

PUNJAB VIDHAN SABHA

Bill No. 11-PLA-2018

THE PUNJAB STATE DEVELOPMENT TAX BILL, 2018

(Bill as passed by the Punjab Vidhan Sabha)

The following Bill was passed by the Punjab Vidhan Sabha :—

A

BILL

to provide for the levy and collection of a tax on professions, trades, callings and employment for the benefit of the State of Punjab.

BE it enacted by the Legislature of the State of Punjab in the Sixty-ninth Year of the Republic of India, as follows :—

1. (1) This Act may be called the Punjab State Development Tax Act, 2018. Short title,
extent and
commencement.

(2) It extends to the whole of the State of Punjab, and offices of the Government of Punjab and offices of any body, whether incorporated or not, which is owned or controlled by the State of Punjab situated in the capital of Punjab.

(3) It shall come into force on and with effect from the date of its publication in the Official Gazette.

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

(a) “Appellate Authority” means the Appellate Authority appointed under section 3 ;

(b) “assessee” means a person or employer by whom tax is payable under this Act ;

(c) “Commissioner” means the Excise and Taxation Commissioner, Punjab ;

(d) “designated officer” means an officer authorized under the Punjab Value Added Tax Act, 2005 (Punjab Act No. 8 of 2005) or as may be appointed under sub-section (1) of section 3.

(e) “employee” means a person employed on salary or wages, and includes,—

(i) a Government servant receiving pay from the revenues of the Central Government or any State Government or the Railway Fund ;

- (ii) a person in service of a body, whether incorporated or not, which is owned or controlled by the Central Government or any State Government where the body operates in any part of the State of Punjab, even though its headquarters may be situated outside the State of Punjab ;
 - (iii) a person in service of a body, whether incorporated or not, which is owned or controlled by the State of Punjab, where the body operates in any part of the State of Punjab or outside the State of Punjab ;
 - (iv) Government servant receiving pay from the revenues of the State of Punjab even though his office is situated outside the State of Punjab ; and
 - (v) a person engaged in any employment of an employer not covered by sub-clauses (i), (ii) and (iii) above ;
- (f) “employer” in relation to an employee earning any salary or wages on a regular basis under him, means the person or the officer who is responsible for disbursement of such salary or wages, and includes the Head of the Office or any establishment as well as the manager or agent of the employer ;
- (g) “Government” means the Government of the State of Punjab in the Department of Excise and Taxation ;
- (h) “income” means income as defined in the Income Tax Act, 1961 (Central Act No. 43 of 1961) ;
- (i) “month” means a month reckoned according to the English calendar ;
- (j) “person” means any person who is engaged in any profession, trade, calling or employment in the State of Punjab and includes a sole proprietor, a partnership firm, a Hindu Undivided Family, a Company, a Society, a Trust, a Club, an Institution, an Association, a local Authority, a Department of any State Government, Union Territory Government or Central Government, a Government enterprise, a statutory body or other body corporate, irrespective of the fact that the main place of business of such person is outside the State of Punjab and where the main place of business of any such person is not in the State of Punjab, the local manager

or agent of such person in the State of Punjab in respect of such business and also includes a person engaged in the following :—

- (i) transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration ;
- (ii) transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract ;
- (iii) delivery of goods on hire-purchase or any system of payment by instalments ;
- (iv) transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration ; and
- (v) supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration :

Provided that any person who earns wages on a casual basis and an agriculturist or a member of his family, who sells within the State of Punjab exclusively the agricultural produce, grown on any land inside the State of Punjab in which he has an interest, whether as owner, mortgagee, tenant or otherwise, shall not be deemed to be a person.

Explanation.—Every branch of a firm, company, corporation or other corporate body, any Society, club or association shall be deemed to be a person and a separate assessee for the purpose of levy of tax under this Act ;

- (k) “prescribed” means prescribed by rules made under this Act ;
- (l) “Revisional Authority” means the Authority appointed under the Punjab Value Added Tax Act, 2005 ;
- (m) “salary” or “wage” includes pay or wages, dearness allowance and all other remunerations received by any person on regular basis, whether payable in cash or kind, and also includes perquisites and

profits in lieu of salary as defined in section 17 of the Income Tax Act, 1961, but does not include any form of bonus or gratuity;

Explanation.—Regular basis means a period exceeding one hundred and eighty days.

- (n) "Schedule" means a Schedule appended to this Act ;
- (o) "section" means a section of this Act ;
- (p) "tax" means the tax on profession, trades, callings and employment levied under this Act ;
- (q) "taxable person" means a person, who is registered or enrolled for the purpose of paying tax under this Act ;
- (r) "Tribunal" means the Tribunal constituted under section 4 of the Punjab Value Added Tax Act, 2005 ; and
- (s) "year" means the financial year of the Government of Punjab.

Appointment of Appellate Authority, Commissioner and other officers.

3. (1) For carrying out of purposes of this Act, the Government may appoint an Appellate Authority, an officer to be the Commissioner and such other officers to assist him as it may deem fit.

(2) The Commissioner shall have jurisdiction over the whole of the State of Punjab.

(3) Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing delegate any of his powers and duties under this Act to any officer appointed under sub-section (1).

Levy and charge of tax.

4. (1) Subject to the provisions of Article 276 of the Constitution of India and provisions of this Act, there shall be levied and collected a tax on professions, trades, callings and employments.

(2) Every person, engaged in any profession, trade, calling or employment and falling under any class mentioned in the Schedule, shall be liable to pay the tax at rates mentioned in the Schedule from time to time. Senior citizens shall, however, be exempted as per the Income Tax Act, 1961.

(3) The tax under this Act shall be levied on the persons in the categories mentioned in the Schedule, only if they are income tax payees i.e. the tax, for any particular financial year, shall be payable under this Act only by those persons whose taxable income for the same financial year, before allowing deduction on

account of tax levied under this Act, exceeds the maximum amount which is not chargeable to Income Tax by the amount of tax payable by him under this Act for that year :

Provided that the Government may by notification, alter the rate of tax specified in the Schedule, add to or omit from or otherwise amend the Schedule and thereupon, the Schedule shall be deemed to have been amended accordingly :

Provided further that subject to such conditions and restrictions as may be prescribed, an enrolled person shall not be required to make payment of tax in respect of the period, during which he is temporarily not engaged in any profession, trade or calling :

Provided further that the Government may, by notification, exempt any person or class of persons from payment of tax subject to such conditions as may be notified from time to time.

(4) Where a person falls under more than one category in the Schedule, he shall be liable to pay the tax only under one category.

5. The tax payable under this Act by any person earning a salary or wage, shall be deducted by his employer from the salary or wages payable to such person, before such salary or wages is paid to him, and such employer shall, irrespective of whether such deduction has been made or not, when the salary or wage is paid to such person, be liable to pay tax on behalf of all such persons :

Employer's liability to deduct and pay tax on behalf of employees.

Provided that where any person earning a salary or wage, who is covered by any entry of the Schedule is simultaneously engaged in employment of more than one employer, and such person furnishes to his employer or employers a declaration in the prescribed form to the effect that he has obtained a certificate of enrolment under sub-section (2) of section 6 and that he shall pay the tax himself, no deduction or payment of tax shall be made by the employer or employers under this section and such employer or employers, as the case may be, shall not be liable to pay the tax on behalf of such person.

6. (1) Every employer liable to pay tax under section 4 shall obtain a certificate of registration from the designated officer in the prescribed manner

Registration and enrolment.

within a period of sixty days from the date of the commencement of this Act :

Provided that the Government may exempt any person or class of persons from obtaining a certificate of registration under this Act :

Provided further that an exemption from obtaining a certificate of registration shall not be an exemption from the payment of tax payable under this Act.

(2) Every person liable to pay tax under this Act (other than a person earning salary or wages, in respect of whom the tax is payable by his employer) shall obtain a certificate of enrolment from the designated officer in the prescribed manner.

(3) The designated officer shall mention in every certificate of enrolment the amount of tax payable by the holder according to the Schedule and the date by which it shall be paid, and such certificate shall be deemed to be a notice of demand for the purposes of section 12 ;

(4) Every employer or person required to obtain a certificate of registration or enrolment shall, within such period as may be prescribed, or, if he was not engaged in any profession, trade, calling or employment on the date of the commencement of this Act, within a period of thirty days from the date of commencement of his profession, trade, calling or employment, or, as the case may be, within such period from the date of his becoming liable to pay tax as may be prescribed, or in respect of a person referred to in sub-section (2) within such period from the date of his becoming liable to pay tax, apply for a certificate of registration or enrolment to the designated officer in the prescribed form, and the designated officer shall, after making such inquiry as he deems fit, within thirty days of the receipt of the application, if the application is in order, grant him such certificate.

Returns.

7. (1) Every person enrolled under this Act shall make self assessment of tax and shall file return for a period, within such time and in such form as may be prescribed, to the designated officer, showing therein annual gross income from his profession, trade, calling or employment of the preceding year or part thereof and tax payable or paid by him.

(2) Every employer registered under this Act shall make self assessment of tax and shall file a return in such form, for such periods and by such dates as may be prescribed to the designated officer, showing therein the salaries and wages paid by him and the amount of tax deducted by him in respect thereof.

(3) The Commissioner may, subject to such terms and conditions as may be prescribed, exempt any such employer from furnishing such return or permit any such employer,—

- (i) to furnish them for such different periods, or
- (ii) to furnish a consolidated return in respect of all or any of the places or work of the employer in the State where such employer ordinarily carries on his profession, trade, calling and employment, for the said period or for such different periods, as he may direct, to the designated officer.

(4) Every return shall be accompanied by a proof of payment of full amount of tax due according to the return, as may be prescribed.

(5) A return without such proof of payment shall not be deemed to have been duly filed.

(6) Notwithstanding anything contained in this section, the Commissioner or the designated officer, as the case may be, may by notice, direct a person other than a taxable person or a registered person, to file returns at such intervals and in such form and containing such information, as may be prescribed.

(7) Any employer or person liable to file return, having furnished a return upon discovery of omission or incorrect statement, if any, thereupon may furnish a revised return in respect of the period covered by the return at any time before a notice for assessment is served on him in respect of the period covered by the said return or before the expiry of a period of three months from the end of the year to which such return relates, whichever is earlier.

8. (1) If the designated officer is satisfied that the return filed by any assessee is correct and complete, he shall accept the return.

Assessment
of
employers.

(2) Where a return has been filed under sub-section (2) of section 7, but any tax or interest is found due on the basis of such return, then, an intimation shall be sent to the person specifying the sum so payable and such intimation, shall be deemed to be a notice of demand issued and all the provisions of this Act shall apply accordingly.

(3) (a) If the designated officer is not satisfied that the return filed is correct and complete, he shall serve upon the employer a notice requiring him to attend in person or through an authorized representative, and to produce accounts and papers in support of the return, on a date specified in the notice.

(b) The designated officer shall, on examination of accounts and papers, assess the amount of tax payable by the employer.

(c) If the employer fails to comply with the terms of the notice, or if in the opinion of the designated officer the accounts and papers are incorrect or incomplete or unreliable, the said designated officer shall, after such inquiry as he deems fit or otherwise, assess the tax due, to the best of his judgment.

(4) If an employer has without reasonable cause failed to get himself registered or being registered has failed to file any return, the designated officer shall, after giving the employer a reasonable opportunity of being heard and after holding such inquiry as he deems fit, or otherwise pass an order assessing the amount of tax due, to the best of his judgment :

Provided that the assessment under this section can be made within a period of three years from the last date of filing of return or the actual date of filing of return, whichever is later.

(5) The amount of tax so assessed shall be paid within fifteen days of receipt of the notice of demand from the designated officer.

Assessment of
other persons.

9. (1) If the designated officer is satisfied that the return filed by any person is correct and complete, he shall accept the return.

(2) Where a return has been filed under sub-section (1) of section 7, or in response to the notice under sub-section (6) of section 7, but any tax or interest is found due on the basis of such return, then, an intimation shall be sent to the person specifying the sum so payable and such intimation, shall be deemed to be a notice of demand issued and all the provisions of this Act shall apply accordingly.

(3) If a person liable to obtain a certificate of enrolment under sub-section (2) of section 6 has failed to get himself enrolled or, being enrolled, has failed to make payment of the whole or any part of the amount of tax as required by or under this Act, the designated officer shall, after giving such person a reasonable opportunity of being heard, and after holding such enquiry as he deems fit, or otherwise, determine the amount of tax due from him, and if such amount cannot be determined properly on the basis of the available material, determine the same to the best of his judgment :

Provided that the assessment under this section can be made within a period of three years from the last date of filing of return or the actual date of filing of return, whichever is later.

(4) The amount of tax due, so determined, shall be paid within fifteen days of receipt of the notice of demand from the designated officer.

(5) The Commissioner or the designated officer, within a view to ascertain the correctness of the returns, may make special assessment of any of the returns filed, documents or information submitted by a person, subject to such conditions and in such manner, as may be prescribed.

(6) For the purpose of special assessment under sub-section (5), the Commissioner or any designated officer, may, after due notice to the person, processed to examine the records and the related documents of the person.

(7) The special assessment under sub-section (5), may be carried out within a period of six years from the date of furnishing of returns.

10. (1) The tax payable under this Act shall be paid in the prescribed manner. Payment of tax.

(2) The amount of tax due from the employers liable to deduct the tax from employees shall be paid every month within the prescribed time and in the prescribed manner.

(3) The amount of tax due from enrolled persons for each year as specified in their enrolment certificate shall be paid within one month from the end of the month of enrolment.

11. (1) If an employer fails to deduct the tax at the time of payment of salary or wage, or after deducting fails to pay the tax as required by or under this Act, he shall without prejudice to any other consequences and liabilities which he may incur, be liable to pay, in addition to the amount of tax, simple interest at the rate of two per cent of the amount of the tax due for each month or part thereof for the period for which the tax remains unpaid. Consequences of failure to deduct or to pay tax.

(2) If a person fails to pay the tax as required by or under this Act, he shall without prejudice to any other consequences and liabilities which he may incur, be liable to pay, in addition to the amount of tax, simple interest at the rate of two per cent of the amount of the tax due for each month or part thereof for the period for which the tax remains unpaid.

12. (1) All arrears of tax, penalty and interest due under this Act from any person shall be recoverable as arrears of land revenue. Recovery of tax, interest and penalty as arrears of land revenue.

(2) For the purpose of effecting recovery of the amount of tax, penalty and interest due from any person by or under the provisions of this Act, as arrears of land revenue, the provisions of Punjab Value Added Tax Act, 2005 relating to recovery shall *mutatis mutandis* apply to this Act.

Appeal.

13. (1) Subject to such rules as may be made, any person or employer aggrieved by any order made under this Act, may appeal against such order to the Appellate Authority appointed under this Act.

(2) The orders passed by the Appellate Authority shall be further appealable to the Tribunal.

(3) No appeal shall be entertained after the expiry of a period of sixty days from the date of receipt of the order :

Provided that the Appellate Authority or the Tribunal, as the case may be, may, in the interest of justice, for the reasons to be recorded in writing, condone delay in cases where appeal is not filed within the stipulated period.

(4) No appeal shall be entertained, unless such appeal is accompanied by satisfactory proof of the prior minimum payment of fifty per cent of the total amount of tax, penalty and interest, if any.

(5) The Appellate Authority in disposing of an appeal, may confirm, annul, reduce, enhance, or otherwise modify the assessment, penalty or interest. He may make such further enquiry as he deems fit before passing any such order.

(6) No order under this section shall be passed without giving the appellant or his representative, a reasonable opportunity of being heard.

Revision.

14. (1) The Commissioner or the officer appointed under section 3 may, on his own motion, or on an application made to him, call for and examine the record of any proceedings which are pending before or have been disposed of by any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may deem fit.

(2) No application under sub-section (1) shall be entertained after the expiry of period of a sixty days from the date of receipt of the order.

(3) The powers of revision shall be exercised within a period not exceeding three years from the date on which the order was served upon the assessee.

(4) No order under this section shall be passed without giving the applicant or the assessee a reasonable opportunity of being heard.

(5) Where the Commissioner or the officer appointed under section 3 rejects any application for revision under this section, he shall record the reasons for such rejection.

(6) The order passed under sub-section (1) of this section shall be appealable before the Tribunal within a period of sixty days from the date of communication of the order :

Provided that the Tribunal may admit an appeal preferred after the period of sixty days if it is satisfied that the assessee had sufficient cause for not filing the appeal within the stipulated time.

15. (1) Any authority under this Act may, on its own motion, or on an application being made in this behalf, rectify any mistakes apparent on the face of the record. Rectification of mistakes and review of order.

(2) Any authority under this Act may, if it discovers under assessment of tax payable by any person, for the reason that,—

(i) such person has committed fraud or wilful neglect; or

(ii) such person has misrepresented facts;

review its own order with prior permission of the Commissioner:

Provided that no order, adversely affecting an employer or a person, shall be passed under this section unless a reasonable opportunity of being heard has been given to such employer or person :

Provided further that no order as per clause (i) and (ii) above, shall be rectified or reviewed after expiry of a period of three years from the date on which it was passed.

16. (1) If the Commissioner or designated officer is satisfied that the books of account and /or other documents maintained by an employer or enrolled person in the normal course of his profession, trade, calling or employment are not adequate for verification of the returns filed by the employer or enrolled person under this Act, it shall be lawful for the Commissioner or the designated officer to direct the employer or enrolled person to maintain the books of accounts or other documents in such manner as he may in writing direct, and thereupon the employer or enrolled person shall maintain such books of account or other documents accordingly. Accounts.

(2) The books of account and other documents maintained by an assessee under sub-section (1) shall be preserved for a period as specified under the Income Tax Act, 1961.

Production and inspection of accounts and documents and search of premises.

17. (1) The Commissioner or the designated officer under this Act may, for the purposes of this Act, require any person or any employer to produce before him any accounts or documents relating to his profession, trades, callings or employments, or disbursement of salaries or wages to his employees, as the case may be.

(2) If the Commissioner or the designated officer under this Act, has reason to suspect that any person or employer is attempting to evade payment of any tax under this Act, he may, for reasons to be recorded in writing, inspect and search any premises, where any profession, trade, calling or employment liable to taxation under this Act is carried on, and may cause production, examination and seizure of books of account, register(s) or document(s) as may be necessary :

Provided that, the designated officer may seize and retain in his custody, for such period as he thinks fit, any books of account or other documents as mentioned above for a period upto sixty days without obtaining the approval of the Commissioner.

(3) The occupant of the place of work or premises searched or any person on his behalf shall, in every instance, be permitted to be present during the search. The receipt with respect to seizure of books of account, register(s) or documents(s) referred to in sub-section (2) shall be countersigned by the occupant or any person witnessing the search and seizure.

Refund of excess payment.

18. The designated officer shall refund to a person the amount of tax, penalty, interest or fee, if any, paid by such person in excess of the amount due from him under this Act. The refund may be credited either electronically to any of the bank accounts of the applicant mentioned in his application for registration or enrolment and as specified in the application for refund, or at the option of the person entitled to such refund, by way of refund adjustment order to be adjusted against any liability on account of tax, penalty or interest likely to arise in future :

Provided that the designated officer shall first apply such excess towards the recovery of any amount due from such person under this Act, and shall then refund the balance amount, if any.

Penalties.

19. (1) Where an employer or a person liable for registration or enrolment has without reasonable cause failed to apply for such certificate within the required time, the designated officer may, after giving him a reasonable opportunity of being heard, impose a penalty amounting to rupees fifty only for each day of delay.

(2) Where an employer or a person liable to registration or enrolment has deliberately given false information in any application submitted under this Act, the designated officer may, after giving him a reasonable opportunity of being heard, impose upon him a penalty amounting to rupees five thousand only.

(3) Where a registered employer or an enrolled person has without reasonable cause failed to file return under this Act within the requisite time, the designated officer may, after giving him a reasonable opportunity of being heard, impose upon him a penalty of rupees fifty only for each day of delay.

(4) If a registered employer or an enrolled person fails without reasonable cause, to make payment of any amount of tax within the required time or date as specified in the notice of demand, the designated officer may, after giving him a reasonable opportunity of being heard, impose upon him a penalty equal to fifty per cent of the amount of tax due.

(5) Where a registered employer or an enrolled person wilfully fails to maintain the books of account or other documents as directed under sub-section (1) of section 16, the Commissioner or designated officer may, after giving him a reasonable opportunity of being heard, impose a penalty amounting to rupees fifty only for each day of delay.

(6) If any registered employer or an enrolled person, without sufficient cause, fails to comply with any of the provisions of this Act, or the rules framed there under, he shall be liable to pay in addition to the tax and interest due, a sum not exceeding rupees five thousand only and when the offence is a continuing one, with a penalty amounting to rupees fifty only per day during the period of the continuance of the offence :

Provided that no penalty under this section shall be imposed without affording a reasonable opportunity of being heard to the assessee.

20. (1) Where an offence under this Act has been committed by a company, every person who at the time when the offence was committed was in charge of, and was responsible for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and penalized accordingly.

Offences by
companies.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act, has been committed by a company and it is proved that the offence has been committed with consent or connivance of, or is attributable to any neglect on the part of any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall be

deemed to be guilty of that offence and shall be liable to be proceeded ~~against~~ and penalized accordingly.

Explanation.—For the purposes of this section,—

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
- (b) “Director”, in relations to a firm, means a partner in the firm.

Power to enforce attendance.

21. All authorities under this Act, shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of enforcing the attendance of, and examining, any person on oath or affirmation or for compelling the production of any document.

Bar on proceedings.

22. (1) No court shall entertain any suit or other proceedings to set aside or modify, or question the validity of any assessment, order or decision made or passed by any officer or authority under this Act, or the rules made thereunder or in respect of any other matter falling within its or his scope.

(2) No suit, prosecution, or other legal proceedings shall lie against any authority under this Act, or against any employer for anything done or intended to be done in good faith under this Act or the rules made thereunder.

Power to make rules.

23. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) The rules made under this Act, may be made either with prospective effect or with retrospective effect :

Provided that the rules shall be made under this Act with retrospective effect only if the same are required to be made in public interest.

(3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before the House of the State Legislature, while it is in session, for a total period of ten days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rules, or the House agrees, that the rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

24. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty :

Power to remove difficulties.

Provided that no such order shall be issued after three years from the date on which this Act comes into force.

SCHEDULE
(See section 4)

Serial No.	Class of persons	Rate
1	All such persons who are assessable under the Head Income from Salaries and/or Wages as per the Income Tax Act, 1961.	Rs. 200 per month
2	All such persons who are assessable under the Head Income from Business and/or Profession as per the Income Tax Act, 1961.	Rs. 200 per month

CHANDIGARH :
The 10th April, 2018.

SHASHI LAKHANPAL MISHRA,
Secretary.