

ACT NO. XVI OF 1870.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor General on the 5th
April 1870).

An Act for imposing duties on Income and Profits.

FOR the purpose of imposing duties on income and profits arising from offices, property, professions and trades; It is hereby enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Indian Income Tax Act:" Short title.

It extends to the whole of British India;

It shall be deemed to have come into operation on the first day of April 1870, and it shall cease to be in force on the thirty-first day of March, 1871, except as to taxes and penalties then due and incurred thereunder. Extent of Act.
Commencement and continuance of Act.

2. On and from the said first day of April 1870, the Acts mentioned in the third schedule hereto shall be deemed to have been and shall be repealed to the extent specified therein, except as to taxes due under any of such Acts. Repeal of Acts.

The references made in the Court Fees Act, schedule II, to the Indian Income Tax Act shall be deemed to be made to this Act.

3. In this Act—unless there be something repugnant in the subject or context— Interpretation-clause.

"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"

- "Company." "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 :
- "Firm." "Firm" includes a Hindú undivided family :
- "Person." "Person" includes a firm :
- "Defaulter." "Defaulter" includes a firm making default under this Act :
- "Collector." 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.

Exemptions
from Act.

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 five hundred rupees 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.

Power to
exempt from
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

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

PART II.

DUTIES ON OFFICES.

6. A duty of six pies for every rupee 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.

Duties on offices.

7. No income amounting to less than forty-one rupees, ten annas, eight pie per mensem shall be chargeable under this Part.

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

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,

Deduction in case of Government officials and pensioners.

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.

Deduction in case of servants and pensioners of Companies and Municipalities.

Every

Payment to
Government.

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.

Indemnity.

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.

Annual
return by
Treasurer,
&c.

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 year, deliver, to the Collector, in such form as may 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 Body or Association whose pay or pension or annuity as such amounts to forty-one rupees, ten annas, eight pie 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.

Difference
between duty
under this
Act for April
1870 and
duty under
Act IX of
1869.

10. Whenever the full duty leviable under this Act in April 1870 is not deducted at the time of payment in that month from the pay, annuity or pension chargeable therewith, the deficiency shall be deducted from such pay, annuity or pension at some subsequent time of payment.

PART III.

COMPANIES.

Shipping
Companies.

11. 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 in respect of one moiety of the nett profits made by each of the ships

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, the duty of six pies in the rupee,

and in the case of every other Company pay to Government in respect of 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 the duty of six pies in the rupee, Other Companies.

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

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 1870, the Treasurer, Secretary or principal Agent or Manager of such Company shall prepare, and, on or before the thirtieth day of April in this 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 said thirty-first day of March. Annual return of nett profits.

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

PART IV.

DUTIES ON ALL OTHER INCOME AND PROFITS.

12. A yearly duty in accordance with the first schedule 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 Part III.

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

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.

Non-residents charged in names of their agents.

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.

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

14. 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.

Receivers, Managers, Courts of Wards, Administrators General and Official Trustees.

15. Receivers or Managers appointed by any Court in India, the Courts of Wards, the Administrators General of Bengal, Madras and Bombay, and the Official Trustees, shall be chargeable under this Act in respect of all income and profits officially in their possession or under their control.

Power to retain duties charged on trustees, &c.

16. When any trustee, guardian, curator or committee, or agent is assessed under this Act in such capacity ;

or when any receiver appointed by any Court, Court of Wards, Administrator General, or Official Trustee is assessed under this Act in respect of the income and profits officially received by him ;

every person and Court so assessed may, from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee or

agent,

agent, or as such receiver, Court of Wards, Administrator General or Official Trustee, retain so much as shall be sufficient to pay the amount of the assessment.

Every such person and Court is hereby indemnified for every retention and payment made in pursuance of this Act. Indemnity.

17. In the case of every person chargeable under this Part whose annual income or profits is or are in the Collector's opinion two thousand rupees or upwards, the Collector shall, Notice requiring returns.

and in the case of every other person so chargeable, the Collector may,

serve a notice on him requiring him to fill in a return of his income and profits, or of the income and profits in respect whereof he is chargeable, in the form to be prescribed by the Governor General of India in Council, and specifying the day by which the return is to be made, and the place of the Collector's office at which the return is to be made.

Every such notice shall be signed by the Collector.

The form of the return shall accompany the notice.

18. Every person on whom such notice is served shall send to or deliver at the Collector's office the return duly filled in and signed by him. Return how made.

A declaration shall be added by such person at the foot of the return, that the profits or income stated therein are truly estimated on all the sources therein mentioned.

19. Every person, when required so to do by a notice in the form to be prescribed by the said Governor General in Council shall, within the period mentioned in such notice, prepare and deliver to the Collector a list containing, to the best of his belief, the name of every lodger or inmate resident in his dwelling-house, and of any other persons, receiving salary or emoluments amounting to forty-one rupees, ten annas, eight pie per mensem or upwards, employed in his Lists of lodgers and employees.

his service, whether resident in such dwelling-house or not, and the place of residence of such of them as are not resident in such dwelling-house, and also of any such lodger or inmate who has any ordinary place of residence elsewhere, at which he is liable, under this Act, to be assessed, and who desires to be so assessed at such place.

Such lists shall be signed by the persons respectively delivering the same, and shall be prepared in the form to be prescribed as aforesaid.

Collector to determine persons chargeable.

20. 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.

Computation when assessee becomes chargeable within year.

21. 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.

Notice to persons chargeable.

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

(1).—The name and the profession, trade or other source of the income or profits of such person, or of the income and profits in respect of which he is chargeable:

(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 such 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.

23. Such

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

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.

24. Every such receipt shall specify— Contents of receipt.

(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 *prima facie* proof of all matters contained therein.

25. 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: Petition against assessment.

Provided that no person who shall have been served with a notice under section seventeen shall be entitled to apply by petition under this section unless Proviso.
he shall

he shall have made the return required in such notice on or before the day therein mentioned, or unless he shall satisfy the Collector that he had a sufficient excuse for not making such return.

Form and verification of petition.

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

Hearing of petition.

26. 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.

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 fee on the petition.

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).

Appeal to Commissioner from order on petition.

27. Any person dissatisfied with any order under section twenty-six 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 a petition of appeal to the Commissioner of Revenue of the Division, whose decision upon such appeal shall be final.

Documents to accompany appeal.

Every petition presented under this section shall be accompanied by a copy of the petition to the Collector, a copy of the Collector's order thereon, and all other documents (if any) connected with the case.

Copies of petition and order exempt from fees.

Neither of such copies shall be chargeable under the Court Fees Act.

When

When the decision on such appeal is in favour of the petitioner, the value of the fees on his petition to the Collector and on his petition of 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 fees and excess.

28. 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.

29. 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 twenty-three 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 twenty-two to twenty-eight (both inclusive) shall apply to such notice and regulate the procedure thereunder.

Power to issue fresh notice.

PART V.

PENALTIES.

30. 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 eleven,

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

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

shall

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.

Failure to pay amount of assessment.

31. If any person served with notice under section twenty-two does not within the period specified in the said notice pay the amount required thereby, he shall, on conviction before a Magistrate, be fined twice the amount mentioned in such notice: Provided that he has not presented a petition under section twenty-five.

If any such person presents a petition under section twenty-five 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.

Grant of receipt on recovery of fine.

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

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.

False statement in declaration, list or petition.

32. Whoever makes a statement in any declaration or list made or delivered under section eighteen or nineteen, 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 committed the offence described in section one hundred and seventy-seven of the Indian Penal Code.

Whoever makes a statement in any petition presented under section twenty-five 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.

33. No

33. No person shall be proceeded against for any offence under section thirty, section thirty-one, or section thirty-two, except at the instance of the Collector.

Prosecution to be at instance of Collector.

34. 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.

35. In sections one hundred and ninety-three and two hundred and twenty-eight 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.

PART VI.

PAYMENT.

36. All taxes under this Act, except when they are deducted under section eight or section nine, shall be payable on the fifth day of April 1870.

Tax when payable.

Instalments.

Provided that the amount so payable may be paid by four equal instalments: the first instalment to be paid on some day not later than fifteen days after service of the notice mentioned in section twenty-two upon the person paying the same, and the second instalment on the first day of July, the third instalment on the first day of October, and the fourth instalment on the first day of January 1871.

Payment by instalments.

37. When

Z

Death or
insolvency of
person paying
instalment.

37. When any person pays only such first instalment, or first and second instalments, or first, second and third instalments, and in any of the quarters respectively ending on the thirtieth day of June, the thirtieth day of September or the thirty-first day of December, dies, or is by sickness or other infirmity rendered incapable of exercising the profession or trade (if any) in respect of the profit 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 subsequent instalments or instalment shall not be claimable.

Firm paying
instalment
and dissolv-
ing partner-
ship or be-
coming in-
solvent.

When any firm pays only such first instalment, or first and second instalments, or first, second and third instalments, and in any of the quarters respectively ending on the days last aforesaid 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 subsequent instalments or instalment shall not be claimable.

Recovery of
subsequent
instalment.

38. If the Collector has caused a notice to be served on any person liable to pay the said second or any subsequent 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 under Revenue-law.

Optional re-
covery under
revenue-law.

39. 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 twenty-two, twenty-nine, or thirty-eight (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.

On

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.

Payment of Taxes and Fines.

40. 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.

Payment of taxes levied and fines recovered under this Act.

PART VII.

MISCELLANEOUS.

41. 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.

Exercise of powers of Collector and Commissioner.

42. 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.

43. 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

Power to declare principal place of business.

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.

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.

Power to declare residence.

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.

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.

Governor General in Council empowered to prescribe forms.

44. The Governor General of India in Council may from time to time prescribe forms for the returns, notices and lists hereinbefore mentioned.

All such forms shall be published in the *Gazette of India*.

Governor General in Council empowered to make rules.

45. 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 powers given by this section so far as regards the territories subject to such Government.

Schedule I.

SCHEDULE I.

Duties.

Persons whose annual
income or profits
shall be assessed at

not less than	...	Rs. 500	but at less than	Rs. 750	shall pay	Rs. 19	8	0
Ditto	...	750	"	"	"	27	0	0
Ditto	...	1,000	"	"	"	39	0	0
Ditto	...	1,500	"	"	"	54	0	0
Ditto	...	2,000	six pies in the rupee.		

SCHEDULE II.

Form of Petition under Section 25.

Stamp eight annas.

TO THE COLLECTOR OF

The *day of* 187 .

The petition of *A. B.* of

SHEWETH—

1st.—That under the Indian Income Tax Act your petitioner has been assessed in the sum of *twenty-seven* rupees for the year commencing the first day of April 187 .

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 187 will exceed the said sum of
rupees

Your

Your petitioner therefore prays that he may be assessed accordingly, and that the value of the fee 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 fee 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.*

SCHEDULE III.

Enactments repealed.

Number and Year.	Title of Act.	Extent of Repeal.
Act No. IX of 1869	The Indian Income Tax Act.	The whole.
Act No. XXIII of 1869.	An Act to enhance the duties leviable under the Indian Income Tax Act.	The whole.
Act No. VII of 1870.	The Court Fees Act.	In section thirty-two, the words "and the Indian Income Tax Act, section twenty, shall be read as if, for the words 'the value of the said stamp,' the words 'the fee on the petition' were substituted." In the second schedule, No. nine, the words "section twenty-one."