

**THE ASSAM AGRICULTURAL
INCOME-TAX ACT, 1939
(Assam Act IX of 1939)**

**An
Act**

to provide for the imposition of a tax on agricultural income

WHEREAS it is expedient to impose a tax on agricultural income arising from lands situated in the State of Assam:

It is hereby enacted as follows: -

CHAPTER I

Preliminary

1. Short title. (1) This Act may be called the Assam Agricultural Income-tax Act, 1939.

(2) It shall take effect from the 1st of April 1939.

Historical Backgrounds:

In the India's first Income Tax Act of 1860, agricultural income was made taxable like any other source of income and no distinction was made between agricultural and non-agricultural income for taxation purpose.

In 1886, when a regular Income Tax Act was passed agricultural income was exempted from Income tax.

The Government of India Act of 1935, provided for the distribution of legislative powers between the federal legislature and the provincial legislature and by enumerating the tax on agricultural income in the provincial list under entry 41 of the Seventh Schedule, it was made a State subject.

The Constitution of India retained the same provision in entry 46 of List II - State List, in its Seventh Schedule.

Enacted in the year of 1939, the Assam Agricultural Income-tax Act has undergone several amendments from time to time.

Extents: -

This Act covers agricultural incomes arising from lands situated in the State of Assam.

2. Definitions. - In this Act, unless there is anything repugnant in the subject or context -

- (a) "Agricultural income" means -
- (1) Any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land revenue in Assam or subject to a local rate assessed and collected by officers of the Government as such;
 - (2) Any income derived from such land by –
 - (i) agriculture, or
 - (ii) the performance by a cultivator or receiver of rent in kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or
 - (iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (ii);

Explanation. - Agricultural income derived from such land by the cultivation of tea means that portion of the income derived from the cultivation, manufacture and sale of tea as is defined to be agricultural income for the purposes of the enactments relating to the Indian Income-tax;

- (b) "Agricultural Income-tax" means the tax payable under this Act;
- (bb) "Inspector of Taxes or Agricultural Income-tax Inspector" means person appointed to be an Inspector of Taxes or Agricultural Income-tax Inspector under sub-section (2) of section 18;
- (c) "Senior Superintendent of Taxes", "Superintendent of Taxes" or "Agricultural Income-tax Officer" means a person appointed to be a Superintendent of Taxes or Agricultural Income-tax Officer under sub-section(2) of section 18;
- (d) (1) Save as otherwise provided in this section, 'previous year' for the purpose of this Act means the financial year immediately preceding assessment year:

Provided that in the case of agricultural income derived from a source newly coming into existence in the said financial year, the previous year

shall be the period beginning with the date on which the source of income newly comes into existence and ending in the same financial year.

(2) "Previous Year" in relation to the assessment year commencing on the first day of April, 1989, means the period which begins with the date immediately following the last day of the previous year relevant to the assessment year commencing on the first day of April, 1988 and as on the 31st day of March, 1989:

Provided that where the assessee has adopted more than one period as the "Previous Year" in relation to the assessment year commencing on the 1st day of April, 1988 for different sources of his income, the "previous year" in relation to the assessment year commencing on the 1st day of April 1989 shall be reckoned separately in the manner aforesaid in respect of each such source of income, and the longer or the longest of the periods so reckoned shall be the previous year for the said assessment year.

(3) Where the previous year in relation to the assessment year commencing on the 1st day of April, 1989 referred to in sub-clause (2) above exceeds a period of 12 months, hereinafter referred to as the "transitional previous year", the provisions of this Act shall apply subject to the modifications specified in sub-clause (4) and (5) of this clause.

(4) Where the assessee's agricultural income for a period of thirteen months or more is included in his total agricultural income for the transitional previous year the allowance in respect of depreciation admissible under the provisions of this Act shall be increased by multiplying it by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is twelve.

(5) The tax chargeable on the total agricultural income of the transitional previous year shall be calculated at the average rate on the amount obtained by multiplying such total agricultural income by a fraction of which the numerator is twelve and the denominator is the number of months in the transitional previous year as if the resultant amount were the total agricultural income.

(6) The State Government may if it considers it desirable or expedient so to do for avoiding genuine hardship, by general or special order, grant appropriate relief in any case or class of cases where the transitional previous year is longer than twelve months;

(e) "Assessee" means a person by whom agricultural income-tax is payable;

(f) "Deputy Commissioner of Taxes" means a person appointed to be a Deputy Commissioner of Taxes under sub-section (2) of section 18;

(ff) "Deputy Commissioner of Taxes (Appeals)" means a person appointed to be a Deputy Commissioner of Taxes (Appeals), under sub-section (2) of section 18;

(g) "Board" means the Assam Board of Revenue constituted under section 3 of the Assam Board of Revenue Act, 1959 (Assam Act VIII of 1960) or under any statutory modification or re-enactment thereof;

(h) "Commissioner" means a person appointed to be a Commissioner of Taxes under sub-section (2) of section 18;

(i) "Company" means a company as defined in the Indian Companies Act, 1956, or formed in pursuance of an Act of Parliament of the United Kingdom or of Royal Charter, or Letters Patent, or of an Act of the Legislature of a British possession, and includes any foreign association carrying on business in India whether incorporated or not, and whether its principal place of business is situated in India or not, which the Commissioner may, by general or special order, declare to be Company for the purposes of this Act;

(j) "assessment year" means and shall be deemed always to have meant the period of twelve months commencing on the 1st day of April every year;

(k) "firm", "Partner" and "Partnership" have the same meanings respectively as in the Indian Partnership Act, 1932 (Act IX of 1932), provided that the expression "Partner" includes any person who being a minor has been admitted to the benefit of Partnership;

(l) "landlord" has the same meaning as in the Assam (Temporarily Settled Districts) Tenancy Act, 1935 (Assam Act III of 1935); Sylhet Tenancy Act, 1936 (Assam Act IX of 1936); Goalpara Tenancy Act, 1929 (Assam Act I of 1929);

(m) "Person" includes –

(i) An individual,

(ii) A Hindu undivided family,

(iii) a company,

(iv) a firm,

(v) an association of persons or body of individuals, whether incorporated or not,

- (vi) a local authority, and
- (vii) every artificial juridical person, not falling within any of the preceding sub-clauses;
- (n) "Prescribed" means prescribed by Rules made under this Act;
- (o) "Principal Officer" used with reference to any company or association means: -
 - (i) The secretary, treasurer, manager or agent of the company or association, or
 - (ii) Any person connected with the company or association upon whom the Superintendent of Taxes or Agricultural Income-tax Officer has served a notice of his intention of treating him as principal officer thereof;
- (oa) "Schedule" means the schedule to this Act; and
- (p) "Total agricultural income" means the aggregate of amounts of agricultural income referred to in clause (a) of section 2 and determined in the manner laid down in or under this Act.