

Sec India Code,
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THE EXPENDITURE-TAX ACT, 1957
No. 29 OF 1957

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THE EXPENDITURE-TAX ACT, 1957

No. 29 OF 1957

[17th September, 1957]

An Act to provide for the levy of a tax on expenditure.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Expenditure-tax Act, 1957.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on the 1st day of April, 1958.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Appellate Assistant Commissioner" means a person empowered to exercise the functions of an Appellate Assistant Commissioner of Expenditure-tax under section 8;

(b) "Appellate Tribunal" means the Appellate Tribunal appointed under section 5A of the Income-tax Act;

(c) "assessee" means an individual or a Hindu undivided family by whom expenditure-tax or any other sum of money is payable under this Act, and includes every individual or Hindu undivided family against whom any proceeding under this Act has been taken for the assessment of his expenditure;

(d) "assessment year" means the year for which tax is chargeable under section 3;

(e) "Board" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924;

(f) "Commissioner" means a person empowered to exercise the functions of a Commissioner of Expenditure-tax under section 9;

*see India Code
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(g) "dependant" means—

(i) where the assessee is an individual, his or her spouse or child wholly or mainly dependent on the assessee for support and maintenance;

(ii) where the assessee is a Hindu undivided family—

(a) every coparcener other than the *karta*; and

(b) any other member of the family who under any law or order or decree of a court, is entitled to maintenance from the joint family property;

(h) "expenditure" means any sum in money or money's worth, spent or disbursed or for the spending or disbursing of which a liability has been incurred by an assessee, and includes any amount which under the provisions of this Act is required to be included in the taxable expenditure;

(i) "Expenditure-tax Officer" means the Income-tax Officer authorised to perform the functions of an Expenditure-tax Officer under section 7;

(j) "Income-tax Act" means the Indian Income-tax Act, 1922;

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(k) "Income-tax Officer" means a person appointed to be an Income-tax Officer under the Income-tax Act;

(l) "Inspecting Assistant Commissioner of Expenditure-tax" means a person empowered to exercise the functions of an Inspecting Assistant Commissioner of Expenditure-tax under section 10;

(m) "prescribed" means prescribed by rules made under this Act;

(n) "previous year" in relation to any assessment year, means the previous year as defined in clause (11) of section 2 of the Income-tax Act if an assessment were to be made under the said Act for that year:

Provided that where in the case of an assessee there are different previous years under the Income-tax Act for different sources of income, the previous year shall be that previous year which expired last;

(o) "taxable expenditure" means the total expenditure of an assessee liable to tax under this Act.

CHAPTER II

CHARGE OF EXPENDITURE-TAX AND EXPENDITURE SUBJECT TO SUCH CHARGE

3. (1) Subject to the other provisions contained in this Act, there shall be charged for every financial year commencing on and from the first day of April, 1958, a tax (hereinafter referred to as expenditure-tax) at the rate or rates specified in the Schedule in respect of the expenditure incurred by any individual or Hindu undivided family in the previous year:

Charge of
expendi-
ture-tax.

Provided that no expenditure-tax shall be payable by an assessee for any assessment year if his income from all sources during the relevant previous year as reduced by the amount of taxes to which such income may be liable under any other law for the time being in force does not exceed rupees thirty-six thousand.

(2) For the removal of doubts, it is hereby declared that nothing contained in this Act shall require the inclusion in the taxable expenditure of an assessee for any year of expenditure for the spending or disbursing of which a liability has already been incurred and which has been included in the taxable expenditure for any earlier year.

4. Unless otherwise provided in section 5, the following amounts shall be included in computing the expenditure of an assessee liable to tax under this Act, namely:—

Amounts to
be included
in taxable
expenditure.

(i) any expenditure incurred, whether directly or indirectly, by any person other than the assessee in respect of any obligation or personal requirement of the assessee or any of his dependants which, but for the expenditure having been incurred by that other person, would have been incurred by the assessee, to the extent to which the amount of all such expenditure in the aggregate exceeds Rs. 5,000 in any year;

(ii) any expenditure incurred by any dependant of the assessee for the benefit of the assessee or of any of his dependants out of any gift, donation or settlement on trust or out of any other source made or created by the assessee, whether directly or indirectly.

Explanation.—For the removal of doubts it is hereby declared that nothing contained in this section shall be deemed to require the inclusion in the expenditure of the assessee of any expenditure incurred by any other person for or on behalf of the assessee by way of customary hospitality or which is of a trivial or inconsequential nature.

Exemption
from ex-
penditure-tax
in certain
cases.

5. No expenditure-tax shall be payable under this Act in respect of any such expenditure as is referred to in the following clauses, and such expenditure shall not be included in the taxable expenditure of an assessee—

(a) any expenditure, whether in the nature of revenue expenditure or capital expenditure incurred by the assessee wholly and exclusively for the purpose of the business, profession, vocation or occupation carried on by him or for the purpose of earning income from any other source;

(b) any expenditure incurred by the assessee, or on his behalf by his employer, wholly and necessarily in connection with the discharge of duties arising out of the assessee's employment;

(c) any expenditure incurred by or on behalf of the assessee wholly and necessarily in connection with the discharge of any duties assigned to him by the Government;

(d) any expenditure incurred on behalf of the assessee by way of any such passage concessions as are referred to in clause (via) of sub-section (3) of section 4 of the Income-tax Act;

(e) any expenditure incurred by the assessee in connection with the acquisition of any immovable property or in the construction, repair, maintenance or improvement of any immovable property belonging to him;

(f) any expenditure incurred by the assessee by way of investment in deposits, loans, shares and securities, or in bullion, precious stones or jewellery;

(g) subject to such rules as the Central Government may make in this behalf any expenditure incurred by the assessee in the purchase of products of any cottage industry in India, books or any work of art;

(h) any expenditure incurred by the assessee by way of contribution as capital to a firm or other association of persons in consideration of a share in the profits of the firm or association;

(i) any expenditure incurred by the assessee by way of repayment of loan or other borrowing, or by way of payment of interest thereon, not being interest on any loan or other borrowing utilised for incurring expenditure liable to tax under this Act;

(j) any expenditure incurred by the assessee by way of, or in respect of, any gift, donation or settlement on trust or otherwise for the benefit of an other person;

(k) any expenditure incurred by the assessee for paying premiums in respect of any policy of insurance—

(i) on the life of the assessee or any of his dependants; or

(ii) for the education or marriage of any of his dependants; or

(iii) for insuring the health of the assessee or covering any accident which may befall him or any disability to which he may become subject; or

(iv) covering any property (other than aircraft, motor vehicles or other transport vehicles) against loss or damage due to fire or theft;

(l) any expenditure incurred by the assessee in the purchase or maintenance of live-stock;

(m) any expenditure incurred by the assessee for any public purpose of a charitable or religious nature:

Provided that this clause shall not apply in the case of any expenditure incurred outside India for any such purpose unless the Board, having regard to the circumstances relating thereto, otherwise directs;

(n) any expenditure incurred by the assessee out of any allowance in the nature of an entertainment allowance referred to in clause (ii) of sub-section (2) of section 7 of the Income-tax Act in respect of which income-tax is not payable;

(o) any expenditure incurred outside India—

(i) from any source, by an assessee who is not a citizen of India and is not resident in India; or

(ii) from any income or capital accrued or realised outside India by an assessee who is not a citizen of India but is resident in India or, being a citizen of India or a Hindu undivided family, is not resident or not ordinarily resident in India;

Explanation.—For the purpose of this clause, an individual or a Hindu undivided family shall be deemed to be not resident or not ordinarily resident in India during any year, if in respect of the corresponding assessment year he or it, as the case may be, is not resident or not ordinarily resident in India within the meaning of the Income-tax Act.

(p) any expenditure incurred by way of contribution to a provident, thrift or superannuation fund;

(q) any expenditure, not being personal expenditure, incurred by the assessee out of the sums, if any, guaranteed or assured by the Central Government as his privy purse for meeting any expenses in respect of—

(i) the maintenance of any member of his retinue and the payment of salaries, allowances and pensions to members of his staff or to persons who have retired from his service;

(ii) the maintenance of any one building declared by the Central Government as his official residence under paragraph 13 of the Merged States (Taxation Concessions) Order, 1949, or paragraph 15 of the Part B States (Taxation Concessions) Order, 1950;

(iii) the maintenance of any conveyances or animals for official purposes;

(iv) the maintenance of any relatives dependent on him for maintenance;

(v) the performance of any official ceremonies;

which expenses, having regard to the status of the assessee or to the practice of the family to which the assessee belongs, have to be or are being incurred by him and are, in the opinion of the Expenditure-tax Officer, reasonable:

Provided that the Expenditure-tax Officer shall not fix the amount of such expenditure without the previous approval of the Commissioner;

(r) any expenditure incurred by the assessee or any of his dependants, and where the assessee is a Hindu undivided family by any member of the family, in connection with any election to any legislative, municipal or other public authority in India for which the assessee, dependent or member, as the case may be, is a candidate, to the extent to which such expenditure is not in excess of the limits, if any, fixed under any law for the time being in force relating to such elections.

Deductions to be made in computing the taxable expenditure.

6. (1) The taxable expenditure of an assessee for any year shall be computed after making the following deductions and allowances, namely:—

(a) any taxes, including the expenditure-tax payable under this Act, duties cesses, rates or fees paid to the Government or a local authority, but not including—

(i) taxes or fees in respect of any conveyance or other movable asset intended for the personal use of the assessee or any of his dependants;

(ii) customs duties on, or taxes on the purchase of, articles imported or purchased for the personal use of the assessee or any of his dependants;

(b) any expenditure lawfully incurred by the assessee in respect of any civil or criminal proceedings to which he is a party;

(c) any expenditure incurred by the assessee—

(i) if an individual, in respect of his own marriage or the marriage of any of his dependants, and

(ii) if a Hindu undivided family, in respect of the marriage of the *karta* or any other member of the family, subject to a maximum of Rs. 5,000 in each marriage;

(d) four-fifths of any expenditure incurred by way of capital expenditure on the purchase of furniture and other household goods, motor-cars and other conveyances or any other articles for the personal use of the assessee or any of his dependants:

Provided that where a deduction as aforesaid is made, one-fifth of the said capital expenditure shall be deemed to be incurred by the assessee in each of the four years succeeding the previous year in which the expenditure was incurred and no deduction shall be made under this clause in the assessment for any succeeding year in respect of expenditure so deemed to have been incurred in any earlier year;

(e) any expenditure incurred by the assessee on the maintenance of his parents subject to a maximum of Rs. 4,000;

(f) any expenditure incurred by the assessee—

(i) if an individual, in respect of his own medical treatment or the medical treatment of any of his dependants or parents, and

(ii) if a Hindu undivided family, in respect of the medical treatment of the *karta* or any other member of the family,

subject to a maximum of Rs. 5,000 in the case of an individual or a Hindu undivided family which consists only of the *karta*, his wife and children, and Rs. 10,000 in the case of any other Hindu undivided family:

Provided that the assessee may carry forward to the next year and the year immediately following any portion of the said sum of Rs. 5,000 or Rs. 10,000 as the case may be, unexpended during any year:

Provided further that in the case of an assessee who immediately before the commencement of this Act has been incurring a higher expenditure on the medical treatment of himself or any of his dependants or his parents, the Expenditure-tax Officer may, in any of the five years commencing from the 1st day of April, 1958, increase the allowance specified in this clause to such extent as he may think reasonable for that year, but so as not to exceed Rs. 20,000;

(g) any expenditure incurred by the assessee in respect of the education of himself or any of his dependants and where the assessee is a Hindu undivided family, of any member of the family, in any country outside India, subject to a maximum of of Rs. 8,000 per year;

(h) a basic allowance—

(i) where the assessee is an individual, of Rs. 30,000; and

(ii) where the assessee is a Hindu undivided family, of Rs. 30,000, in respect of the *karta* and his wife and children, and a further allowance of Rs. 3,000 for every additional coparcener, provided that the basic allowance for the Hindu undivided family as a whole shall not exceed Rs. 60,000 in any case;

(i) any expenditure incurred by the assessee in any country outside India in any case where he is not a citizen of India but is resident in India, to the extent to which such expenditure is not admissible under clause (c) or clause (e) or clause (f) or clause (g), subject to a maximum of Rs. 10,000.

(2) If the assessee claims on or before making a return for the assessment year commencing on the 1st day of April, 1958, that instead of the deductions permissible under clauses (b), (c), (d), (e), (f), (g), (h) and (i) of sub-section (1), the deductions and allowances permissible in his case shall be determined having regard to his actual expenditure in the last three previous years immediately preceding the previous year relevant to the assessment year commencing on the 1st day of April, 1958, then, notwithstanding anything contained in sub-section (1), instead of the deductions and allowances permissible under the clauses aforesaid, there shall be allowed—

(a) a sum equal to 75 per cent. of the average annual expenditure of the assessee for the said three years computed

after taking into account the exemptions mentioned in section 5 and the deduction permissible under clause (a) of sub-section (1) of this section; or

(b) Rs. 75,000;

whichever is less.

(3) The limit of Rs. 75,000 referred to in sub-section (2) shall be progressively reduced by a sum of Rs. 5,000 every year commencing from the assessment year ending on the 31st day of March, 1960:

Provided that this sub-section shall cease to apply to an assessee in relation to and from the year in which the progressive reduction, if allowed, would have the effect of bringing the limit so reduced to a figure below the aggregate amount of the allowances and deductions permissible under clauses (b) to (i) inclusive of sub-section (1).

(4) If the assessee proves in any year that in respect of any sum out of which any expenditure incurred is chargeable to tax under this Act he has paid in any foreign country any tax under any law for the time being in force in that country relating to taxes on income, wealth or expenditure, he shall be entitled to a deduction from the expenditure chargeable to tax under this Act of that portion of the tax paid in the foreign country as is attributable to the amount of such expenditure.

CHAPTER III

EXPENDITURE-TAX AUTHORITIES

7. Every Income-tax Officer having jurisdiction or exercising powers as such under the Income-tax Act in respect of any individual or Hindu undivided family shall perform the functions of an Expenditure-tax Officer under this Act in respect of such individual or Hindu undivided family.

Expenditure-tax Officers.

8. The Board may empower as many persons as it thinks fit to exercise under this Act the functions of an Appellate Assistant Commissioner of Expenditure-tax, and on being so empowered the Appellate Assistant Commissioners of Expenditure-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct, and where such directions have assigned to two or more Appellate Assistant Commissioners the same area or the same persons or the same classes of persons, they shall perform their functions in accordance with such orders as the Board may make for the distribution and allocation of the work to be performed.

Appellate Assistant Commissioners of Expenditure-tax.

Commissioners of Expenditure-tax.

9. The Board may empower as many persons as it thinks fit to exercise under this Act the functions of a Commissioner of Expenditure-tax, and on being so empowered the Commissioners of Expenditure-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Board may direct, and where such directions have assigned to two or more Commissioners of Expenditure-tax the same area or the same person or the same classes of persons, they shall have concurrent jurisdiction subject to such orders, if any, as the Board may make for the distribution and allocation of the work to be performed.

Inspecting Assistant Commissioner of Expenditure-tax.

10. The Commissioner of Expenditure-tax may empower as many persons as he thinks fit to exercise under this Act the functions of an Inspecting Assistant Commissioner of Expenditure-tax and on being so empowered the Inspecting Assistant Commissioners of Expenditure-tax shall perform their functions in respect of such areas or such persons or such classes of persons as the Commissioner of Expenditure-tax may direct, and where such directions have assigned to two or more Inspecting Assistant Commissioners of Expenditure-tax the same area or the same persons or the same classes of persons they shall perform their functions in accordance with such orders as the Commissioner of Expenditure-tax may make for the distribution and allocation of the work to be performed.

Expenditure-tax Officers to be subordinate to the Commissioner of Expenditure-tax and the Inspecting Assistant Commissioner of Expenditure-tax.

11. The Expenditure-tax Officers shall be subordinate to the Commissioner of Expenditure-tax and the Inspecting Assistant Commissioner of Expenditure-tax within whose jurisdiction they perform their functions.

Expenditure-tax authorities to follow orders, etc., of the Board.

12. All officers and other persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board:

Provided that no orders, instructions, or directions shall be given by the Board so as to interfere with the discretion of the Appellate Assistant Commissioner of Expenditure-tax in the exercise of his appellate functions.

CHAPTER IV

ASSESSMENT

13. (1) Every person whose expenditure for the previous year was of such an amount as to render him liable to expenditure-tax under this Act shall, before the thirtieth day of June of the corresponding assessment year, furnish to the Expenditure-tax Officer a return in the prescribed form and verified in the prescribed manner setting forth his expenditure for the previous year. Return of expenditure.

(2) If the Expenditure-tax Officer is of opinion that the expenditure of any person for any year is of such an amount as to render him liable to expenditure-tax, then, notwithstanding anything contained in sub-section (1), he may serve a notice upon such a person requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be required in the notice relating to the expenditure of such person for the previous year mentioned in the notice.

(3) The Expenditure-tax Officer may, if he is satisfied that it is necessary to do so, extend the date for the delivery of the return under this section.

14. If any person has not furnished a return within the time allowed under section 13, or having furnished a return under that section discovers any omission or a wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made. Return after the due date and amendment of return.

15. (1) If the Expenditure-tax Officer is satisfied without requiring the presence of the assessee or production by him of any evidence that a return made under section 13 or section 14 is correct and complete, he shall assess the taxable expenditure of the assessee and determine the amount payable by him as expenditure-tax. Assessment.

(2) If the Expenditure-tax Officer is not so satisfied, he shall serve a notice on the assessee, requiring him either to attend in person at his office on a date to be specified in the notice, or to produce or cause to be produced on that date any evidence on which the assessee may rely in support of his return.

(3) The Expenditure-tax Officer, after hearing such evidence as the person may produce and such other evidence as he may require on any specified points, shall, by order in writing, assess the taxable expenditure of the assessee and determine the amount payable by him as expenditure-tax.

(4) For the purpose of making an assessment under this Act, the Expenditure-tax Officer may serve on any person who has made a return under sub-section (1) of section 13 or upon whom a notice has been served under sub-section (2) of that section, a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the Expenditure-tax Officer may require.

(5) If any person fails to make a return in response to any notice under sub-section (2) of section 13 or fails to comply with the terms of any notice issued under sub-section (2) or sub-section (4), the Expenditure-tax Officer shall make the assessment to the best of his judgment and determine the amount payable by the person as expenditure-tax on the basis of such assessment.

Expenditure
escaping as-
sessment.

16. If the Expenditure-tax Officer—

(a) has reason to believe that by reason of the omission or failure on the part of the assessee to make a return of his expenditure under section 13 for any assessment year, or to disclose fully and truly all material facts necessary for his assessment for that year, the expenditure chargeable to tax has escaped assessment for that year, whether by reason of under-assessment or assessment at too low a rate or otherwise; or

(b) has in consequence of any information in his possession reason to believe, notwithstanding that there has been no such omission or failure as is referred to in clause (a), that the expenditure chargeable to tax has escaped assessment for any assessment year, whether by reason of under-assessment or assessment at too low a rate or otherwise;

he may, in cases falling under clause (a) at any time within eight years and in cases falling under clause (b) at any time within four years of the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 13, and may proceed to assess or reassess such expenditure, and the provisions of this Act shall, so far as may be, apply as if the notice had issued under that sub-section.

Penalty for
concealment.

17. (1) If the Expenditure-tax Officer, Appellate Assistant Commissioner, Commissioner or Appellate Tribunal in the course of any proceedings under this Act is satisfied that any person—

(a) has without reasonable cause failed to furnish the return of his expenditure which he is required to furnish under sub-section (1) or sub-section (2) of section 13 or section 16, or has without reasonable cause failed to furnish it within the time allowed and in the manner required; or

(b) has without reasonable cause failed to comply with a notice under sub-section (2) or sub-section (4) of section 15; or

(c) has concealed the particulars of any expenditure or deliberately furnished inaccurate particulars thereof, he or it may by order in writing, direct that such person shall pay by way of penalty—

(i) in the case referred to in clause (a), in addition to the amount of expenditure-tax payable by him a sum not exceeding one-and-a-half times the amount of such tax, and

(ii) in the case referred to in clause (b) or clause (c), in addition to the amount of expenditure-tax payable by him a sum not exceeding one-and-a-half times the amount of the tax, if any, which would have been avoided if the expenditure returned by such person had been accepted as correct.

(2) No order shall be made under sub-section (1) unless the person concerned has been given a reasonable opportunity of being heard.

(3) No prosecution for an offence under this Act shall be instituted in respect of the same facts in relation to which a penalty has been imposed under this section.

(4) The Expenditure-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner of Expenditure-tax.

CHAPTER V

LIABILITY TO ASSESSMENT IN SPECIAL CASES

18. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable of meeting the charge, the expenditure-tax assessed as payable by such person, or any sum which would have been payable by him under this Act if he had not died.

Tax of deceased persons payable by legal representative.

(2) Where a person dies without having furnished a return under the provisions of section 13 or after having furnished a return which the Expenditure-tax Officer has reason to believe to be incorrect or incomplete, the Expenditure-tax Officer may make an assessment of the expenditure of such person and determine the expenditure-tax payable by the person on the basis of such assessment, and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person if he had survived, require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which might under the provisions of section 15 have been required from the deceased person.

(3) The provisions of section 13, section 14 and section 15 shall apply to an executor, administrator or other legal representative as they apply to any person referred to in those sections.

Assessment after partition of a Hindu undivided family.

19. (1) Where, at the time of making an assessment, it is brought to the notice of the Expenditure-tax Officer that a partition has taken place among the members of a Hindu undivided family, and the Expenditure-tax Officer, after inquiry, is satisfied that the joint family property has been partitioned as a whole among the various members or groups of members in definite portions he shall record an order to that effect, and make assessments on the expenditure of the undivided family as such for the assessment year or years including the year relevant to the previous year in which the partition has taken place, and each member or group of members shall be liable jointly and severally for the tax assessed on the expenditure of the joint family as such.

(2) Where the Expenditure-tax Officer is not so satisfied, he may, by order, declare that such family shall be deemed for the purposes of this Act to continue to be a Hindu undivided family liable to be assessed as such.

Settlement of tax payable in certain cases.

20. (1) Where an assessee who is in receipt of sums guaranteed or assured by the Central Government as his privy purse applies to the Central Government in the prescribed manner and within the prescribed time for the settlement of the expenditure-tax payable by him under this Act for any assessment year, then, notwithstanding anything contained in Chapter IV, the Central Government may, having regard to the obligations which according to the practice, usage or tradition of the family to which the assessee belongs have to be or are being discharged by him, assess the expenditure-tax payable by him for the assessment year, to be such sum as to the Central Government appears proper.

(2) Any order assessing any sum as being payable for any assessment year under sub-section (1) may, if the Central Government so directs, have effect for any subsequent assessment year or years.

CHAPTER VI

APPEALS, REVISIONS AND REFERENCES

Appeal to the Appellate Assistant Commissioner from orders of Expenditure-tax Officers.

21. (1) Any person—

(a) objecting to the amount of his taxable expenditure determined under this Act; or

(b) objecting to the amount of expenditure-tax determined as payable by him under this Act; or

(c) denying his liability to be assessed under this Act; or

(d) objecting to any penalty imposed by the Expenditure-tax Officer under section 17; or

(e) objecting to any order of the Expenditure-tax Officer under sub-section (2) of section 19; or

(f) objecting to any penalty imposed by the Expenditure-tax Officer under the provisions of sub-section (1) of section 46 of the Income-tax Act as applied under section 30 for the purpose of expenditure-tax;

may appeal to the Appellate Assistant Commissioner against the assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner.

(2) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to the assessment or penalty objected to, or the date on which any order objected to is communicated to him, but the Appellate Assistant Commissioner may admit an appeal after the expiration of the period aforesaid if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

(3) The Appellate Assistant Commissioner shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing.

(4) The Appellate Assistant Commissioner may—

(a) at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal;

(b) before disposing of an appeal, make such further inquiry as he thinks fit or cause further inquiry to be made by the Expenditure-tax Officer.

(5) In disposing of an appeal, the Appellate Assistant Commissioner may pass such order as he thinks fit which may include an order enhancing the assessment or penalty:

Provided that no order enhancing an assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) A copy of every order passed by the Appellate Assistant Commissioner under this section shall be forwarded to the appellant and the Commissioner.

22. (1) Any assessee objecting to an order passed by an Appellate Assistant Commissioner under section 21 may appeal to the Appellate Tribunal within sixty days of the date on which he is served with notice of such order.

(2) The Commissioner may, if he is not satisfied as to the correctness of any order passed by an Appellate Assistant Commissioner

Appeal to the Appellate Tribunal from orders of the Appellate Assistant Commissioners.

under section 21, direct the Expenditure-tax Officer to appeal to the Appellate Tribunal against such order, and such appeal may be made at any time before the expiry of sixty days of the date on which the order is communicated to the Commissioner.

(3) The Tribunal may admit an appeal after the expiry of the sixty days referred to in sub-sections (1) and (2) if it is satisfied, that there was sufficient cause for not presenting it within that period.

(4) An appeal to the Appellate Tribunal shall be in the prescribed form, and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (2), be accompanied by a fee of one hundred rupees.

(5) The Appellate Tribunal may, after giving both parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, and any such orders may include an order enhancing the assessment or penalty:

Provided that no order enhancing an assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(6) A copy of every order passed by the Appellate Tribunal under this section shall be forwarded to the assessee and the Commissioner.

(7) Save as provided in section 25 any order passed by the Appellate Tribunal on appeal shall be final.

(8) The provisions of sub-sections (5), (7), and (8) of section 5A of the Income-tax shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Income-tax Act.

Power of
Commissioner to
revise orders
of Expendi-
ture-tax
Officers, etc.

23. (1) The Commissioner may, either of his own motion or on application made by an assessee in this behalf, call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him, and may make such inquiry or cause inquiry to be made and, subject to the provisions of this Act, pass such order thereon, not being an order prejudicial to the assessee, as the Commissioner thinks fit:

Provided that the Commissioner shall not revise any order under this sub-section in any case—

(a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal, the time within which such appeal can be made has not expired or the assessee has not waived his right of appeal to the Appellate Tribunal;

(b) where the order is the subject of an appeal before the Appellate Assistant Commissioner or the Appellate Tribunal;

(c) where the application is made by the assessee for such revision unless—

(i) the application is accompanied by a fee of twenty-five rupees;

(ii) the application is made within one year from the date of the order sought to be revised or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period; and

(d) where the order is sought to be revised by the Commissioner of his own motion, if such order is made more than one year previously.

Explanation.—For the purposes of this sub-section,—

(a) the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner; and

(b) an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee.

(2) Without prejudice to the provisions contained in sub-section (1), the Commissioner may call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by an Expenditure-tax Officer is erroneous in so far as it is prejudicial to the interests of revenue, he may, after giving to the assessee an opportunity of being heard, and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling it and directing a fresh assessment.

(3) No order shall be made under sub-section (2) after the expiry of two years from the date of the order sought to be revised.

24. (1) Any assessee objecting to an order of enhancement made by the Commissioner under section 23 may appeal to the Appellate Tribunal within sixty days of the date on which the order is communicated to him.

Appeal to the Appellate Tribunal from orders of enhancement by Commissioner.

(2) An appeal to the Appellate Tribunal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of rupees one hundred.

(3) The provisions of sub-sections (3), (5), (6) and (7) of section 22 shall apply in relation to any appeal under this section as they apply in relation to any appeal under that section.

25. (1) Within ninety days of the date upon which he is served

Reference to High Court.

with an order under section 22 or section 24, the assessee or the Commissioner may present an application in the prescribed form and where the application is by the assessee, accompanied by a fee of one hundred rupees, to the Appellate Tribunal requiring the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall, if in its opinion a question of law arises out of such order, state the case for the opinion of the High Court.

(2) An application under sub-section (1) may be admitted after the expiry of the period of ninety days aforesaid if the Tribunal is satisfied that there was sufficient cause for not presenting it within the said period.

(3) If on an application made under sub-section (1) the Appellate Tribunal—

(a) refuses to state a case on the ground that no question of law arises; or

(b) rejects it on the ground that it is time-barred;

the applicant may, within three months from the date on which he is served with a notice of refusal or rejection, as the case may be, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case to the High Court, and on receipt of such requisition the Appellate Tribunal shall state the case:

Provided that if in any case where the Appellate Tribunal has been required by an assessee to state a case the Appellate Tribunal refuses to do so on the ground that no question of law arises, the assessee may, within thirty days from the date on which he receives notice of refusal to state the case, withdraw his application, and if he does so, the fee paid by him under sub-section (1) shall be refunded to him.

(4) The statement to the High Court shall set forth the facts, the determination of the Appellate Tribunal and the question of law which arises out of the case.

(5) If the High Court is not satisfied that the case as stated is sufficient to enable it to determine the question of law raised thereby, it may require the Appellate Tribunal to make such modifications therein as it may direct.

(6) The High Court, upon hearing any such case, shall decide the question of law raised therein, and in doing so may, if it thinks fit, alter the form of the question of law and shall deliver judgment thereon containing the ground on which such decision is founded and shall send a copy of the judgment under the seal of the Court and the signature of the Registrar to the Appellate Tribunal and

the Appellate Tribunal shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(7) Where the amount of any assessment is reduced as a result of any reference to the High Court, the amount, if any, over-paid as expenditure-tax shall be refunded with such interest as the Commissioner may allow, unless the High Court, on intimation given by the Commissioner within thirty days of the result of such reference that he intends to ask for leave to appeal to the Supreme Court, makes an order authorising the Commissioner to postpone payment of such refund until the disposal of the appeal in the Supreme Court.

(8) The costs of any reference to the High Court shall be in the discretion of the Court.

of 1908.

(9) Section 5 of the Indian Limitation Act, 1908, shall apply to an application to the High Court under this section.

26. Where a case has been stated to the High Court under section 25, it shall be heard by a Bench of not less than two Judges of the High Court and shall be decided in accordance with the opinion of such Judges or of the majority of such Judges: Hearing by High Court.

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it.

27. (1) An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a case stated under section 25 in any case which the High Court certifies as a fit case for appeal to the Supreme Court. Appeal to the Supreme Court.

(2) Where the judgment of the High Court is varied or reversed on appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (6) of section 25.

(3) The High Court may, on application made to it for the execution of any order of the Supreme Court in respect of any costs awarded by it, transmit the order for execution to any court subordinate to the High Court.

CHAPTER VII

PAYMENT AND RECOVERY OF EXPENDITURE-TAX

28. When any tax or penalty is due in consequence of any order passed under this Act, the Expenditure-tax Officer shall serve upon Notice of demand.

the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable and the time within which it shall be paid.

Recovery of
tax and
penalties.

29. (1) Any amount specified as payable in a notice of demand issued under section 28 shall be paid within the time, at the place, and to the person mentioned in the notice, or if no time is so mentioned, then on or before the first day of the second month following the day of service of the notice and any assessee failing so to pay shall be deemed to be in default.

(2) Notwithstanding anything contained in this section where an assessee has presented an appeal under section 21, the Expenditure-tax Officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of.

Mode of
recovery

30. The provisions of sub-sections (1), (1A), (2), (3), (4), (5), (5A), (6) and (7) of section 46 and section 47 of the Income-tax Act shall apply as if the said provisions were provisions of this Act and referred to expenditure-tax and sums imposed by way of penalty under this Act instead of to income-tax and sums imposed by way of penalty under that Act and to Expenditure-tax Officer and Commissioner of Expenditure-tax instead of to Income-tax Officer and Commissioner of Income-tax.

CHAPTER VIII

MISCELLANEOUS

Rectification
of mistakes.

31. At any time within four years from the date of any order passed by him, or it, the Commissioner, the Expenditure-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal may on his or its own motion rectify any mistake apparent from the record and shall, within a like period, rectify any such mistake which has been brought to the notice of the Commissioner, the Expenditure-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal, as the case may be, by an assessee:

Provided that no such rectification shall be made which has the effect of enhancing an assessment unless the assessee has been given a reasonable opportunity of being heard in the matter.

Prosecutions.

32. (1) If a person fails without reasonable cause—

(a) to furnish in due time any return mentioned in section 13;

(b) to produce, or cause to be produced on or before the date mentioned in any notice under sub-section (2) or sub-section (4)

of section 15 such accounts, records and documents as are referred to in the notice;

(c) to furnish within the time specified any statement or information which such person is bound to furnish to the Expenditure-tax Officer under section 34;

he shall, on conviction before a magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

(2) If a person makes a statement in a verification mentioned in section 13, section 21, section 22, or section 24, which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with simple imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

(3) A person shall not be proceeded against for an offence under this section except at the instance of the Commissioner.

(4) The Commissioner may either before or after the institution of proceedings compound any such offence.

Explanation.—For the purposes of this section “magistrate” means a presidency magistrate, a magistrate of the first class, or a magistrate of the second class specially empowered by the Central Government to try offences under this Act.

33. The Commissioner, the Expenditure-tax Officer, the Appellate Assistant Commissioner and the Appellate Tribunal shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

Power to take evidence on oath, etc.

(a) enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses; and any proceeding before the Commissioner, the Expenditure-tax Officer, the Appellate Assistant Commissioner or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

34. Where, for the purposes of determining the expenditure-tax payable by any person, it appears necessary for the Expenditure-tax Officer to obtain any statement or information from any individual,

Information, returns and statements.

Hindu undivided family, company or any other person, the Expenditure-tax Officer may serve a notice requiring such individual, Hindu undivided family, company or other person on or before a date to be therein specified, to furnish such statement or information on the points specified in the notice, and the individual, the manager of the Hindu undivided family, the principal officer of the company or other person, as the case may be, shall, notwithstanding anything in any law to the contrary, be bound to furnish such statement or information to the Expenditure-tax Officer:

Provided that no legal practitioner shall be bound to furnish any statement or information under this section based on any professional communications made to him otherwise than as permitted by section 126 of the Indian Evidence Act, 1872.

1 of 1872.

Effect of transfer of authorities on pending proceedings.

35. Whenever in respect of any proceeding under this Act any Expenditure-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises such jurisdiction, the authority so succeeding may continue the proceedings from the stage at which the proceeding was left by his predecessor.

Computation of periods of limitation.

36. In computing the period of limitation prescribed for an appeal under this Act or for an application under section 25, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

Service of notice.

37. (1) A notice or a requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a court under the Code of Civil Procedure, 1908.

3 of 1908.

(2) Any such notice or requisition may, in the case of a Hindu undivided family be addressed to the manager or any adult male member of the family.

Prohibition of disclosure of information.

38. (1) Subject to the provisions contained in sub-section (2), the provisions of section 54 of the Income-tax Act shall apply to all accounts or in relation to statements, documents, evidence or affidavits given, produced or obtained in connection with or in the course of any proceeding under this Act, as they apply to or in relation to similar particulars under that Act, subject to the modification that the reference to any Income-tax authority in clause (d) of sub-section (2) and to the Commissioner in sub-section (5) of section 54 of that Act shall be construed as a reference to any Expenditure-tax authority and to the Commissioner of Expenditure-tax respectively.

(2) Nothing contained in section 54 of the Income-tax Act shall apply to the disclosure of any such particulars as are referred to in sub-section (1) to any person acting in the execution of this Act or

14 of 1953.
7 of 1957. the Income-tax Act or the Estate Duty Act, 1953, or the Wealth-tax Act, 1957, where it is necessary or desirable to disclose the same to him for the purpose of this Act or any of the other Acts aforesaid.

39. No suit shall lie in any civil court to set aside or modify any assessment made under this Act, and no prosecution, suit or other legal proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act. Bar of jurisdiction.

40. Any assessee who is entitled to or required to attend before any Expenditure-tax authority or the Appellate Tribunal in connection with any proceeding or inquiry under this Act, except where he is required under this Act to attend in person, may attend by a person authorised by him in writing in this behalf, being a relative of, or a person regularly employed by, the assessee, or a legal practitioner or a chartered accountant, or any other person having such qualifications as may be prescribed. Appearance before Expenditure-tax authorities by authorised representatives.

Explanation.—For the purposes of this section,—

(a) the expression “a person regularly employed by the assessee” includes any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings;

(b) “chartered accountant” means a chartered accountant as defined in the Chartered Accountants Act, 1949.

7 of 1949. 41. (1) The Board may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

(a) the form in which returns under this Act shall be made, and the manner in which they shall be verified;

(b) the form in which appeals and applications under this Act may be made, and the manner in which they shall be verified;

(c) the form of any notice of demand under this Act;

(d) any other matter which has to be or may be prescribed for the purposes of this Act.

(3) All rules made under this Act shall be laid before each House of Parliament, as soon as may be, after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

Not Corrected; See India Code

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Expenditure-tax

[ACT 29 OF 1957]

THE SCHEDULE

(See section 3)

RATES OF EXPENDITURE-TAX

In the case of every individual and Hindu undivided family, on that portion of the taxable expenditure—

(i) which does not exceed Rs. 10,000	10%
(ii) which exceeds Rs. 10,000 but does not exceed Rs. 20,000	20%
(iii) which exceeds Rs. 20,000 but does not exceed Rs. 30,000	40%
(iv) which exceeds Rs. 30,000 but does not exceed Rs. 40,000	60%
(v) which exceeds Rs. 40,000 but does not exceed Rs. 50,000	80%
(vi) which exceeds Rs. 50,000	100%