

THE ASSAM TAXATION (ON SPECIFIED LANDS) RULES, 1990

Published in the Assam Gazette, Extraordinary No. 182 dated 27th October, 1990

Short title and commencement

1. (1) These rules may be called the Assam Taxation (On Specified Lands) Rules, 1990.
- (2) They shall come into force on the date of their publication in the Official Gazette.

Definitions

2. (1) In these rules, unless the context otherwise requires :—

- (a) "Act" means the Assam Taxation (On specified lands) Act, 1990;
- (b) "Appellate Deputy Commissioner", in relation to owner or person means an Deputy Commissioner of Taxes (Appeals) referred to in rule 3 and exercising jurisdiction over such owner or person;

Amendments : The clause (b) in sub-rule (1) of rule 2 has been substituted w.e.f. 30-6-1995 vide Govt. Notification No. FIX. 206/ 93/20 dated 23-5-1995, published in the Assam Gazette of 30th June 1995, consequent upon change in the designation of Assistant Commissioner to Deputy Commissioner.

- (c) "Additional Commissioner", in relation to any owner or person, means an Additional Commissioner of Tax referred to in rule 3 and exercising jurisdiction over such owner or person;

Amendments : The clause (c) in sub-rule (1) of rule 2 has been substituted w.e.f. 30-6-1995 vide Govt. Notification No. FTX. 206/ 93/20 dated 23-5-1995, published in the Assam Gazette, of 30th June 1995. Prior to the substitution the words 'Assistant Commissioner' appeared in place of 'Additional Commissioner'.

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

- (e) "Deputy Commissioner", in relation to any owner or person, means a Deputy Commissioner of Taxes referred to in rule 3 and exercising jurisdiction over such owner or person;

- (ee) "Designated Bank" means any Scheduled Bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934, designated by the State Government by notification in the Official Gazette, for the purposes of Rule 5.

Amendments : In sub-rule (1) of rule 2, the clause (ee) has been inserted w.e.f. 19-3-1998 vide Govt. Notification No. FTX. 206/93/ 49 dated 18-3-1998, published in the Assam Gazette of 19th March, 1998.

- (f) "Form" means a form appended to these rules;
- (g) "Inspector", in relation to any owner or person, means an Inspector of Taxes referred to in rule 3 and exercising jurisdiction over such owner or person;

- (h) "Joint Commissioner, in relation to any owner or person, means a joint Commissioner of Taxes referred to in rule 3 and exercising Jurisdiction over such owner or person;
- (i) "Section" means a section of the Assam Taxation (On Specified Lands) Act, 1990;
- (j) "Superintendent" in relation to any owner or person, means a Senior Superintendent of Taxes or a Superintendent of Taxes referred to in rule 3 and exercising jurisdiction over such owner or person;

Amendments : The clause (j) in sub-rule (1) of rule 2 has been substituted w.e.f. 30-6-1995 vide Govt. Notification No. FTX 206 93/20 dated 23-5-1995, published in the Assam Gazette, of 30th June 1995. Prior to substitution, the words "Senior Superintendent of Taxes" were not there.

- (k) "Year" shall mean a year reckoned according to the Official Calendar year for the purpose of this Act :

Amendments : The clause (k) in sub-rule (1) of rule 2 has been inserted w.e.f. 30-6-1995 vide Govt. Notification No. FTX. 206/93/ 20 dated 23-5-1995, published in the Assam Gazette of 30th June 1995.

- (2) All other words and expressions used but not defined in these rules shall have the same meanings as assigned to them in the Act.

Taxing and other Authorities

3. The State Government may, for carrying out the purposes of this Act, appoint the following classes of authorities to assist the Commissioner :-

- (i) Additional Commissioner of Taxes ;
- (ii) Joint Commissioner of Taxes ;
- (iii) Deputy Commissioner of Taxes ;
- (iv) Deputy Commissioner of Taxes (Appeals) ;
- (v) Senior Superintendents of Taxes ;
- (vi) Superintendents of Taxes ;
- (vii) All-Assam Investigation Officers ;
- (viii) Inspectors of Taxes ;
- (ix) Any other persons appointed as such by the State Government.

Amendments : Rule 3 has been substituted w.e.f. 30-6-1995 vide Govt. Notification No. FIX. 206/93/20 dated 23-5-1995, published in the Assam Gazette of 30th June 1995. This amendment has been made to redesignate the taxing authorities.

Payment of advance tax

4. (1) The tax due in respect of any specified land for any year shall be paid by the owner thereof in advance during the year in accordance with sub-rules (2) to (10).

- (2) The amount of advance tax payable by an owner in any year shall be computed as follows:
 - (a) where the calculation is made by the owner for the purpose of payment of advance tax under sub-rule (3) or sub-rule (4) or sub-rule (7) or sub-rule (8), he shall first estimate the annual productivity of all specified lands owned or held by him in the year such annual productivity being hereinafter in these rules referred to as current productivity, and tax thereon shall be calculated at the rate or rates specified in the Act.
 - (b) where the calculation is made by the Superintendent for the propose of making an order under sub-rule (5), the total annual productivity of the latest year in respect of which the owner has been assessed under section 9 or the total annual productivity returned by the owner in any return furnished by him for any subsequent year, whichever is higher, shall be taken and tax thereon shall be calculated at the rate or rates specified in the Act.
 - (c) where the calculation is made by the Superintendent for the purpose of making an amended order under sub-rule (6), the total annual productivity declared in the return furnished by the owner for the later year or, as the case may be the total annual productivity in respect of which assessment under section 9 has been made shall be taken and tax thereon shall be calculated at the rate or rates specified in the Act.
- (3) Every owner shall, of his own accord, pay on or before each of the due dates specified in sub-rule (9) the appropriate percentage, specified in that sub-rule of the advance tax on his current productivity calculated in the manner laid down in sub-rule (2).
- (4) An owner who pays any installment or installments of advance tax under sub-rule (3) may increase or reduce the amount of advance tax payable in the remaining installment or installments to accord with his estimate of current productivity -and the advance tax payable thereon, and make payment of the said amount in the remaining installment or installments accordingly.
- (5) In case of an owner who has been already assessed under section 9 in respect of any previous year and who has not paid any advance tax under sub-rule (3), the Superintendent, if he is of the opinion that such owner is liable to pay advance tax, may at any time during the year but not later than November by order in writing, require such person to pay advance tax calculated in the manner laid down in sub-rule (2), and issue to such person a notice of demand under rule 6 specifying the installment or installments in which such tax is to be paid.
- (6) If, after the making of an order by the Superintendent under sub-rule (5) and at any time before the 1st day of December a return under section 8 is furnished by the owner or an assessment of the owner is made under section 9 in respect of any previous year later than that referred to in sub-rule (5), the Superintendent may make an amended order

and issue to such owner a notice of demand under rule 6 requiring the owner to pay on or before the due date or each of the due dates specified in sub-rule (9), falling after the date of the amended order the appropriate percentage, specified in sub-rule (9), of the advance tax computed on the basis of the total productivity declared in such return or in respect of which the assessment aforesaid has been made.

- (7) An owner who is served with an order under sub-rule (5) or an amended order under sub-rule (6) may if in his estimation the advance tax payable on his current productivity would be less than the amount of the advance tax specified in such order or amended order, send an intimation in Form-1 to the Superintendent to that effect and pay such advance tax as accords with his estimate calculated in the manner laid down in sub-rule (2), at the appropriate percentage thereof specified in sub-rule (9), on or before the due date or each of the due dates specified in sub-rule (9), falling after the date of such intimation.
- (8) An owner who is served with an order under sub-rule (5) or an amended order under sub-rule (6) shall, if in his estimation the advance tax payable on his current productivity would exceed the amount of advance tax specified in the order or amended order or intimated by him under sub-rule (7) pay on or before the due date of the last installment specified in sub-rule (9), the appropriate part or, as the case may be, the whole of such higher amount of advance tax as accords with his estimate calculated in the manner laid down in sub-rule (2).
- (9) Advance tax on the current productivity calculated in the manner laid down sub-rule (2) shall be payable by all owners in three installments during each year, the due date of, and the amount payable in, each such installment being as specified in the following Table

:

Due date of installment 1990	Due date of installment thereafter	Amount payable
On or before the 15 th November	On or before the 15 th June	Not less than twenty per cent of such advance tax
On or before the 30 th November	On or before the 15 th September	Not less than fifty per cent of such advance tax, as reduced by the amount, if any, paid in the earlier installment
On or before the 15 th December	On or before the 15 th December	The whole amount of such advance tax as reduced by the amount or amounts if any, paid in the earlier installment or installments

Provided that any amount paid by way of advance tax on or before the 31st day of December shall also be treated as advance tax paid during the year ending on that day for all the purposes of the Act.

- (10) If the notice of demand issued under rule 6 in pursuance of an order under sub-rule (5) or sub-rule (6) is served after any of the dates specified in sub-rule (9), the appropriate part or, as the case may be, the whole of the amount of advance tax specified in such notice, shall be payable on or before each of such of those dates as fall after the date of service of the notice of demand.
- 11) Where an owner of any specified land is succeeded in an year by another person as specified in sub-rule (1) of rule 18 the predecessor and the successor shall each be liable to pay advance tax as laid down in this rule on the basis of the current productivity in respect of which each may be assessed under sub-rule (4) of rule 18 and the provisions of this rule shall, with necessary change, apply accordingly to the predecessor and the successor.

Manner of payment

5. (1) Advance tax shall be payable as laid down in rule 4.
- (2) Before filing a return under rule 8, every owner shall pay the amount of tax due in accordance with such return.
- (3) All other dues under the Act shall be paid by the owner or the person concerned by such date as may be specified in the notice of demand and, where no date is specified, the same shall be paid within thirty days from the date of service of the notice.
- (4) All dues under the Act shall be paid by challans direct into a Designated Bank.
- (5) Challans for making payment of dues shall be Form - 2
- (6) Challans shall be filled in quadruplicate. Two copies of the challan i.e. the original and the duplicate copies duly signed as proof of payment shall be returned to the owner and the other two copies i.e. the triplicate and the quadruplicate copies shall be retained by the Designated Bank.
- (7) the quadruplicate copy retained by the designated Bank shall be transmitted to the Assessing Authority on the day following the date of payment.
- (8) Every such designated Bank shall send a scroll alongwith the triplicate copies of challans to the concerned Treasury Officer on the 5th of every month showing therein the amount received in the previous month. The scroll shall contain the challan numbers and dates, the names of the owners and the amount paid by each. The Treasury Officer, on receipt of the scroll from the designated Bank, shall forthwith send an advice List to the Assessing Authority of the area showing the same details as given in the scroll.

Amendments : Sub-rules (4), (5), (6), (7) & (8) of rule 5 has been substituted in its present form, w.e.f. 19-3-1998 vide Govt. Notification No. FIX. 206/93/49 dated 18-3-1998 published in the Assam Gazette of 19th March, 1998.

Prior to substitution, sub-rules (4), (5), (6), (7) & (8) originally appeared as under:

- "(4) Unless otherwise specified, all dues under the Act shall be paid into the Government Treasury by Challan.*
- (5) Challans for making payment shall be in Form 2 and shall be obtainable at any Government Treasury or at the office of the Superintendent*
- (6) Challans shall be filled in quadruplicate. Two copies duly signed as proof of payment shall be returned to the owner and the other two retained by the Treasury or Sub-Treasury.*
- (7) One of the copies retained by the Treasury or Sub-Treasury shall be transmitted to the Superintendent On the day following the day of payment.*
- (8) Every Treasury and Sub-Treasury Officer shall send an advice list to the Superintendent of the area on the 5th of every month showing the amounts received in the previous month. The advice list shall contain the challan number and date, the name of the owner and the amount paid."*

Manner of deduction of tax at source and deposit thereof:

5A. (1) Every person who is required to deduct tax under section 6A shall within ten days from the expiry of a quarter, deposit into a Designated Bank by Challan in Form 2 the total amount of tax so deductible from any payment made in respect of purchase of the green tea leaves during the quarter.

(2) A challan for each deposit in respect of a quarter shall be filled up in quadruplicate and signed by the person making such deposit.

(3) The challan shall specify the name, address and tax deduction number of the person making deposit of the amount referred to in sub-rule (1) and also mention therein in clear the name(s) and address (es) of the owner (s) of the specified land(s) on whose behalf the tax is paid, irrespective of the fact whether the green tea leaf was directly purchased from the owner(s) of specified land(s) or from any other person.

(4) The person who deposits any amount deducted from any payment made in respect of purchase of green tea leaves under sub-rule (1) shall, within seven days from the date of deposit of the amount, issue in favour of the owner(s) of the specified land(s) concerned, a certificate of tax deduction in **Form 2A** in duplicate in respect of such deduction and deposit, together with photocopy of the challan. The owner of the specified land shall furnish one copy of the certificate and of the challan to the Superintendent for adjustment of such deposit against his tax liability under the Act.

(5) In case of person who is required to deduct tax under section 6A, purchase green tea leaves from a seller other than owner(s) of specified land(s), he shall collect from such seller, the name(s) and address(s) of owner(s) of specified land(s) and quantity of green tea leaves received from such owner(s) and the seller shall furnish the details as specified above. The amount of tax deposit shall be deemed to have been the payment made on behalf of the owner(s) of the specified land(s).

Amendment: *In the principal Rules, after rule 5, a new rule 5A has been inserted vide notification no.FTX.21/2009/24 Dated 7th July, 2009 published in the Assam Gazette Extraordinary No.195 Dated 7th July, 2009.*

Notice of demand

6. Notice of demand issued in pursuance of sub-rule (5) or sub-rule (6) of rule 4 shall be in Form 3 and shall specify, among other things, the number of installments in which and the dates by which the advance tax shall be paid. In any other case, when any tax or penalty or other due is payable in consequence of any order passed under the Act or in pursuance of any rule, the Officer passing the order shall serve upon the person liable to pay the sum a notice of demand in Form 3 A specifying the sum payable and the period within which it is to be paid.

Registration

7. (1) Every owner shall make an application for registration to the Superintendent in Form 4.
- (2) The application under sub-rule (1) shall be made -
 - (a) on the commencement of the Act, within thirty days from the commencement of these rules, and
 - (b) thereafter within thirty days from the date on which the owner becomes liable to pay advance tax under rule 4.
- (3) Every application for registration shall be accompanied by a Court fee Stamp of twenty-five rupees.
- (4) An application for registration shall be signed and verified in the case of -
 - (a) individuals - by the proprietor of the business;
 - (b) an association of persons - by an adult member or the principal officer;
 - (c) a firm - by the managing partner or an adult partner of the firm;
 - (d) a Hindu undivided or joint family - by the manager or karta or any adult member of the family;
 - (e) a company - by the managing director or any director of the company, or Secretary, Manager or a Principal Officer or Chief Executive Officer of the Company in India;
 - (f) any Government Department or local authority - by the head of the office.
- (5) The person making an application for registration shall specify the capacity in which the application is made, signed and verified.
- (6) On receipt of an application under sub-rule (1), the Superintendent, if he is satisfied after such enquiry as may be deemed necessary that the application is in order, register the applicant and grant him a certificate of registration in Form 5.
- (7) The Superintendent may in addition to taking any other action under the provisions of the Act, require any owner, who has not made an application in this behalf, to apply for registration and register him. The Superintendent shall register an owner who fails to apply for registration within a specified time

- (8) The Superintendent may for good and sufficient reasons to be recorded in writing on petition or otherwise, cancel or amend from time to time any certificate of registration.
- (9) Each certificate shall bear a number and distinctive registration mark. The distinctive registration mark to be entered on a certificate shall be such as may be assigned by the Commissioner for each local area.
- (10) A certificate shall be issued for each place of business and it shall be kept at the place of business to which it relates.
- (11) Any owner may, on application accompanied by a fee of rupees twenty-five payable in Court Fee Stamp obtain a duplicate copy of any certificate which has been issued to him and which may have been lost, destroyed or defaced.
- (12) Where an owner applies for cancellation or amendment of his certificate of registration, he shall submit the certificate with his application to the Superintendent.

Tax Deduction Number

7A. Every person responsible for making deduction of tax under Section 6A shall apply to the Superintendent for allotment of Tax Deduction Number in **Form 5A** within thirty days time from the date of commencement of these rules, if he was so responsible on such date or within fifteen days from the date of entering into first contract relating to purchase of green tea leaf if he becomes responsible for such deduction after the date of commencement of these rules. A Tax Deduction Certificate shall be issued in **Form 5B**.

Amendment: *In the Principal Rules, after rule 7, a new rule 7A has been inserted vide notification no.FTX.21/2009/24 Dated 7th July, 2009 published in the Assam Gazette Extraordinary No.195 Dated 7th July, 2009.*

Returns

- 8.** (1) The return under section 8 shall be in Form 6 and shall be filed with the Superintendent.
- (2) A return under sub-rule (1) shall be filed in respect of every year within sixty days of the end of the year to which it relates.
- (3) If any owner fails to file the return in respect of any year within the period specified in sub-rule (2) Superintendent may serve on the owner within six months from the end of the year, a notice requiring the owner to file a return showing the amount of tax payable by him for that year and such owner shall thereupon file the return within the period and with the authority specified in the notice.
- (4) If any owner discovers any omission or other error in any return filed by him under this rule, he may file a revised return at any time before assessment is made on the original return.

- (5) A return filed voluntarily by an owner in respect of any year at any time before assessment but not later than eight years from the end of the year to which it relates shall be deemed to be a return under this rule and the provisions of the Act and these rules shall accordingly apply to such return.
- (6) Every return shall be accompanied by evidence of payment of tax due in accordance with the return.
- (7) Every return shall be signed and verified as if it were an application for registration under rule 7.
- (8) Every person responsible for deduction of tax shall file a return for each quarter in **Form 6A** and a copy of challan as proof of deposit of tax within twenty one days from the date of expiry of each quarter and shall also furnish a consolidated annual return in the same form to the Superintendent within two months from the end of year to which it relates.
- (9) Every persons responsible or issuing certificate of tax deduction shall maintain for each year a separate account in **Form 6B** showing the amount of tax deducted, certificate of tax deduction issued, and the particulars of remittances made to the Government Account.

Amendment: *After sub-rule (7) , the new sub-rules (8) and (9) has been inserted vide notification no.FTX.21/2009/24 Dated 7th July, 2009 published in the Assam Gazette Extraordinary No.195 Dated 7th July, 2009.*

Assessment

- 9.** (1) At the close of a year or the closure of the business during that year, if the Superintendent is satisfied that the return filed by an owner under rule 8 in respect of that year is correct and complete, he shall, by an order in writing, assess the owner and determine the tax payable by him on the basis of such return.
- (2) If the Superintendent is not satisfied that a return filed under rule 8 is correct and complete, he shall serve on the owner a notice requiring him on the date, and at the hour and place specified therein, either to attend in person or to produce or cause to be produced any evidence on which he may rely in support of his return.
 - (3) On the day specified in the notice under sub-rule (2) or as soon afterwards as may be, the Superintendent, after hearing such evidence as the owner may produce and such other evidences as, the Superintendent, may require, shall, by an order in writing, assess the owner and determine the tax payable by him on such assessment.
 - (4) If an owner fails to make a return as required by rule 8 or, having made the return fails to comply with all the terms of the notice issued under sub-rule (2), the Superintendent, shall, by an order in writing assess to the best of his judgment the owner, and determine the tax payable by him on the basis of such assessment :

Provided that before making such assessment the Superintendent may allow the owner such further time as he thinks fit to make the return or to comply with the terms the notice issued under sub-rule (2).

Cancellation of assessment

10. Where an owner, in the case of an assessment completed under sub-rule (4) of rule 9, satisfies the Superintendent within one month from the date of issue of a notice of demand as herein provided that he is prevented by sufficient cause from making the return required under rule 8, or that he did not receive the notice issued under sub-rule of rule 8 or that he had no reasonable opportunity to comply or was by sufficient cause from complying with the terms of the notice the Superintendent shall cancel the assessment and make a fresh assessment in accordance with the provisions of rule 9.

Assessment of escaped tax

11. If for any reason any specified land chargeable to tax has not been assessed for any year or has escaped assessment or has been under-assessed or assessed at a lower rate, the Superintendent may, at any within eight years of the end of the aforesaid year, serve on the owner liable to pay the tax in respect of such land a notice containing all or any of the requirements which may be included in a notice under sub-rule (3) of rule 8 or sub-rule (2) of rule 9 and may proceed to assess or reassess the owner in respect of such year and the provisions of the Act and these rules shall apply accordingly as if the notice were a notice served under the aforesaid sub-rule :

Provided that the tax shall be charged at the rate at which it would have been ordinarily chargeable.

Rectification of mistake

12. (1) The authority which made an assessment or passed an order on appeal or revision in respect thereof may, at any time within three years from the date of such assessment or order and of its own motion, rectify any mistake apparent from the record of the case, and shall, within the like period, rectify any such mistake as has been brought to notice by an owner :

Provided that no such rectification shall be made having the effect of enhancing the assessment unless the authority concerned has given notice to the owner of its intention so to do and has allowed him a reasonable opportunity of being heard :

Provided further that where a rectification is sought to be made after notice as aforesaid, the notice shall be served on the owner within a period of three years from the date of the assessment or order and the rectification may be made within a period of one year from the date of service of the notice.

(2) Where any such rectification has the effect of reducing the assessment, a refund shall be due to the owner.

- (3) Where any such rectification has the effect of enhancing the assessment, a notice of demand shall be issued for the sum payable.

Tax of deceased payable by representative

13. (1) Where an owner dies after assessment but before payment of the tax, his executor, administrator or other legal representative shall be liable to pay, out of the estate of the deceased to the extent to which it is capable of meeting the charge, the tax assessed as payable by such owner.

- (2) Where an owner dies without having furnished the return required under section 8, or after having furnished that return but before assessment, the Superintendent may proceed to make an assessment and determine the tax payable by the deceased; and for this purpose he may require the executor, administrator or other legal representative, as the case may be, of the deceased to perform all or any of the obligation which he might, under the provisions of the Act, have required the deceased to perform. The tax thus determined shall be payable by the executor, administrator or other legal representative of the deceased, to the extent to which the estate of the deceased is capable of meeting the charge.

Liability of guardian and trustees, etc.

14. Where the land in respect of which tax is payable under the Act is held by or is in charge of, any guardian, trustee or agent of a minor or other incapacitated person on behalf of, and for the benefit of, such minor or other incapacitated person the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be in like manner and to the same extent as it would be leviable upon and recoverable from any such minor or other incapacitated person, if he of full age and sound mind and if he were himself holding, or in charge of, such land and all the provisions of the Act and these rules shall apply accordingly.

Liability of Courts of Wards etc.

15. Where the estate or any portion thereof of an owner of specified land in respect of which tax is payable under the Act is under the control of the Court of Wards, the Administrator General, the Official Trustee or any Receiver or Manager (including any person, whatever his designation, who in fact holds or is in charge of such land) appointed by, or under any order of a Court, the tax shall be levied upon and recoverable from such Court of Wards, Administrator General, Official Trustee, Receiver or Manager in like manner and to the same extent as it would be leviable upon and recoverable from the owner if he were himself holding or in charge of such land; and all the provisions of the Act and these rules shall apply accordingly.

Liability of agent of non-residents

16. (1) Where any land in respect of which tax is payable under the Act is owned by a person not resident in the State or by a person though ordinarily resident, temporarily absent therefrom the tax may be levied upon and recoverable from the non-resident or the agent of such non-resident person in like manner and to the same extent as it would be leviable upon and recoverable from the owner

if he were resident in the State and himself holding or in charge of such land; and all the provisions of the Act and these rules shall apply accordingly :

Provided that any such agent or any person who has reason to believe that he may be assessed as such an agent, may retain out of any money payable by him to such non-resident person a sum equal to his estimated liability under this rule and in the event of any disagreement between the non-resident person and such agent or person as to the amount to be so retained such agent or person may secure from the Superintendent certificate stating the amount to be so retained pending final settlement of the liability and the certificate so obtained shall be his warrant for retaining that amount.

- (2) Any person employed by or working on behalf of a person residing out of the State or temporarily absent therefrom or through whom such person is in receipt of any income arising from any specified land, upon whom the Superintendent has caused a notice to be served of his intention to treat him the agent of the non-resident person, shall, for all the purposes of the Act and these rules, be deemed to be such agent :

Provided that no person shall be deemed to be the agent of a non-resident person unless he has had an opportunity of being heard by the Superintendent as to his liability and in no case shall the liability of such agent extend beyond the assets of the non-resident assessee, in his actual possession.

Liability in case of discontinued firm or association

17. Where any land in respect of which tax is payable under the Act is owned by a firm or an association of persons, other than a company as defined in the Companies Act, 1956 (Act 1 of 1956), and the firm or the association of persons is dissolved, the tax due in respect of such land up to the date of dissolution shall be levied upon and recovered from, jointly and severally, every person who, at the time of such dissolution, was partner of such firm or member of such association; and all the provision of the Act and these rules shall apply accordingly.

Assessment in case of transfer of property

18. (1) Where an owner of any specified land (hereinafter in this rule referred to as the predecessor) has been succeeded in any year by another person (hereinafter in this rule referred to as the successor) who continues to hold or use such land for growing tea or, as the case may be, obtaining or extracting coal -

- (a) the predecessor shall be assessed in respect of such land for that year up to the date of succession;
 - (b) the successor shall be assessed in respect of such land for that year after the date of succession.
- (2) Notwithstanding anything contained in sub-rule (1), when the predecessor cannot be found the assessment of tax for the entire year in which the succession takes place shall be made on the successor in like manner and to the same extent as it would have been on

the predecessor, and all the provisions of the Act and these rules shall, so far as may be, apply accordingly.

(3) Where any sum payable under this rule, on account of the tax due for the year in which the succession took place, up to the date of succession assessed on the predecessor, cannot be recovered from him, the Superintendent shall, after making such enquiries as he may deem fit, record a finding to that effect and the sum payable by the predecessor shall thereafter be payable by and recoverable from the successor, and successor shall be entitled to recover from the predecessor any sum so paid :

Provided that the successor shall not be made so liable to pay any sum without giving him an opportunity of being heard.

(4) Where an assessment is made in pursuance of sub-rule (1) the annual productivity of the specified land involved in the transfer for the year in which the transfer takes place and in respect of which the predecessor and the successor may be assessed shall be determined for the purposes of section 4 as specified below :

(i) The annual productivity on which the predecessor be assessed shall be -

- (a) in case of a tea estate, the quantity in Kilogrammes _ of green tea leaves produced in such tea estate; during the year up to the date of succession; and
- (b) in case of a coal mine, the quantity in metric tones of coal extracted or obtained from such coal mine during the year up to the date of succession; and
- (c) in case of a crude oil bearing land, the quantity in metric tones of crude oil extracted or obtained from such land during the year upto the date of succession; and
- (d) in case of a natural gas bearing land, the quantity in metric tones of limestone extracted or obtained from such land during the year upto the date of succession; and
- (e) in case of a lime stone bearing land, the quantity in metric tones of limestone extracted or obtained from such land during the year upto the date of succession; and

Amendment: *Sub-clauses (c), (d) and (e) has been inserted The new sub-clauses (c), (d) and (e) has been inserted vide notification no. FTX.53/2006/64 Dated 29th May, 2008 published in Assam Gazette Extraordinary No. 169 Dated 2nd June, 2008 and republished vide notification no.FTX.53/2006/66 Dated 9th September,, 2008 published in the Assam Gazette Extraordinary No.272 Dated 9^h September, 2008.*

(ii) The annual productivity on which the successor may be assessed shall be -

- (a) in case of a tea estate, the quantity in Kilogrammes of green tea leave produced in such tea estate during the year after the date of succession ; and
- (b) in case of a coal mine, the quantity in metric tonnes of coal extracted or obtained from such coal mine during the year after the date of succession.
- (c) in case of a crude oil bearing land, the quantity in metric tones of crude oil extracted or obtained from such land during the year upto the date of succession; and
- (d) in case of a natural gas bearing land, the quantity in metric tones of limestone extracted or obtained from such land during the year upto the date of succession;
- (e) in case of a lime stone bearing land, the quantity in metric tones of limestone extracted or obtained from such land during the year upto the date of succession.

Amendment: *Sub-clauses (c),(d) and (e) has been inserted The new sub-clauses (c), (d) and (e) has been inserted vide notification no. FTX.53/2006/64 Dated 29th May, 2008 published in Assam Gazette Extraordinary No. 169 Dated 2nd June, 2008 and republished vide notification no.FTX.53/2006/66 Dated 9th September., 2008 published in the Assam Gazette Extraordinary No.272 Dated 9^h September, 2008.*

Appeal

19. (1) An appeal against an order of the Superintendent under the Act 3r any rule shall lie to the Appellate Deputy Commissioner :

Provided, however, that in any case or class of cases the Commissioner may, by order in writing, direct that the appeal under these rules shall lie, to such Deputy Commissioner other than the Appellate Deputy Commissioner as may be specified in such order.

Amendments : The words "Deputy Commissioner of Taxes" has been substituted in place of "Assistant Commissioner of Taxes" w.e.f. 30-6-1995 vide Govt. Notification no. FTX. 206/93/20 dated 23-5-1995, published in the Assam Gazette of 30th June 1995.

- (2) Where the appeal is against an order of assessment of tax or penalty, the appellate authority shall not entertain the appeal unless he is satisfied that the amount of tax assessed or penalty levied, if not otherwise directed by him, has been paid.
- (3) An appeal under this rule must be filed within thirty days from the date of service of the order appealed against :

Provided that the appellate authority before whom the appeal is filed may admit it after the expiration of thirty days if such authority is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause it could not be filed within time.

- (4) An appeal against an original order of the Deputy Commissioner shall lie to the Commissioner. The provisions of this rule shall, *mutatis mutandis*, apply to an appeal under this sub-rule.

Amendments : The words "Deputy Commissioner of Taxes" has been substituted in place of "Assistant Commissioner of Taxes" w.e.f. 30-6-1995 vide Govt. Notification No. FTX. 206/93/20 dated 23-5-1995, published in the Assam Gazette of 30th June 1995.

- (5) A memorandum of appeal may be presented to the appellate authority by the appellant or by an agent or it may be sent b\ post.
- (6) The memorandum of appeal shall be in Form 7.
- (7) The memorandum of appeal shall be accompanied by a certified copy of the order appealed against and by a fee of rupees twenty five payable in Court Fee Stamps.
- (8) The memorandum of appeal shall be signed, verified and endorsed by the appellant or his agent to the following effect
- (a) that the tax assessed or penalty levied, if any, has been paid, and
 - (b) that to the best of his knowledge and belief the facts set out in the memorandum are true.
- (9) Where an appellant does not comply with any of the requirement of sub-rule (6), (7) or (8) in presenting the appeal, it may be summarily rejected.
- (10) Where an appeal is not disposed of under sub-rule (9) the appellate authority shall fix a day and place for hearing of the appeal, and may from time to time adjourn the hearing and make, or cause to be made such further enquiry as may be deemed necessary.
- (11) In disposing of an appeal under this rule, the appellate authority may -
- (a) in case of an appeal against an order of assessment tax or penalty, -
 - (i) confirm, reduce, enhance or annul the assessment of tax, or
 - (ii) set aside the assessment and direct fresh assessment after such enquiry as may be ordered, or
 - (iii) confirm, reduce or annul the order of penalty ;
 - (b) in any other case, confirm, set aside or annul the order.

Revision

20. (1) In the case of any order passed under the Act by any officer appointed under section 15 to assist him, the Commissioner may of his own motion, and in the case of an order passed under rule 19, subject to the provisions of this rule, on a petition by an owner for revision, call for the records of any proceeding under the Act in which any such order has been passed and may make such enquiry or cause such enquiry to be made and subject to the provisions of this Act may pass

such order thereon not being an order prejudicial to the owner as he thinks fit:

Provided that the commissioner may dispense with the enquiry to be made under this sub-rule, if he for reasons to be recorded in writing, considers such enquiry to be unnecessary.

- (2) In the case of a petition for revision under sub-rule (1), the petition must be made within ninety days from the date on which the order in question was communicated to the owner or the date on which he otherwise comes to know of it, whichever is earlier:

Provided that the Commissioner may admit the petition after the expiration of the period of ninety days, if he is satisfied that for reasons beyond the control of the petitioner or for any other sufficient cause, it could not be filed within the time.

Explanation :- An order by the Commissioner declining to interfere shall, for the purpose of the rule, be deemed not to be an order prejudicial to the owner.

- (3) The Commissioner shall not revise any order under this rule in the following cases :
 - (a) on petition under sub-rule (1) where an appeal against the order lies under rule 21, and the owner has waived his right of such appeal, or
 - (b) Where the order is pending on appeal under rule 21
- (4) A petition for revision under this rule shall contain following particulars :
 - (a) a statement of the facts of the case,
 - (b) a reference to the particular order in respect of which the revision is applied for,
 - (c) the grounds on which the petition is filed, and
 - (d) the date of the service of the order objected to.
- (5) A petition for revision shall be presented, signed verified and endorsed as in the case of an appeal. It shall be accompanied by a certified copy of the order objected to any by a fee of rupees twenty five payable in Court Fee Stamps.
- (6) A petition for revision may be summarily rejected where the requirements of sub-rule (4) or (5) are not complied with.
- (7) Where a petition under this rule is not disposed of under sub- rule (6), the Commissioner shall dispose of the petition as provided in sub-rule (1).

Appeal to the Board

21. (1) Any owner aggrieved by an order passed in appeal under rule 19 may appeal to the Board within sixty days of the date on which the order is communicated to him.

- (2) The Board may admit an appeal after the expiration of sixty days if it is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause it could not be filed within time.

- (3) An appeal under this rule shall be presented in the manner laid down by the Board and shall be accompanied by a fee of rupees twenty five payable in Court Fee Stamps..
- (4) The Board may, after giving the appellant an opportunity of being heard, pass such order on the appeal as it thinks fit, and shall communicate any such order to the appellant, the Commissioner and the appellate authority against whose order the appeal has been preferred.

Reference

22. (1) The owner or the Commissioner may, within sixty days from the date of service of any order under rule 21, by petition in writing require the Board to refer to the High Court any question of law arising out of such order of the Board or the Board may make such reference out of own its motion. Where a petition is made by an owner, it shall be accompanied by a fee of one hundred rupees.

- (2) Within sixty days of the receipt of the petition under sub-rule (1), the board shall, subject to the provisions in sub-rule (3), draw up, after such hearing and enquiry as may be considered necessary, a statement of the case and refer it with its opinion thereon to the High Court.
- (3) The Board may reject the application under sub-rule (1) and refuse to state the case on the ground that it is time-barred or otherwise incompetent or that no question of law arises and the applicant may, within thirty days of such refusal, withdraw the application and if he does so, the fee paid shall be refunded.

(4) Where the application under sub-rule (1) is rejected on the ground that no question of law arises and where no action is taken by the applicant under sub-rule (3), he may within ninety days from the date of such rejecting apply to the High Court against the order rejecting the application and if, upon receipt of such an application, the High Court is not satisfied with the correctness of the decision, it may require the Board to state the case and refer it and, on receipt on any requisition, the Board shall state and refer the case accordingly.
- (5) Where the application under sub-rule (1) is rejected on the ground that it is time-barred and where no action is taken by the applicant under sub-rule (3), he may, within ninety days of the date of such rejection, apply to the High Court against the order rejecting the application and if, upon receipt of such an application, the High Court is not satisfied with the correctness of the decision, it may require the Board to treat the application under sub-rule (1) as made within time.
- (6) Where the High Court is not satisfied that the statement in a case referred under this rule is sufficient to enable it to determine the questions of law raised thereby it may refer the case back to the Board to make such additions thereto or such alternations therein as may be directed and Board thereupon comply with the directions and re-submit the case accordingly.

- (7) The High Court upon the hearing of any such case decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Board a copy of such judgment under the seal of the Court and signature of the Registrar, and the Board shall, on receipt of the copy of the judgement, order disposal of the case accordingly.
- (8) Where a reference is made on the application on an owner, the costs shall be in the discretion of the High Court.
- (9) Notwithstanding that a reference has been made under this rule to the High Court, payment of tax shall not be stayed pending disposal of such reference; but where the amount of tax is reduced, as a result of the reference, the excess shall be refunded in accordance with the provisions of the Act.
- (10) Section 5 of the Limitation act, 1963 (Act 36 of 1963) shall apply to an application to the High Court under this rule.
- (11) A petition for reference under sub-rule (1) shall be presented in the manner laid down by the Board.

Recovery

23. (1) If the demand in respect of any dues under the Act is not paid on or before the date specified in the notice of demand served in this behalf the owner or the person, liable to pay the dues shall be deemed to be in default.

- (2) Where an owner or any other person is in default, the Superintendent may order that the amount due shall be recoverable as an arrear of land revenue and may proceed to realise the amount due as such from the defaulter.

Refund

24. (1) The Superintendent may refund to a person in the manner laid down in this rule, any amount paid by him in excess within the meaning of section 11, either by cash payment or, at the option of the person, by set-off against any sum due from him under the Act.

- (2) An application for refund shall be made to the Superintendent and shall include amongst other, the following particulars :
 - (a) the name and style of the business together with the number of the certificate of registration, if any,
 - (b) period of assessment for which refund is claimed,
 - (c) the amount of dues already paid together with the challan number and the date of payment, and
 - (d) the amount of refund claimed and the grounds thereof.

- (3) An application for refund shall be signed, verified and presented as in the case of an application for registration.
- (4) No claim to any refund shall be allowed unless it is made within three years from the date of the original order of assessment or within three years of the final order passed on appeal, revision or reference as the case may be in respect of such assessment.
- (5) Where the Superintendent is satisfied that the refund claimed is due, wholly or in part, he shall, subject to the provision sub-rule (9), record an order sanctioning the refund.
- (6) When an order for refund has been passed, refund voucher in Form 8 shall be issued in favour of the claimant, if desires payment in cash. An advice list shall, at the same time be forwarded to the Treasury Officer concerned.
- (7) When the claimant desires to adjust the amount of refund due to him against any amount payable by him, the Superintendent shall set off the amount to be refunded or any part thereof against the tax, if any, remaining payable by the claimant.
- (8) A register shall be maintained in Form 9 wherein particulars of all applications for refund and the orders passed thereon shall be entered.
- (9) The application together with relevant records shall be submitted for order to -
 - (i) the Deputy Commissioner of Taxes, where the refund exceeds rupees ten thousand;
 - (ii) the Commissioner of Taxes, where the refund exceeds rupees twenty five thousand five hundred, but does not exceed rupees one lakh;
 - (iii) the State Government, where the refund exceeds rupees one lakh.

Amendments : The words "Deputy Commissioner of Taxes" has been substituted in place of "Assistant Commissioner of Taxes" in rule 24 (9) (i) w.e.f. 30-6-1995 vide Govt. Notification No. FTX. 206/ 93/20 dated 23-5-1995, published in the Assam Gazette of 30th June 1995.

Amendment: *In the principal Rules, in rule 24, in sub-rule (9), clause (i),(ii) and (iii) has been substituted vide notification no.FTX.53/2006/74 Dated 17th August, 2009 published in the Assam Gazette Extraordinary No.243 Dated 17th August, 2009.*

Penalty

- 25.** (1) The penalty under section 12 may be levied by the Superintendent.
- (2) Before levying a penalty under section 12 the Superintendent shall serve on the owner a notice requiring the owner on a date and at a place specified in the notice to attend and show cause, either by himself or by an agent authorised in writing in this behalf, why a penalty under section 12, not exceeding an amount specified in the notice should not be imposed on him.

- (3) The Superintendent shall thereupon hold an enquiry and shall make such order as he thinks fit.

Sanction for prosecution

26. The Commissioner shall be the competent authority to accord Sanction for prosecution of an owner under section 13.

Composition of offence

27. (1) The Superintendent shall be the competent authority to accept offers for composition of offences under section 14.

- (2) When accepting any sum by way of composition of offence under section 14, the Superintendent shall record an order specifying -
- (i) the time within which the sum is to be paid into a Government Treasury,
 - (ii) the date on which the proof of such payment is to be produced, and
 - (iii) the authority before whom the proof is to be produced
- (3) The sum referred to in sub-rule (2) shall be paid by the owner to a Government Treasury in the manner indicated in rule 5 and a receipted copy of the challan shall be produced by him in proof of payment.

Place of assessment

28. (1) An owner shall ordinarily be assessed by the Superintendent within whose jurisdiction the land in respect of which he is liable pay tax is situated. Where such land is situated within the jurisdiction of more than one Superintendent, the owner shall ordinarily be assessed by the Superintendent within whose jurisdiction the owner's principal place of business or Head Office in Assam of such business is situated and when the owner has no place of business in Assam by such Superintendent as the Commissioner, by notification in the official Gazette, direct.

- (2) Where any dispute arises as to the Superintendent by whom an owner is assessable, the decision of the Commissioner in the matter shall be final.

Service of notice

29. (1) A notice or requisition under the Act or any rule may served by any of the following methods :

- (a) by delivery to the addressee or his agent, by hand of a copy of the notice ;
- (b) by post :

Provided that if upon an attempt having been made to serve any such notice or requisition by any of the above mentioned methods, the Superintendent concerned is satisfied that the owner or addressee is evading the service of notice or requisition or that for any other reason, the notice or requisition cannot be served by any of the above mentioned methods the said authority shall cause such notice or requisition to be served by affixing a copy thereof on some conspicuous place in his office and also upon some conspicuous part

of the last notified address of the owner or addressee, if any, and such service shall be as effectual as if it has been made on the owner personally.

- (2) When service is made by post, it shall be deemed to be effected by properly addressing, prepaying and posting either by registered post or under a certificates of posting, the notice or requisition and unless the contrary is proved, the service shall be deemed to have been effected at the time at which notice or requisition would be delivered in the ordinary course of post.
- (3) Any such notice or requisition may, in the case of a firm or Hindu undivided or joint family, be addressed to any member to the firm or to the manager, or any adult member of the family and, in the case of any other association of persons be addressed to principal officer thereof.

Fines

30. (1) Whoever signs and verifies an application for registration or a return or an appeal or petition for revision or application for refund otherwise than in conformity with rule 7 or, as the case may be, rule or rule 19, or rule 20, or rule 24, shall be punishable with a fine not exceeding Rs. 100.

- (2) Whoever acts, in contravention of or fails to comply with the provisions of these rules shall be punishable with a fine not exceeding Rs. 500 and if the offence is a continuing one with a daily fine not exceeding Rs. 25 during continuance of the offence.
- (3) The appellate authority to whom an appeal is presented and, in case of revision petition, the revisional authority shall be competent to impose fine under sub-rule (1) in any case relating to an appeal or, as the case may be, petition for revision. In any other case the Superintendent shall be the competent authority to impose a fine under this rule.
- (4) The procedure laid down in rule 25 for imposing a penalty under section 12 shall also be followed *mutatis mutandis* for imposing a fine under this rule.
- (5) A fine imposed under this rule shall be payable as if it were tax due from the person on whom the fine is imposed. Any fine remaining unpaid after expiry of the date fixed for payment of the fine shall be recoverable as an arrear of land revenue as if it were a due recoverable under rule 23.
