

NAGALAND PROFESSIONS, TRADES, CALLING & EMPLOYMENT TAXATION (4TH AMENDMENT) ACT, 2012

The Nagaland Professions, Trades, Callings and Employment Taxation (4th Amendment), Act 2012 (Act No. 5 of 2012) Received the assent of the Governor of Nagaland on 3.11.2012 and published in the Nagaland Gazette Extra ordinary on 9th January 2013. An -Act- To further amend the Nagaland Professions, Trades, Calling and Employements Taxation Act, 1968. Whereas it is expedient to amend the Nagaland Profession, Trades, Callings and Employements Taxations Act, 1968 (hereinafter referred to as the principal Act) in the manner hereinafter appearing; It is hereby enacted in the sixty second year of the Republic of India as follows; 1. 2. 'short title, extend and commencement : (1) this Act may be called the Nagaland Profession, Trades, Calling and Employment Taxation (fourth amendment) Act, 2012 (2) it shall have the same extend as the principal effect. Amendment of Section 2: (1) (a) (2) (a) (3) (b) (4) (c) in the Principal Act, in Section 2 for clause (2) for clause (a), the following shall be subtitled, namely: "assessee" means a person or employer by whom tax is payable under this Act;" in the Principal Act, In Section 2, after clause (a), the following clause shall be inserted, namely: "assessing authority" in a particular area means the Profession Tax officer referred to in Section 7" in the Principal Act, in Section 2, for clause (b) the following shall subtitled, namely: ' Commissioner" means the Commissioner of Profession Tax appointed under Section 7" in the Principal Act, in Section 2, for clause (c) and (d), respectively the following shall be subtitled, namely: "employee" means a person employed on salary or wages and includes: -411- (i) 0 (iü) (d) (5) (e) (f) (6) (7) (h) (i) G (k) (l) (m) a Government servant receiving pay from the revenue of the Central Government or any State Government or the railway fñnd•, a person in the service of a body, whether incorporation or not, which is mvned or controlled by the Central Government or any State Government, where the body operates in any part of the State even though its headquarter may be outside the State; a person engaged in any employment of an employer, not covered by items (i) and (ii) above; 'employer" in relation to an employee earning any salary or wages on 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," in the Principal Act, in Section 2, for the clause (e) and (t) , respectively the following shall be substituted, namely: month" means a month reckoned accordingly to the Eno Esh calenderer." "notification" means a notification published in the Official Gazette," in the Principal Act, in Section 2, clause (g) shall be deleted. in the principal act, , in section 2, after clause (g) so deleted, the following new clause shall be inserted, namely: 'person" means any person who is engaged in any profession, trade, calling or employment in Nagaland, and includes a Hindu Undivided family, firm company, corporation or any other corporate body and society, club or association, so engaged, but does not include any person who earns wages on a casual basis; prescribed" means prescribed by rules made under this Act; 'profession tax" means the tax on professions, trades, callings and employments levied under this Act; "salary or wages" includes pay, dearness allowance and all other remuneration received by an person on regular basis, whether payable in cash or in kind, and also includes perquisites and profits in cash or in kind, and also includes perquisites and profits in lieu of salary, as defined in Section 17 of the Income Tax Act, 1961 (43 of 1961) 'tax" means the profession tax" "year" means a financial year" 3. Amendment of Section 3: In the Principal Act, for Section 3 and the marginal heading thereof, the following shall be substituted, namely:- - 412- 3. 4. 5

5. Levy and charge of tax: (1) as from the first day of October, 2011 subject to the provisions of Article 276 of the Constitution of India there shall be levied and collected a tax on professions, trades, callings and employments in accordance with the provisions of this Act. Every person who carries on a trade either by himself or by an agent or representative, or who follows a profession or calling, or who is employment shall be liable to pay to the State Government a tax at the rate mentioned against the class of such persons in the third column of the Schedule annexed to this Act Provided that Entry 21 in the Schedule shall apply only to such classes of persons as may be specified by the State Government by notification from time to time. (2) Notwithstanding anything contained in this section the provisions of this Act shall not apply to the members who are subject to the Army Act, 1950, the air Force Act, 1950 or the Navy Act, 1957 and are serving in any part of Nagaland. Deletion of Section 4: In the principal Act, for

Section 4 Amendment of Section :- In the Principal Act, for section 5 and the marginal heading thereof, the following shall be substituted, namely: Employer's liability to deduct and pay tax on behalf of employees: The tax payable under this Act by any person earning a salary or wage shall be deducted by his employer from the salary or wage payable to such person, before such salary or wage 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 persons, be liable to pay the tax on behalf of all such persons: Provided that where the employer is an officer of the State Government or the Central Government the manner in which such employer shall discharge the said liability shall be such as may be prescribed. Provided further that where any person earning a salary or wage is also covered by one or more entire other than entry I in the schedule or is simultaneously engaged in the employment of more than one employer, and such person furnishes to his inter-alia, that he shall obtain a certificate of enrolment under sub-section (2) of Section 6 and pay the tax from the salary or wage payable to such person and such employer or employers, as the case may be, shall not be liable to pay tax on behalf of such person.

Amendment of Section 6: In the principal Act, for Section 6, the following shall be substituted, namely: 6. Registered and enrolment: (1) (2) (3) (4) (b) (c) (d) (5) Every employer (not being an officer of the Government) liable to pay tax under Section 5 shall obtain a certificate of registration from the assessing authority in the prescribed manner. 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 assessing authority in the prescribed manner. Notwithstanding anything contained in this Section and Section 5- where a person is a citizen of India and is in employment of any diplomatic or consular office or trade Commissioner of any foreign country situated in any part of Nagaland such person, if liable to pay tax, shall obtain a certificate of enrolment as provided in sub-section (2) and pay the tax himself. (a) Every employer required to obtain a certificate of registration shall within ninety days of his becoming liable to pay tax, apply for a certificate of registration to the assessing authority in the prescribed form, and the assessing authority, shall after making such enquiry as may be necessary, within thirty days of the receipt of the application, grant him, such certificate, if the application is in order. Every person referred to in sub-section (2) or sub-section (3) shall, within ninety days of his becoming liable to pay tax, pay into Government treasury, the tax payable by him under this Act and apply for a certificate of enrolment to the assessing authority in the prescribed form along with a receipt copy of the challan as a proof of payment of such tax. The assessing authority within thirty days of the receipt of the application referred to in clause (b), shall, grant the person a certificate of enrolment in the prescribed manner. The assessing authority may from time to time amend any certificate of registration or enrolment in the prescribed manner when a registered employer or enrolled person applies to the assessing authority in the prescribed form of such amendment. The assessing authority shall remain in every certificate of registration or enrolment the amount of tax payable by the holder according to the -414- (6) (7) schedule and the date by which it shall be paid, and such certificate shall serve as a notice of demand for the purposes of Section 18. Where an employer or a person liable for registration or enrolment willfully fails to apply for such certificate within the required time as provided for in sub-section (4) the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees hundred for each calendar month of delay in case of an employer and not exceeding rupees fifty for each calendar of delay in the case of others. Where an employer or a person liable for registration or enrolment has deliberately given false information in any application submitted under this section the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees one thousand

7. Amendment of Section 7: In the Principal Act, for section 7, the following shall be substituted namely: 7. Taxing authorities: (1) (2) (3) (4) For carrying out the purposes of this Act, the State Government shall appoint an officer to be the Commissioner of Profession Tax and such other officers as mentioned in sub-section (2) to assist the Commissioner. There shall be the following taxing authorities to assist the Commissioner (a) Additional Commissioner of Profession Tax (b) Deputy Commissioner of Profession Tax (c) Assistant Commissioner of Profession Tax. (d) Profession tax officer (e) Inspector of Profession Tax. Delegation of powers: An officer appointed under sub-section (2) shall, within the limits of such area as the State Government may be notification exercise such powers and perform such duties as may be delegated by the Commissioner, subject to such conditions as may be imposed by the State Government. The Superintendence and control for the proper execution of the provisions of this Act and

rules made hereunder relating to the levy and collection of tax shall vest in the Commissioner. The Commissioner shall exercise such other powers and perform such other duties under this Act or rules made there under as may be conferred or imposed on -415- (5) (6) (7) Any person appointed as the Commissioner of Taxes under sub-section (I) of Section 3 of the Nagaland Value Added Tax Act, 2005 (Act 4 of 2005) and continuing in office as such immediately before coming into force of this Act shall, on and from the first day of October, 2011 be deemed to have been appointed under this Act to be Commissioner of Profession Tax for carrying out the purposes of this Act. Any person appointed to assist the Commissioner of Taxes under the Nagaland Value Added Tax Act, 2005 (Act 4 of 2005) such as the Additional Commissioner of Taxes, Deputy Commissioner of Taxes, Assistant Commissioner of Taxes Superintendent of Taxes, Inspector of taxes and any other officer and continuing in office as such immediately before coming into force of this Act, shall, on and from the first day of October, 2011 be deemed have been appointed under this Act to be the Additional Commissioner of Profession Tax, Deputy Commissioner of Profession Tax, Assistant Commissioner of Profession Tax, Profession Tax Officer and Inspector of Profession Tax. All officers and persons employed in the execution of this Act shall be subject to the supervision and control of the State Government and the Commissioner

8. Insertion of new Section 7A in Nagaland act d of 1986. In the Principal Act after Section 7 the following new Section 7A shall be inserted, namely: 7 A. Instruction to sub-ordinate authorities (1) (2) The State Government and the Commissioner may from time to time issue such orders, instructions and directions to all officers and persons employed in the execution of this Act, and all such officers and persons shall observe and follow such orders, Instructions and directions of the State Government and the Commissioner. Provided that no such orders, instructions or directions shall be issued so as to interfere with the discretion of any appellate authority in the exercise of its appellate Without prejudice to the generality of the foregoing power, the Commissioner may, on his own motion, or on an application by an employer who has obtained a certificate of registration or by a person who has obtained a certificate of enrolment under this Act, if he considers it necessary or expedient so to do, for the purpose of maintaining uniformity in the work of assessment and collection of revenue, clarify the rate of tax payable under this Act and all officers -416" and persons employed in the execution of this Act shall observe and follow such clarification: Provided that no such application shall be entertained unless it is accompanied by proof of payment of fee, paid in such mannep; as may be prescribed (3) Any officer and person employed in the execution of this Act shall observe and follow such administrative instruction as may be issued to him for his guidance by the Assistant Commissioner within whose jurisdiction he performs his filnctions. Amendment of Section 8: In the Principal Act, for Section 8, and the marginal heading thereof, the following shall be substituted, namely:- Returns 9. 8. 10. (1) (2) (3) Every employer registered/person enrolled under this Act shall furnish to the assessing authority a return in such form, for such periods and by such dates as may be prescribed, showing therein the salaries and wages paid by employer and the amount of tax deducted by him in respect thereof, and in the like manner taxes paid by enrolled person. Every return shall be accompanied by a Treasury Challen in proof of payment of the full amount of tax due according to the return, and a return without such proof of payment shall not be deemed to have been duly filed. Where an employer, without reasonable cause, fails to flle such return within the prescribed time, the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon a penalty not exceeding rupees ten for each calendar month of delay. Amendment of Section 9: In the Principal Act, for Section 9, the following shall be substituted, namely:- 9. Assessment of an assessee. (1) If the assessing authority is satisfied that the return filed by any assessee is correct and complete, it shall accept the return. (2) (a) If the assessing authority is not satisfied that the retum filed is correct and complete, it shall serve upon the assessee a notice requiring him, on a date and time and place specified in the notice, to attend in person or through authorized representative and to produce or caused to be produced account and papers in support of the return -417- (b) (c) (3) (4) (5) (6) the assessing authority shall on examination of the account and papers, by an order in writing, assess the amount of tax payable by the assessee. If the assessee fails to comply with the terms of notice, or if in the opinion of the assessmg authority the accounts and papers are incorrect or incomplete or unreliable such authority shall, after such inquiry as it may deemed fit or otherwise, by an order in writing assess the tax to the best of its judgment. The amount of tax due from any assessee shall be assessed separately for each year during which he is liable to pay tax: Provided that the assessing authority may, subject to such conditions as may be prescribed and for reasons to be

recorded in writing, assess the tax due from any assessee during any part of a year: Provided further that where a registered assessee fails to furnish a return for any part of a year, the assessing authority may, if it thinks fit, assess the tax due from such assessee separately for different parts of such year. If any assessee fails to get himself registered or being registered fails to file any return, the assessing authority shall, after giving the assessee a reasonable opportunity of being heard and after holding such inquiry as it may deem fit or otherwise, pass an order assessing the amount of tax due to the best of its judgment. No assessment under sub-section (2), sub-section (3) or sub-section (4) shall be made after expiry of four years from the end of the year in respect of which or part of which the assessment is made: Provided that any assessment in respect of any of the years or parts of years ending on or before the 30th day of September, 2011, shall, notwithstanding the provisions of this sub-section, be made on or before the 31st day of March, 2015. In making an assessment under sub-section (2) or sub-section (4), the assessing authority if it is satisfied that the default was due to willful non-disclosure of information or attempt to evade the tax by the assessee, the assessing authority may also direct to pay in addition to the tax assessed but which shall not exceed three times the tax so assessed: Provided that no penalty under this sub-section shall be imposed unless the assessee affected has had a reasonable opportunity of showing cause against the imposition of such penalty. -418- 11. 12. 13. 14. 15. 14. (7) The amount of tax so assessed, shall be paid within fifteen days of receipt of the notice of demand from the assessing authority. Deletion of Section 9A: In the Principal Act, Section 9A shall be deleted. Amendment of section 10: In the Principal Act, for Section 10 and the marginal heading thereof, the following shall be substituted, namely:- IO. Assessment of escaped or under assessed tax: If for any reason any tax payable under this act, has escaped assessment or has been under assessed or assessed at lower rate than the rate at which it is assessable, the assessing authority may at any time within four years from the expiry of the year to which the tax relates, proceed to assess or reassess the tax, as the case may be to the best of its judgment after issuing a notice to the assessee concerned and after making such inquiry as it considers necessary. Provided that the tax shall be charged at the rate at which it would have been charged if such tax had not escaped assessment or as the case may be had not been under assessed or assessed at a rate lower than the rate at which it was assessable. Amendment of Section 11:- In the Principal Act, in Section 11 the word "three" between the words "within and "years" the following shall be substituted, namely:- "four Deletion of Section 12 and 13:- In the Principal Act, Sections 12 and 13 shall be deleted. Amendment of Sections 14:- In the Principal Act, for the existing Section 14 and the marginal heading thereof, the following shall be substituted, namely:- Appointment of collecting agent: (1) For carrying out the purposes of this Act, the State Government may appoint any of its departmental officer as its agent (hereinafter called "the collecting agent") responsible for levy and collection of the tax under this act from such person or class of persons as may be prescribed. -419- (2) (3) (4) Upon such appointment, it shall be the duty of such collecting agents to carry out such functions under this Act in the manner prescribed, and to render full and complete account of the tax levied and collected to the Commissioner in such manner and at such time as he may require. The collecting agent and every officer authorized by it in this behalf shall for the purposes of collecting of the tax, have all the powers of the assessing authority and also any of the powers that may be prescribed. It shall be lawful for the Commissioner or any officer duly authorized by him to have access to and to require production and examination of any books, register, accounts or documents maintained or required to be maintained by the collecting agent for the produce such books, register, account or documents for inspection

16. Amendment of Section 15:- 15. Appeals (1) (2) (3) (4) (a) (b) (c) Any assessee (not being an officer of the State Government or Central Government) Aggrieved by any order passed by any authority under the provisions of this Act, not being an order passed under sub-section (4) of Section 9, may within thirty days from the date on which the order was served on him, appeal to the appellate authority. Provided that the appellate authority may for sufficient cause shown admit an appeal preferred after the expiry of the period of thirty days aforesaid. No appeal shall be entertained, unless the amount of tax or penalty or interest in respect of which the appeal has been preferred has been paid in full. The appeal shall be in such form and verified in such manner as may be prescribed and shall be accompanied by a fee calculated at the rate of two percent of the tax, penalty or interest under dispute, subject to a minimum of rupees fifty and a maximum of rupees one thousand. The appellate authority may after giving the appellant an opportunity of being heard and subject to such rules of procedure as may be prescribed confirm, reduce, enhance or annul or otherwise modify the assessment, penalty or interest as the case may be; set aside the

assessment, penalty or interest as the case may be and direct the assessing authority to pass a fresh order after such further inquiry as may be directed; or Pass such other orders as it may think fit. -420- 17. 17. (5) Every order passed in appeal under this Section shall, subject to the provisions of Section 16, be final. Amendment of Section 17: In the principal Act, for Section 17 and the marginal heading thereof, the following shall be substituted, namely:- Revision by Additional Commissioner, Deputy Commissioner and Assistant Commissioner:- (1) (2) (3) The Assistant Commissioner may, on his own motion call for and examine records of any proceeding under this Act, and if he considers that any order passed therein by any officer who is not above the rank of profession tax officer is erroneous and in so far as it is prejudicial to the interest of revenue, he may, if necessary, stay the operation of such order for such period as he deems fit and after giving the assessee an opportunity of being heard and after order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling the assessment or directing a fresh assessment. The Deputy Commissioner (other than Appellate Authority) may, on his own motion call for and examine records of any proceeding under this Act, and if he considers that any order passed therein by any sub-ordinate officer who is not above the rank of Assistant Commissioner is erroneous and in so far as it is prejudicial to the interest of revenue, he may, if necessary, stay the operation of such for such period as he deems fit and after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order, enhancing or modifying the assessment or cancelling the assessment or directing a fresh assessment. The Additional Commissioner may, on his own motion call for and examine records of any proceeding under this Act, and if he considers that any order passed therein by any sub-ordinate officer who is not above the rank of Deputy Commissioner is erroneous and in so far as it is prejudicial to the Interest of revenue, he may, if necessary, stay the operation of such order for such period as he deems fit and after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling assessment or directing a fresh assessment. -421- 18. 19

20. Amendment of Section 18: In the Principal Act, in Section 18, between the words "Penalty " and "is" the following shall be inserted, namely:- "Or Interest" Amendment of Section 19:- In the Principal Act, for Section 19 and the marginal heading thereof, the following shall be substituted, namely:- (1) (a) (b) the tax payable under this Act by enrolled persons for each year as specified their certificate of enrolment shall be paid:- In respect of a person who stands enrolled before the commencement of a year and is enrolled on or before the 32nd day of August of a year; in respect of a person who is enrolled after the 31st day of August of a year. Before the 30th day of September; Within one month of the date of enrollment; Provided that a person liable to be enrolled shall be deemed to have enrolled for the purpose of payment of tax under this Act, notwithstanding that he has failed to do so. (2) (3) (4) Payment of tax by certain assessee: In other cases the amount of tax due shall be paid in accordance with the provisions of sub-section (5) of Section 6 or, as the case may be, sub-section (2) of Section 8. The tax payable shall be paid in the prescribed manner. All other dues under this Act shall be paid in the prescribed manner by such date as may be specified in the notice of demand and where no such date is specified, it shall be paid within 15 days from the date of the notice of demand. Insertion of new Section 19A and 19B: In the Principal Act, after Section 19 so substituted, the following shall be inserted as new Section 19A and 19B, namely:- -422- 19A. Consequence of failure to deduct or to pay tax: (1) (2) (3) If an employer (not being an officer of the Government) 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 deemed to be an assessee in default in respect of such tax. Without prejudice to the provisions of sub-section (1), an employer referred to in that sub-section shall be liable to pay simple interest at two per centum Of the amount of tax due for each month or part thereof for the period for which the tax remains unpaid. If an enrolled person fails to pay the tax as required by or under this Act, he shall be liable to pay simple interest at the rate and in the manner laid down in sub-section (2) above; 19B. Penalty for non payment of tax: 21. 20

22. If an enrolled person or a registered employer fails, without reasonable cause to make payment of any amount of tax within the time or date specified in the notice of demand, the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not

exceeding fifty per centum of the amount of the tax due. Amendment of Section 20:- In the Principal Act, for the following shall be substituted, namely:- Mode recovery: All arrears of tax, penalty, interest and fees due under this Act from any person shall, without prejudice to any mode of collections be recovered; (a) as if it were an arrear of land, or (b) on application to any Magistrate, by such Magistrate, as if it were a fine imposed by him Insertion of new Section 20A and 20B, namely:- 20A. Special mode of recovery: (1) Notwithstanding anything to the contrary contained in any law or in any contract, the assessing authority may, at any time or from time to time by notice in writing, a copy of which shall be forwarded to the assessee at his last address known to the assessing authority, require:- -423- (i) if any person from whom any amount of money is due or may become due to an assessee on whom notice of demand has been served under this Act, or; any person who holds or may subsequently hold money for or on account of such assessee, to pay the assessing authority, either forthwith upon the money becoming due or being held at or within the time specified in the notice (but not money becomes due or is held as aforesaid), so much of the money as is sufficient to pay the amount due by the assessee in respect of arrear of tax, penalty and interest under this Act, or the whole of the money when it is equal to or less than that amount. Explanation: For the purposes of this Section, the amount of money due to an assessee from, or money held for or on account of an assessee by, any person, shall be calculated after deducting thereon such claims (if any) lawfully subsisting, as may fall due for payment by such assessee to such person. (2) (3) (4) (5) (6) The assessing authority may, at any time or from time to time, amend or revoke any such notice or extend the time for making any payment in pursuance of the notice. Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under authority of the assessee; the receipt of the assessing authority shall constitute a good and sufficient discharge of the liability of such person, to the extent of the amount referred to in the receipt. Any person discharging any liability to the assessee after receipt of the notice referred to in this section, shall be personally liable to the assessing authority to the extent of the liability discharged, or the extent of the liability of the assessee for tax, penalty and interest, whichever is less, Where a person to whom a notice under this section is sent proves to the satisfaction of the assessing authority that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then, nothing contained in this section shall be the case may be, to the assessing authority. Any amount of money which a person is required to pay to the assessing authority or for which he is personally liable to the assessing authority under this section, if it remains unpaid, be recovered from such person as an arrear of land revenue. -424- 20B. Recovery of tax where trade, calling etc. of employer is transferred: 23. 21

24. Where the ownership of the profession, trade, calling or employment of an assessee liable to pay tax is transferred, any tax, penalty or interest or other amount payable under this Act, in respect of such business, remaining unpaid at the time of the transfer, may without prejudice to any action that may be taken for its recovery from the transferor, be recoverable from the transferee as if he were the assessee liable to pay such tax, penalty, interest or any other; Amendment of Section 21: In the principal Act, for the Section 21, the following shall be substituted, namely:- Refunds:- The assessing authority shall refund to a person the amount of tax, penalty, interest and fees (if any) paid by such person in excess of the amount due from him, the refund may be made either by cash payment or at the option of such person, by deduction of such excess from the amount of tax, penalty, interest and fee due from him. Provided that such excess shall first be applied towards the recovery of any amount due in respect of which a notice under Section 18 has been served and thereafter [the balance, if any, shall be refunded. Insertion of new Section 22A and 22B in Nagaland Act 4 of 1968: In the Principal Act, after Section 22, the following shall be inserted as Section 22A and 22B, namely: 22A. Offence by companies:- (1) (2) 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 to, the company for the conduct of business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:- Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he has exercised due diligence to prevent the commission of such offence. 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 -425- offence has been

committed with the consent or connivance of, or is attributable to any neglect on the part of, any Director, Manager, Secretary or other officer, 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 punished accordingly. Explanation: For the purpose of this Section: (a) "Company" means anybody corporate and includes firm or other association of individuals; and (b) "Director" in relation to a firm means a partner in the firm. 22B. Composition of offences:- (a) (b) (2) Subject to such conditions as may be prescribed the assessing authority may either before or after the institution of a criminal proceeding under the Act, accepted from the person who has committed or is reasonably suspected of having committed an offence under this act or the rules made thereunder, by way of composition of such offence, where the offence consists of the failure to pay or the evasion of any tax recoverable under this Act in addition to the tax so recoverable, a sum of money not exceeding one thousand rupees or double the amount of tax recoverable, if any, whichever is greater, and In any other case a sum of money not exceeding one thousand rupees in addition to the tax recoverable. On payment of such sum, no further proceeding shall be taken against the person in respect of the same offence; 25. Insertion of new Section 23A and 23B:- In the Principal Act, after Section 23, the following shall be inserted as new sections 23A and 23B, namely; 23A. Accounts:- (1) If the assessing authority is satisfied that the books of account and other documents maintained by an employer in the normal course of his business are not adequate for verification of the returns filed by the employer under this Act, it shall be lawful for the assessing authority to direct the employer to maintain the books of account or other documents in such manner as he may, in writing direct and thereupon the employer shall maintain such books of account or other documents accordingly, -426- (2) Where an employer fails to maintain the books of account or other documents as directed under sub-section (1), the assessing authority may, after giving him an opportunity of being heard, impose upon him a penalty not exceeding rupees fifteen for each day of delay. 23B. Production and inspection of accounts and documents and search of 26. 24. 27. premises: Any authority referred to in Section 7 of this Act may inspect and search any premises where any profession, trade, calling or employment liable to taxation under this Act is carried on or is suspected to be carried on and may require production and examination of books, registers, accounts or documents relating thereto, and may seize such books, registers, accounts or documents as may be necessary Provided that if such authority removes from such premises any book, register, account or documents, it shall give to the person in charge of the place, a receipt describing the book, register, account or documents so removed by it and removed by it and retain the same only for so long as may be necessary for the purposes of examination thereof or for prosecution; Amendment of Section 24:- In the Principal Act, for the existing Section 24 and the marginal heading thereof, the following shall be substituted, namely Information to be furnished by employer: the assessing authority may demand from any employer the names and complete addresses of all or any of the persons in relation to whom he is the employer and such employer shall thereupon furnish the assessing authority with the names and addresses so demanded. Insertion of new Section 2414. In the Principal Act, after Section 24, the following shall be inserted as a new Section 24A, namely: 24A. Power to transfer proceedings:- The Commissioner or Profession Tax may, after giving the parties concerned an opportunity of being heard, whenever it is possible so do to, and after recording his reasons for doing so, by order in writing, transfer any proceedings or class of proceedings under this Act, from himself to any other officer, and he may likewise transfer any such proceedings (including a proceeding pending with any officer or already transferred under this Section) from any officer to any other officer or to himself. Provided that nothing in this Section shall be deemed to require any such opportunity to be given where the transfer is from any officer to any officer to any other officer and the offices of both are situated in same place or locality

28. Insertion of new Section 28A and 28B:- In the Principal Act, after Section 28, the following shall be inserted as new Section 28A and 28B, namely: 28A. Local authorities not to levy profession tax: Notwithstanding anything contained in any enactment Government the constitution or establishment of a local authority, no local authority shall, on or after the commencement of this Act, levy and tax on professions, trades, callings or employments. 28B Appearance before any authority in proceedings: Any person who is 29. 30. entitled to appear before any authority other than the High Court, in connection with any proceedings under this Act, may be represented before such authority. a) by legal practitioner; or b) by a Chartered Accountant; or c) by a Tax Consultant enrolled as such under the Nagaland Value Added Tax Act, 2005. Insertion of a provision of Section 29:- In the Principal Act, after sub-section (1) of Section 29,

the following shall be inserted as a proviso to that section, namely: Provided that it shall not be necessary to make previous publication, as aforesaid of any rules required to be made on the first occasion in order to give effect to the provisions of the Nagaland Professions, Trades, Callings and Employments Taxation (Fourth Amendment) Act, 2011. Amendment of Schedule: In the Principal Act, for the existing entries I to 13 in the Schedule, the following shall be substituted and thereafter added the following new entries as entry 14, 15, 16, 17, 18, 19, 20 and 21, namely:-

-428- Serial No. 1 The schedule (see Section 3) Rates of Tax Class of person 2 Rate of tax 3 1

2. Salary and wage earners. Such persons whose monthly salaries or wages are: (i) (iv) (v) (vi) (a) (b) (c) Less than Rs. 4000/- or more, but less than Rs. 5000/- or more, but less than Rs. 7000/- or more, but less than Rs. 9000/- or more, but less than Rs. 12000/- or more Rs. 4000/- Rs. 5000/- Rs. 7000/- Rs. 9000/- Rs. 12000/- Rs. 35 per mensem 75 per 110 per mensem 1870 per mensem 208 per mensem Legal practitioners including Solicitors and Notaries Public; Medical Practitioners including Medical Consultants, Dentists, Radiologist, Pathologists and persons engaged in similar other professions or calling of Para Medical nature. Technical and Professional Consultants other than those mentioned in item (b), but including Architects, Engineers, RCC Consultants, Plumbers, Electricians, Tax Consultants including Income Tax and Sale Tax Practitioners, Chartered Accountants and Management Consultants, Where the standing in the profession of any of the person mentioned above is- (ii) less than two years two years or more but less than five years five years or more so 1000 2000 -429- 3. (i) (i) Chief Agents, Principal Agents, Special Agents, Insurance Agents and Surveyors or loss assessors registered or licensed under Insurance Act, 1938 Pigmy Agents or UTI Agents Where the annual gross income of the person mentioned above is- Rs. Rs. 36000/- or less/- Rs. 36001/- or more, but less than Rs. 95000/- Rs. 95001/- Or above NIL 1500 per annum 2000 per annum Explanation: For the purposes of the entries against serial Nos. 2 and 3 "annual gross income" in relation to a person means the aggregate of the amount of fee, remuneration, commission or any other charge, by whatever name called relating to his profession or calling in Nagaland, receivable by him during the immediately preceding year. 4. 5. (a) (b) (a) (b) Members of Associations recognized under the Forward Contracts (Regulation) Act, 1952 (i) Member of Stock Exchange under the Securities Contracts (Regulation) Act, 1956 Estate Agent or Promoters or Brokers or Commission Agents or del credere Agents or Mercantile 2500 per annum 1800 per annum Agents. Advertising Agents, Clearing 2500 per annum and Forwarding Agents Contractors of all description engaged in any work such contractors whose gross business in any year is- (i) Less 700000/- (ii) Rs. 400000/- or more, but less than Rs. 700000/- (iii) Rs. 700000/- or more, but less than Rs. 1000000/- (iv) Rs. 1000000/- or more NIL 1000 per annum 1500 per annum 2500 per annum Explanation: For the purposes of this entry gross business shall mean the aggregate of the amounts of the valuable consideration or part thereof receivable during the immediately preceding year in respect of a contract or contracts executed. -430- (c) Auctioneers (d) Suppliers of machineries and all other materials on hire 2500 per annum 2500 per annum 6. 7. 8

9. Directors (other than those nominated by Government) of companies registered under the Companies Act, 1956 2500 per annum Dealers under the Nagaland Value Added Tax Act, 2005 and the Nagaland Sales Tax Act, 1967 whether registered or not whose gross turnover in any year is (i) Less than Rs. 100000/- (ii) Rs. 100000/- to Rs. 300000/- (iii) Rs. 300000/- to Rs. 500000/- (iv) Rs. 500000/- to Rs. 1000000/- (v) Rs. 1000000/- to Rs. 2500000/- (vi) Rs. 2500000/- to Rs. 1 crore (vii) Above 1 crore Owners or lessors of petrol/diesel filling stations (oil pumps) and agents and distributors including retail dealers of Liquefied Petroleum Gas, Service Stations, Garages and Workshops of automobiles (a) Owner (or lessees) of Rice Mills, Atta/ Flour Mills, Oil Mills Stone Crushers, Bottling Units Tiles, Factories, Biscuit Factories, Chemical and Pharmaceutical Laboratories, Furniture making Unit Printing Presses (with power), Fruit Canning Units, Dry Cleaners, Interior Decorators (b) Owner or (lessees) of Nursing Homes, Hospitals, X-ray Clinics, Pathological Laboratories NIL 350 per annum 750 per annum 1000 per annum 1500 per annum 2000 per annum 2500 per annum 2500 per annum 2500 per annum 2500 per annum (c) (d) (e) Owners, licensees or lessees as the case may be of premises let out for social functions Owners or occupiers of cold storages Photo laboratories, film processing -431- 2500 per annum 2500 per annum (f) (g) laboratories and photo studios Persons owning/running STD/ISD/ FAX Booths Persons using photocopying machines for job work IO. 11. 12. 13. 14

15. Owners or lessees of- (a) (b) (c) (d) (e) (f) (g) (i) (ii) (i) (ii) (iii) (iv) (v) (vi) Beauty Parlours (non air conditioned) Beauty Parlours (air conditioned) Air-Conditioned hair dressing Saloons Hair cutting Saloons Air-conditioned Restaurants or lessee of residential hostel of 3 Star category and above Owner/occupier or lessee of residential hostel below 3 star category Cinema Houses and Theatres Video Parlours and Video Rental Libraries Individuals or Institutions conducting Chit Funds and Lotteries Authorised Stockiest of Lottery Tickets Persons providing entertainment using Dish Antennae & Cable TV Persons operating Courier Service Persons operating Mobile Phones Persons operating Internet Service & Internet Cafes and e-commerce business 2500 per annum 1500 per annum 1000 per annum 1000 per annum 2500 per annum 2500 per annum 900 per annum 2500 per annum 2500 per annum 1500 per annum 1000 per annum 2500 per annum 1000 per annum 2500 per annum 2000 per annum 2500 per annum 2500 per annum 2500 per annum (I) Co-operative Societies registered or deemed to Be registered under the Assam Co-operative Societies Act, 1949 (Assam Act 1 of 1950) and engaged in any profession, trades or calling- (a) Apex Societies (State Level) (b) Central Societies (District Level) (2) Any other Societies Banking Companies as defined in the Banking Regulation Act, 1949 (X of 1949) Companies registered under the companies - 432- 2500 per annum 1500 per annum 500 per annum 2500 per annum 16, 17. 18. 19

20. Act, 1956 (1 of 1956) and engaged in any professions, trades or callings Partnership firms when engaged in any profession, trades or callings. Such firms whose gross annual turnover is- (i) Rs. 25 lakhs or less (ii) Rs. 25 lakhs above 2500 per annum 1000 per annum 2000 per annum Holders of permits for transport vehicles, granted under the Motor Vehicle Act, 1939 (4 of 1939) which are used or adapted to be used for hire or reward where any such assessee holds permit or permits for any taxis including autorickshaws, three wheeler goods vehicles, trucks or buses:- (i) In respect of autorickshaws (ii) In respect of each taxi and three wheeler goods vehicle (ii) in respect of each truck of payload up to 5 tonnes CIV) in respect of each truck of payload above 5 tonnes (v) in respect of each bus Transport Companies and Transport Contractors Air Travel Agents Owner or lessees of weighbridges 250 per annum 500 per annum 1500 per annum 2000 per annum 2000 per annum 2500 per annum 2500 per annum (1) Employers or Shop-Keepers as defined in the Nagaland Shops and Establishment Act, 1985 who are not dealers covered by entry 7 such employers or establishments (i) where there are no employees (ii) where not more than five employees are employed (iii) where more than five employees, but not more than ten employees are employed (iv) where more than ten employees are employed 150 per annum 200 per annum 1500 per annum 2500 per annum (2) Occupiers of Factories as defined in the Factories Act, 1948 (63 of 1948), who are not dealers covered by entry 7, such occupiers of factories:- (i) where not more than ten workers are working 1500 per annum -433- (ii) where more than ten workers are working 2500 per annum Explanation: For the purpose of determining the liability and the rate of tax under this entry, the higher number of employees or workers at any time 21. during the year shall be reckoned as the basis. Person other than those mentioned in any preceding entries, who are engaged in any professions, trades, callings and employments. 500 per annum or As may be fixed by notification under section 3 not exceeding 2500/- per annum Explanation No 1. Notwithstanding anything contained in the Schedule where an assessee is covered by more than one entry in this Schedule, the highest rate of tax specified under any of those entries shall be applicable in his/her case -434-