

PROFESSION TAX ACT, 1975 - MAHARASHTRA

I PURPOSE AND SCOPE

The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Profession Tax Act) has come into operation from 1-4-1975. The purpose is to collect revenue for the purpose of implementing Employment Guarantee Scheme. Various definitions are given in Section 2.

II LEVY OF TAX-ENROLLED PERSONS

The Act proposes to levy tax on 'person' covered by Schedule I appended to the Profession Tax Act, 1975 (given separately). There are 21 entries in the Schedule to cover the different category of persons. The rates of taxes are also given in same schedule. The person liable to Profession Tax has to obtain Enrolment Certificate within 30 days from date of liability. Normally the tax is required to be paid by 30th June of respective financial year. The payment is to be made in challan No. VIII. Facility of payment by electronic mode is not yet started.

III COMPOSITION SCHEME

There is scheme of composition for enrolment holders u/s. 8(3) by which any person holding a certificate of enrolment and liable to pay tax at the rate of ` 2,500/- per annum, may discharge his liability for payment of tax under this Act for a total continuous period of five years by making payment in advance of a lump sum amount equal to four times of such rate of tax, on or before the 30th June of the year. Any variation in rates during above years will not affect the person covered by composition. If composition money is paid late (i.e. after June in the financial year) interest at ` 200 p.m. is payable for delayed months. For example, if an enrolled person wants to opt for composition for 2011-2012 to 2015-16 and he is in the slab of ` 2500/- he has pay tax for 4 years @ ` 2,500 p.a. i.e. ` 10,000. If this amount is paid before June, 2011 no interest is payable. If it is paid after June, 2011 say in July, 2011, then interest at ` 200 for the month of July, 2011 will be payable; i.e., total ` 10,200.

IV TAX ON EMPLOYEES — REGISTRATION

Salaried persons are also liable to profession tax but their tax is to be deducted and paid by employer. The slab rates applicable to them are as per entry 1 in the given Schedule.

The duty is cast upon the employer to deduct tax at above rates and deposit with Government. However even if not deducted, employer is liable to pay tax. For this purpose the Employer should obtain the Registration Certificate from Department within 30 days from date of his liability. There are also provisions for non deduction of tax, etc. subject to production of required form by the employee. The employer should also file the returns and pay taxes as per monthly/quarterly/annual return applicable to him, determined as per tax liability.

V EXEMPTIONS

Section 27A provides for exemptions from payment of profession tax. Some important exemptions are as under:

- (i) Person suffering from permanent physical disability.

- (ii) Parents of mentally retarded child.
- (iii) Parents of a child suffering from a physical disability.
- (iv) Persons who have completed the age of 65 years.

VI PENALTIES AND INTEREST

Penalty for "late application" for enrolment/registration [Sec. 5(5)]

The prescribed authority may impose penalty of ` 5 for each day of delay in case of an employer for registration and of ` 2 for each day of delay in case of any person for enrolment, after giving a reasonable opportunity of hearing.

Penalty for giving "false information in any application" for enrolment/registration [Sec. 5(6)]

The authority may impose penalty equal to 3 times the tax payable under the Act, after giving hearing opportunity. (Up to 30.4.2002, penalty was restricted to ` 1,000/-).

Penalty for "late filling of returns" by Employer [Sec. 6(3)]

The authority may impose penalty of ` 300 per return.

Penalty for "Non-payment or late payment of tax." by Enrolee/Employer (Sec. 10)

The authority may impose a penalty equal to 10% of the tax due.

Interest on late payment of tax. (Sec. 9)

The interest for late payment of tax or any additional demand of tax raised in assessment is 1.25% p.m. with effect from 1-7-2004 (2% p.m. up to 30-6-2004.)

Interest on refund of excess payment of tax (Sec. 19A)

If any refund is due from any order in respect of period 1.4.2004 and onwards then interest on refund @ 6% p.a. is receivable by such person entitled to refund, for maximum 18 months.

VII TIME LIMITS FOR ASSESSMENT

Previously there was no time barring limit for completion of assessment. However from 1-4-2004, time limit has been introduced by inserting Section 7.

Assessments of employer for periods starting on or after 1st April, 2004 will now be time barred in three years, if the returns are filed within one month of the end of the year to which the return relates.

VIII RETURNS

Liability to file return and payment of tax for employer (Up to 31-3-2011)

Tax Liability	Periodicity	Months of salary to be covered	Due Date
Less than ₹ 5,000 in previous year	Annual	March of the previous year and April to February of the current year	31st March
₹ 5,000/- or more but less than ₹ 20,000 in previous year or in case of first year of business	Quarterly April to June, July to September, Oct. to December. January to March	March to May, June to August, Sept. to November Dec. to February	30th June 30th September 31st December 31st March
₹ 20,000 or more in previous year	Monthly eg. For April	Salary of previous month eg. March	End of the month eg. 30th April.

Liability to file return and payment of tax for employer (From 1-4-2011) onwards

Tax Liability	Periodicity	Months of salary to be covered	Due Date
Less than ₹ 50,000 in previous year	Annual	March of the previous year and April to February of the current year	31st March
₹ 50,000/- or more in previous year	Monthly	Salary of previous month	End of the month for which return is filed
In case of first year of registration	Monthly	Salary of previous month	End of the month for which return is filed

Note: With effect from 1st February, 2011, an assessee whose tax liability during the previous year is ₹ 20,000 or more is required to upload his return in electronic mode. (Refer Notification No. VAT/AMD-1010/IB/PT/ADM-6 dated 26-11-2010). Such assessee can make payment of tax in Form MTR-6.

"SCHEDULE I"

(See Section 3)

Schedule of rates of tax on professions, trades, callings and employments

(From 1st July, 2009 onwards)

Sr.No.	Class of Persons	Rate of Tax (Rs.)
1.	2.	3.
	PART I	
1.	Salary and wage earners. Such persons whose monthly salaries or wages, (a) do not exceed ` 5,000 (b) exceed ` 5,000 but do not exceed ` 10,000; (c) Exceed ` 10,000.	Nil 175 per month 2500 per annum, to be paid in the following manner:— a) ` 200/- per month except for the month February b) ` 300/- for the month February
2.	(a) Legal Practitioners including Solicitor and Notaries; (b) Medical Practitioners, including Medical Consultants and Dentists; (c) Technical and Professional Consultants, including Architects, Engineers, R.C.C. Consultants, Tax Consultants, Chartered Accountants, Actuaries and Management Consultants; (d) Chief Agents, Principal Agents, Insurance Agents and Surveyors or Loss Assessors registered or licensed under the Insurance Act, 1938, U.T.I. Agents under U.T.I. Scheme, N.S.S. agents under Postal Scheme; (e) Commission Agents, Dalals and Brokers (other than estate brokers covered by any other entry elsewhere in this Schedule); (f) All types of Contractors (other than building contractors covered by any other entry elsewhere in this Schedule); and (g) Diamond dressers and diamond polishers; having not less than one year's standing in the profession.	2500 per annum
3.	(a) Members of Association recognised under the Forward Contracts (Regulations) Act, 1952. (b) (i) Member of Stock Exchanges recognised under the Security Contracts (Regulation) Act, 1956; (ii) Remisiers recognised by the Stock Exchange.	2,500 per annum 2500 per annum 2500 per annum
4.	(a) Building Contractors;	2500 per annum

	(b) Estate Agents, Brokers or Plumbers, having not less than one year's standing in the profession.	2500 per annum
5.	Directors (other than those nominated by Government) of Companies registered under the Companies Act, 1956, and Banking Companies as defined in the Banking Regulation Act, 1949, Explanation: The term 'Directors' for the purpose of this entry will not include the persons who are Directors of the companies whose registered offices are situated outside the State of Maharashtra and who are not residing in the State of Maharashtra.	2500 per annum
6.	(a) Bookmakers and Trainers licensed by the Royal Western India Turf Club Limited; (b) Jockeys licensed by the said Club.	2500 per annum 2500 per annum
7.	Self-employed persons in the Motion Picture Industry, Theatre, Orchestra, Television, Modelling or Advertising Industries, as follows: (a) Writers, Lyricists, Directors, Actors and Actresses (excluding Junior Artists), Musicians, Play-back Singers, Cameramen, Recordists, Editors and Still-Photographers, (b) Junior Artists, Production Managers, Assistant Directors, Assistant Recordists, Assistant Editors and Dancers.	2500 per annum 1000 per annum
8.	Dealers registered under the Maharashtra Value Added Tax Act, 2002, or Dealers registered only under the Central Sales Tax Act, 1956, whose annual turnover of sales or purchases,— (i) is rupees 25 lakh or less (ii) exceeds rupees 25 lakh	2000 per annum 2500 per annum
9.	Occupiers of Factories as defined in the Factories Act, 1948, who are not covered by entry 8 above.	2500 per annum
10.	(1) (A) Employers of Establishments as defined in the Bombay Shops and Establishment Act, 1948, where their establishments are situated within an area to which the aforesaid Act applies, and who are not covered by entry 8 — Such employers of establishments,— a. where no employee is employed b. where not exceeding two employees are employed; c. Where more than two employees are employed.	1000 per annum 2000 per annum 2500 per annum

	<p>(B) Employers of establishments as defined in the Bombay Shops and Establishments Act, 1948, where their establishments are not situated within an area to which the aforesaid Act applies, and who are not covered by entry 8 —</p> <p>Such employers of establishment,—</p> <p>a. where no employee is employed</p> <p>b. where not exceeding two employees are employed;</p> <p>c. Where more than two employees are employed.</p> <p>(2) Persons owning/running STD/ISD booths or Cyber Cafes, other than those owned or run by Government or by physically handicapped persons;</p> <p>(3) Conductors of Video or Audio Parlours, Video or Audio Cassette Libraries, Video Game Parlours;</p> <p>(4) Cable Operators, Film Distributors;</p> <p>(5) Persons owning/running marriage halls, conference halls, beauty parlours, health centres, pool parlours;</p> <p>(6) Persons running/conducting coaching classes of all types.</p>	<p>500 per annum</p> <p>1000 per annum</p> <p>2500 per annum</p> <p>1000 per annum</p> <p>2500 per annum</p> <p>2500 per annum</p> <p>2500 per annum</p> <p>2500 per annum</p>
11.	Owners or Lessees of Petrol/Diesel/Oil Pumps and Service Stations/Garages and Workshops of Automobiles.	2500 per annum
12.	Licensed Foreign Liquor Vendors and employers of Residential Hotels and Theatres as defined in the Bombay Shops and Establishments Act, 1948.	2500 per annum
13.	<p>Holders of permits for Transport Vehicles granted under the Motor Vehicles Act, 1988, which are used or adopted to be used for hire or reward, where any such person holds permit or permits for,-</p> <p>a. three wheeler goods vehicles, for each such vehicle;</p> <p>b. any taxi, passenger car, for each such vehicle;</p> <p>c. (i) goods vehicles other than those covered by (a);</p> <p>(ii) trucks or buses, for each such vehicle :</p> <p>Provided that the total tax payable by a holder under this entry shall not exceed ` 2,500 per annum.</p>	<p>750 per annum</p> <p>1000 per annum</p> <p>1500 per annum</p> <p>1,500 per annum</p>
14.	Money lenders licensed under the Bombay Money-lender Act, 1946.	2500 per annum
15.	Individuals or Institutions conducting Chit-Funds.	2500 per annum

16.	Co-operative Societies registered or deemed to be registered under the Maharashtra Co-operative Societies Act, 1960 and engaged in any profession, trade or calling —	
	i. State level Societies	2,500 per annum
	ii. Co-operative sugar factories and spinning mills;	2,500 per annum
	iii. District level Societies;	750 per annum
	iv. Handloom weavers co-operative societies;	500 per annum
v. All other co-operative societies not covered by clauses (i), (ii), (iii) and (iv) above.	750 per annum	
17.	Banking Companies, as defined in the Banking Regulation Act, 1949.	2500 per annum
18.	Companies registered under the Companies Act, 1956 and engaged in any profession, trade or calling.	2500 per annum
19.	Each Partner of a firm (whether registered or not under the Indian Partnership Act, 1932) engaged in any profession, trade, or calling.	2500 per annum
20.	Each Co-parcener (not being a minor) of a Hindu Undivided Family, which is engaged in any profession, trade or calling.	2500 per annum
21.	Persons other than those mentioned in any of the preceding entries who are engaged in any profession, trade, calling or employment and in respect of whom a notification is issued under the second proviso to sub-Section (2) of Section 3.	2500 per annum

Notes:

1. Notwithstanding anything contained in this Schedule, where a person is covered by more than one entry of this Schedule, the highest rate of tax specified under any of those entries shall be applicable in his case. This provision shall not be applicable to entry 16(iv) of the Schedule.
2. For the purposes of Entry 8 of the Schedule, the Profession Tax shall be calculated on the basis of the "turnover of sales or purchases" of the previous year. If there is no previous year for such dealer, the rate of Profession Tax shall be ₹ 2000. The expressions "turnover of sales" or "turnover of purchases" shall have the same meaning as assigned to them, respectively, under the Maharashtra Value Added Tax Act, 2002."