

THE INCOME TAX ACT, 1869.

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ACT No. IX OF 1869.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 18th March 1869).

An Act for imposing duties on Income and Profits arising from Offices, Property, Professions and Trades.

PART I.

PRELIMINARY.

- | | |
|----------------------------|---|
| Short title. | 1. This Act may be called "The Indian Income Tax Act," and shall come into operation on the first day of April 1869. |
| Commencement of Act. | |
| Repeal of Certificate Act. | 2. Act No. IX of 1868 (<i>for taxing Professions and Trades</i>) is hereby repealed except as to taxes due under that Act. |
| Interpretation clause. | 3. In this Act—unless there be something repugnant in the subject or context— |
| "Magistrate" | means any person exercising the powers of a Magistrate, or of a Subordinate Magistrate of the First Class, and includes a Magistrate of Police and a Justice of the Peace : |
| "Magistrate." | |
| "Company" | means an association carrying on business in British India 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 : |
| "Company." | |
| "Firm." | "Firm" includes a Hindú undivided family : |
| "Person." | "Person" includes a firm : |
| "Defaulter." | "Defaulter" includes a firm making default under this Act : |
| "Year of assessment." | "Year of assessment" means a year commencing on the first day of April : |

In the

In the case of any Company or Municipal or other public Body or Association not being a Company, "Collector" means the Collector of Land Revenue of the place or district at or in which its principal place of business in British India is situate. And in the case of any person chargeable under this Act, "Collector" means the Collector of Land Revenue of the place or district at or in which such person resides.

4. Nothing in this Act applies to the pay and allowances of officers, warrant officers, non-commissioned officers and privates of Her Majesty's Forces or of Her Majesty's Indian Forces, who are not in Civil employment, when such pay and allowances do not exceed rupees 500 per mensem ;

Or to any moveable or immoveable property solely employed for or dedicated to religious or charitable public purposes.

And no member of a firm which is for the time being chargeable under this Act shall, as such, be chargeable under this Act.

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

The Governor General of India in Council may revoke any such order.

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

PART II.

DUTIES ON OFFICES.

6. From the first day of April 1869, a duty of one per centum shall be levied in respect of every office or employment of profit in British India under Government or under a Company or a Municipal or other public Body or Association not being a Company, and upon every salary, annuity or pension paid in British India by Government or by a Company or by a Municipal or other public Body or Association not being a Company to any person residing in British India or serving on board a ship trading to and from British Indian ports, whether on account of himself or another person.

7. No

Exemption of incomes less than Rs. 41-10-8 per mensem.

7. No income amounting to less than rupees 41-10-8 per mensem shall be chargeable under this Part.

8. In the case of every person holding any paid office, employment or commission under Her Majesty or under the Government of India, or under any Local Government, or receiving any annuity or pension from Her Majesty or any such Government,

Provision as to Government officials.

the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension 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.

9. In the case of every person holding a paid employment under or receiving any annuity or pension from any Company, or any Municipal or other public Body or Association not being a Company, the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension 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.

Provision as to servants of Companies and Municipalities.

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, public Body or Association, 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 and public Body or Association shall prepare, and, on or before the thirtieth day of April in this and every subsequent year, deliver, to the Collector, 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 every person holding at the date of the said return a paid employment under or receiving a pension or annuity from the Company or public Body or Association whose pay or pension or annuity as such amounts to Rs. 41-10-8 per mensem or upwards, together with the salaries, annuities or pensions payable by the Company or public Body or Association to all such persons respectively.

Part III,

PART III.

COMPANIES.

10. In this and every subsequent year the Treasurer, Secretary or principal Agent or Manager in India of every Company shall,

in the case of a Shipping Company trading between British India and any other country, pay to Government the sum of one per centum on a moiety of the nett profits made by each of the ships of such Company engaged in such trade, during the year ending on the day on which the Company's accounts shall have been last made up,

and in the case of every other Company pay to Government one per centum on the whole of the nett profits made in British India by such Company during the year ending on the day on which the Company's accounts shall have been last made up;

and shall prepare, and, on or before the thirtieth day of April, deliver, to the Collector, a statement in writing signed by him showing the result of such accounts (if any).

In the case of any Company where no such accounts as are mentioned in this section have been made up within the year ending on the thirty-first day of March next before the year of assessment, the Treasurer, Secretary or principal Agent or Manager of such Company shall prepare, and, on or before the thirtieth day of April in such year, deliver to the Collector a return in writing signed by him and stating the nett profits made by such ships or by the Company (as the case may be) during the year ending on the thirty-first day of March next before the year of assessment.

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

PART IV.

DUTIES ON ALL OTHER INCOME AND PROFITS.

11. From the first day of April 1869, a yearly duty in accordance with schedule A to this Act annexed shall be levied upon all income and profits accruing and arising in British India and not chargeable under Part II or Part III of this Act.

Duty on income not charged under Part II or III.

12. The

12. The trustee, guardian, curator, or committee of any infant, married woman subject to the law of England, lunatic or idiot, and having the control of the property of such infant, married woman, lunatic or idiot, whether such infant, married woman, lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot be chargeable under this Part, be chargeable with the said duty in like manner and to the same amount as would be charged to such infant if of full age, or to such married woman if she were sole, or to such lunatic or idiot if he were capable of acting for himself.

Trustees, guardians and committees of incapacitated persons to be charged.

Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income or profits chargeable under this Part, shall be chargeable in the name of such agent, in the like manner and to the like amount as he would be charged if resident in British India, and in actual receipt of such income or profits.

Non-residents charged in names of their agents.

13. Every such trustee, guardian, curator, committee or agent shall, when required by the Collector, deliver a statement signed by him, of the amount of the income or profits in respect whereof he is chargeable on account of such infant, married woman, lunatic; idiot or non-resident, together with a declaration of the truth of the statement.

Trustees or agents of persons incapacitated or non-resident to furnish statements of income or profits with declaration.

14. The Collector shall from time to time determine what persons are chargeable under this Part, and the amount that every such person shall be assessed in accordance with the said Schedule; and in making such assessment income exempted under section seven shall be treated as chargeable under this Part.

Collector to determine persons chargeable.

15. In the case of a person for the first time becoming chargeable under this Part within the year of assessment, the computation shall be made according to an average of his income and profits for such period as the Collector shall, under the circumstances, direct.

Computation when assessee becomes chargeable within year.

16. The Collector shall cause a notice to be served on every person chargeable under this Part, stating—

Service of notice.

(1). The

(1).—The name and the profession, trade or other source of the income or profits of such person :

(2).—The year or portion of the year for which the duty is to be paid :

(3).—The place or places, district or districts, where his income or profits accrues or arise :

(4).—The amount to be paid ;

and requiring him within fifteen days from the date of the service to pay such amount.

Officer to grant receipts.

17. Such amount shall be paid to the Collector, who shall grant a receipt for such payment to the person making the same :

Provided that, if such income or profits accrues or arise at or in more than one place or district, the receipt shall be granted and payment made by and to the Collector for the place or district at or in which the person mentioned in the notice resides, or (in the case of a firm) at or in which its principal place of business in British India is situate.

Every such receipt 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 receipt.

18. Every such receipt shall specify—

(1).—The name and source or sources of the income or profits of the person by or on whose behalf the duty is paid :

(2).—The year or portion of the year for which the duty is paid :

(3).—The amount paid, and the date of payment ; and

(4).—The place or places, district or districts, where the income or profits accrues or arise ; and shall be admissible as *primâ facie* proof of all matters contained therein.

19. Any person objecting to the amount at which he is assessed, or denying his liability to be assessed, under this Part, may within the period mentioned in the said notice, or if the Collector is satisfied that the objector has not received such notice, then at any time within one month from the expiration of such period, apply by petition to the Collector in order to establish his right to have the assessment reduced or cancelled.

Objection to assessment.

The

The petition shall be in the form contained in schedule B to this Act annexed, or as near thereto as circumstances admit: it 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.

Petition of objector.

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.

20. The Collector shall fix a day for the hearing of the petition, and, on the day so fixed, or on the day (if any) to which he has adjourned such hearing, shall hear such petition and pass his order thereon.

Hearing of petition.

Such order may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the petitioner's assessment to an amount to be specified in the order.

If the order be in favour of the petitioner, the Collector shall at once refund the value of the said stamp.

If the order simply reject the petition or reject the petition and enhance the petitioner's assessment, the petitioner shall within one week from the passing of the order pay the amount mentioned in the said notice or in the order of enhancement (as the case may be).

21. Any person dissatisfied with any order under section twenty may, within fifteen days from the date thereof, on payment of the sum in which he was assessed, or to which his assessment was enhanced, present an appeal in writing to the Commissioner of Revenue of the Division, whose decision upon such appeal shall be final.

Appeal from order on petition.

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

Stamp on appeal.

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 the petitioner is not chargeable under this Act), the whole sum so paid shall at once be refunded.

Return of stamp.

22. The

22. The Collector or Commissioner may summon any person whom he thinks able to give evidence for the purpose of enabling him to determine how 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 sources of the petitioner's income or profits accruing or arising in British India.

Power to summon persons to give necessary information.

23. Whenever the Collector has reason to believe that, in assessing any person under this Act, any source of income or profits not specified in the receipt granted to him under section seventeen has been overlooked, which source, if it had then been known to exist, would have increased the assessment, the Collector may cause a further notice to be served on such person stating the amount to be paid in respect of such source, and the provisions contained in sections sixteen to twenty-two (both inclusive) shall apply to such notice and regulate the procedure thereunder.

Power to issue fresh notice.

PART V.

PENALTIES.

24. Every Treasurer, Secretary or principal Agent or Manager failing to make any payment or to prepare and deliver any return required by section nine,

Treasurers, &c., failing to make payments or deliver returns.

or failing to make any payment or to prepare and deliver any statement or return required by section ten,

and every trustee, guardian, curator, committee or agent failing to deliver any statement or declaration required by section thirteen,

Trustees, &c., failing to deliver statements or declarations.

shall for every day during which such default continues, be fined, on conviction before a Magistrate, ten rupees.

The Commissioner of the Division shall have power to remit wholly or in part any penalty imposed under this section.

25. If any person served with notice under section sixteen does not within the period specified in the said notice pay the amount required thereby, he shall, on conviction before a Magistrate,

Failure to pay amount of assessment.

be

be fined twice the amount mentioned in such notice: Provided that he has not presented a petition under section nineteen.

If any such person presents a petition under section nineteen and does not, within one week from the passing of the order thereon, pay the amount, if any, required by such order, he shall, on conviction before a Magistrate, be fined twice the amount mentioned in such order.

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

Grant of receipt on recovery of fine.

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

26. 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.

Mode of recovering fines.

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 or to all or any of the members thereof.

27. No person shall be proceeded against for any offence under section twenty-four or section twenty-five except at the instance of the Collector.

Prosecution to be at instance of Collector.

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

Sections 193 and 228 of Penal Code to apply to proceedings under this Act.

PART VI.

PAYMENT.

29. All taxes under this Act, except when they are deducted under section eight or section nine, shall be payable on the first day of April in each year:

Tax when payable:

Instalments.

Instalments.

Provided that, in every case where the amount so payable equals or exceeds rupees twenty-four, it may be paid in each year by two equal instalments: the first instalment to be paid on some day not later than fifteen days after service of the notice mentioned in section sixteen upon the person paying the same, and the second instalment on the first day of October.

30. When any person pays only such first instalment, and, between the first day of April and the second day of October, dies, or is by sickness or other infirmity rendered incapable of exercising the profession or trade (if any) in respect of the profits arising from which he was assessed, or takes the benefit of any Act for the relief of insolvent debtors, or conveys the whole of his property in trust for the benefit of his creditors, the amount of the second instalment shall not be claimable.

When any firm pays only such first instalment, and, between the first day of April and the second day of October, dissolves partnership, or takes the benefit of any Act for the relief of insolvent debtors, or conveys the whole of its property in trust for the benefit of its creditors, the amount of the second instalment shall not be claimable.

31. When any person pays the whole amount as aforesaid, and, between the first day of April and the second day of October, dies, or is by sickness or other infirmity rendered incapable of exercising the profession or trade in respect of the profits arising from which he was assessed, or takes the benefit of any Act for the relief of insolvent debtors, or conveys the whole of his property in trust for the benefit of his creditors, one moiety of such amount shall be paid to his representative or himself or his assignee, as the case may be.

When any firm pays the whole amount as aforesaid, and, between the first day of April and the second day of October, dissolves partnership, or takes the benefit of any Act for the relief of insolvent debtors, or conveys the whole of its property in trust for the benefit of its creditors, one moiety of such amount shall be repaid under such rules as the Governor General of India in Council shall from time to time prescribe.

32. If

32. 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.

33. In any case of default under this Act arising outside the local limits of the towns of Calcutta, Madras or Bombay, the Collector may, if he thinks fit, and if the notice mentioned in section sixteen, twenty-three, or thirty-two (as the case may be) has been served on the defaulter, 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.

On the recovery of such amount from the defaulter, the Collector shall grant him a receipt without any further payment.

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

34. A deduction equivalent to the amount paid by any person under the said Act No. IX of 1868, section five, for the month of April 1869, shall be made from the first payment by such person under Part IV of this Act.

Deductions of certain payments under Act IX of 1868.

Payment of Taxes and Fines.

Payment of taxes levied and fines recovered under this Act.

35. 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.

PART VII.

MISCELLANEOUS.

36. 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.

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

37. Service

37. 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 or firm therein named ordinarily dwells or carries on business.

38. When any Company or firm 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 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 Company or firm 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.

When any person has several places of residence 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 his residence, and when any person has several places of residence in the territories subject to a single Local Government, such Government shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence.

Power to declare residence.

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.

39. 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.

Governor General in Council empowered to make rules.

Schedule A.

SCHEDULE A.

Persons whose annual income or profits shall be assessed at not less than

		...	Rs. 500	but at less than	Rs. 750	shall pay	Rs.	6 0 0
Ditto	ditto	...	750	„	„	1,000	„	8 8 0
Ditto	ditto	...	1,000	„	„	1,500	„	12 0 0
Ditto	ditto	...	1,500	„	„	2,000	„	17 0 0
Ditto	ditto	...	2,000	„	„	3,000	„	24 0 0
Ditto	ditto	...	3,000	„	„	4,000	„	34 0 0

And for every additional Rs. 1,000 of annual income or profits or fractional part thereof so long as the whole amount assessed is less than Rs. 10,000

... shall pay an additional duty of Rs. 10 0 0

Persons whose annual income or profits shall be assessed at not less than

		...	Rs. 10,000	but at less than	Rs. 12,500	shall pay	Rs.	110 0 0
Ditto	ditto	...	12,500	„	„	15,000	„	135 0 0

And for every additional Rs. 2,500 of annual profits or fractional part thereof so long as the whole amount assessed is less than Rs. 1,00,000

... shall pay an additional duty of Rs. 25 0 0

Persons whose annual income or profits shall be assessed at not less than

		...	Rs. 1,00,000	but at less than	Rs. 1,10,000	shall pay	Rs.	1,040 0 0
Ditto	ditto	...	1,10,000	„	„	1,20,000	„	1,140 0 0

And for every additional Rs. 10,000 of annual income or profits or fractional part thereof

... shall pay an additional duty of Rs. 100 0 0

Schedule B.

SCHEDULE B.

Form of Petition under section 19.

Stamp eight annas.

TO THE COLLECTOR OF

*The**day of*

186 .

The petition of *A. B.* of

SHEWETH—

1st.—That under the Indian Income Tax Act your petitioner has been assessed in the sum of rupees *eight*, annas *eight* for the year commencing the first day of April 186 .

2nd.—That your petitioner's income and profits accruing and arising from [*here specify petitioner's trade or other source or sources of income or profits and the place or places at which such income or profits accrues or arise*] for the year ending the thirty-first day of March last were rupees as will appear from the documents marked _____ presented herewith, and to which your petitioner craves leave to refer.

3rd.—That your petitioner has no other source of income or profits, and has no reason to believe that his income and profits during the year commencing the first day of April 186 will exceed the said sum of rupees

Your petitioner therefore prays that he may be assessed accordingly, and that the value of the stamp on this petition may be refunded [*or that he may be declared not to be chargeable under the said Act, and that 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.*