.

In the principal Act, after section 18, the following new sections shall be inserted, namely :-

“Applicability of the provisions of the Assam Value Added Tax Act, 2003

18A. Subject to the provisions of this Act and the rules made thereunder, the provisions of the Assam Value Added Tax Act, 2003 and the rules, orders or notifications made or issued thereunder relating to amendment, cancellation and suspension of registration; retention of accounts, requirement to provide information, transfer of liability of any firm or Hindu undivided family to pay tax in the event of dissolution of such firm or partition of such family, inspection, search and seizure, power to call for information, bar to certain proceedings, indemnity, treatment of documents furnished by person as confidential and other matters for which no specific provision has been made in this Act and the rules made thereunder, shall *mutatis mutandis* apply, to a person liable to pay tax under this Act or an employer responsible for deduction of tax under this Act, as if those provisions were *mutatis mutandis* incorporated in this Act and the rules framed and orders and notification issued under those provisions were *mutatis mutandis* framed or issued under the relevant provisions so incorporated under this Act.”

Assam Act No.
VIII of 2005

“Automation

18B. (1) The Government shall introduce and establish an automated data processing system for complementing the purposes of this Act and for matters incidental and allied thereto.

(2) The Government may from time to time make Regulations for regulating the interactions between the person and the authorities appointed or constituted under this Act.

(3) The provisions contained in the Information and Technology Act, 2000, and the rules made thereunder and directions given under the Act, including the provisions relating to digital signatures, electronic records, electronic governance, attribution, acknowledgement and dispatch of electronic records, securing electronic records and securing digital signatures and digital signature certificates, shall so far as they apply to the procedures shall apply under this Act.

Central Act
No.21 of 2000

(4) Except as may be provided otherwise in this Act, the software for the automated data processing system, the operating system, the operating instructions and the criteria for any selection shall be treated as confidential.

(5) The Commissioner of Taxes may, by notification in the Official Gazette, with the prior approval of Government, prescribe procedures for e-filing of returns and e-payment of taxes.”

NGS

APPROVED BY THE
LEGISLATIVE DEPARTMENT
ON 27.7.2021

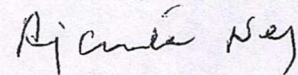
STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend certain provisions of the Assam Professions, Trades, Callings and Employments Taxation Act, 1947.

2. The amendments which are proposed to be made are explained broadly as follows:

- (i) *Clause 2* of the Bill seeks to insert an explanation in section 3 to clarify the category of personnel who falls under the 'Armed Forces of India.
- (ii) *Clause 3* of the Bill seeks to insert a new section 5B for deemed registration under the APTCE Act, 1947 in respect of taxpayers registered under the other taxation Acts. It also empowers the State Government to extend the provision of deemed registration for other State Acts.
- (iii) *Clause 4* of the Bill seeks to amend section 7 of the Act for increasing the fine amount from rupees five to rupees one-hundred per day subject to a ceiling of rupees five thousand only.
- (iv) *Clause 5* of the Bill seeks to insert a new section 18A for applicability of the provisions of Assam VAT Act, 2003, *mutatis mutandis* in the APTCE Act, 1947 and also a new section 18B for automation and to empower the Commissioner of Taxes, Assam to issue instructions, with prior approval of the Government, on the procedure of e-filing of returns, e-payments etc.

3. The Bill seeks to achieve above objects.



Smti. Ajanta Neog
(Minister, Finance)



(Shri S. K. Sharma, AJS)
Secretary,
Assam Legislative Assembly.

FINANCIAL MEMORANDUM

The Bill proposes to amend the Assam Professions, Trades, Callings and Employments Taxation Act, 1947.

There is no provision in the Bill which would involve the recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act of the State Legislature.

MEMORANDUM OF DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely:-

Section 5B for empowering the Government of Assam to extend the provision of deemed registration for other State Acts and section 18B empowers the Commissioner of Taxes, Assam to issue notification for specifying the procedures for e-filing of registration, e-returns, and e-payments with prior approval of the Government.

2. The matters in respect of which notifications may be issued in accordance with the provisions of the Bill is either administrative in nature or matters of procedure and detail and it is not practicable to provide for them in the Bill itself.
3. The abovementioned proposal for delegation of legislative power is, therefore, of a normal character.

Extract of Existing Provision of the Assam Professions, Trades, Callings and Employments Taxation Act, 1947

<u>Existing provision of the APTCE Act</u>	<u>Proposed Provision of the APTCE Act</u>
<p>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:</p> <p>Provided that for the purposes of this section a person on leave shall be deemed to be a person in employment:</p> <p>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:</p>	<p>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:</p> <p>Provided that for the purposes of this section a person on leave shall be deemed to be a person in employment:</p> <p>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:</p> <p><i>Explanation. The words 'members of the Armed Forces of India' in the second proviso of the section 3 means the persons who are subject to the Army Act, 1950, the Navy Act, 1957 or the Air Force Act, 1950 and are serving/posted in any part of the State of Assam.</i></p>
<p>The proposal relates to insertion of a new Section 5B in the Assam Professions, Trades, Callings and Employments Taxation Act, 1947</p>	<p>5B. Deemed Registration.</p> <p><i>Notwithstanding anything contained in section 5A of the Act, any person or employer who is already registered under the Assam Goods and Services Tax Act, 2017, the Assam Value Added Tax Act, 2003, the Assam Taxation (On Specified Lands) Act, 1990, the Assam Agricultural Income Tax Act, 1939 and the Assam Electricity Duty Act, 1964, shall be deemed to have been registered or enrolled as the case may be under this Act and such person or employer shall be liable to make payment of tax and also liable to furnish return as per provisions of this Act:</i></p> <p><i>Provided that State Government may by notification published in the Official Gazette extend application of the provision to any other State Act.</i></p>
<p>7. Returns. (1).... (2).... (3). Where an 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 for each day of delay.</p>	<p>7. Returns. (1).... (2).... (3). Where an 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 one-hundred for each day of delay or a maximum of rupees five thousand only, whichever is less.</p>

The proposal relates to insertion of a new Section 18A & 18B in the Assam Professions, Trades, Callings and Employments Taxation Act, 1947

18A. Applicability of the Provisions of Assam Value Added Tax Act, 2003.

Subject to the provisions of this Act and the rules made thereunder, the provisions of the Assam Value Added Tax Act, 2003 and the rules, orders or notifications made or issued thereunder relating to amendment, cancellation and suspension of registration; retention of accounts, requirement to provide information, transfer of liability of any firm or Hindu undivided family to pay tax in the event of dissolution of such firm or partition of such family, inspection, search and seizure, power to call for information, bar to certain proceedings, indemnity, treatment of documents furnished by person as confidential and other matters for which no specific provision has been made in this Act and the rules made thereunder, shall mutatis mutandis apply, to a person liable to pay tax under this Act or an employer responsible for deduction of tax under this Act, as if those provisions were mutatis mutandis incorporated in this Act and the rules framed and orders and notification issued under those provisions were mutatis mutandis framed or issued under the relevant provisions so incorporated under this Act.

18B. Automation.

- (1) The Government shall introduce and establish an automated data processing system for complementing the purposes of this Act and for matters incidental and allied thereto.*
- (2) The Government may from time to time make Regulations for regulating the interactions between the person and the authorities appointed or constituted under this Act.*
- (3) The provisions contained in the Information and Technology Act, 2000, and the rules made thereunder and directions given under the Act, including the provisions relating to digital signatures, electronic records, electronic governance, attribution, acknowledgement and dispatch of electronic records, securing electronic records and securing digital signatures and digital signature certificates, shall so far as they apply to the procedures shall apply under this Act.*
- (4) Except as may be provided otherwise in this Act, the software for the automated data processing system, the operating system, the operating instructions and the criteria for any selection shall be treated as confidential.*
- (5) The Commissioner of Taxes may, by notification in the Official Gazette, with the prior approval of Government, prescribe procedures for e-filing of returns and e-payment of taxes."*