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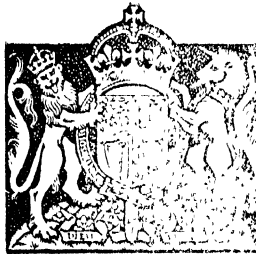
GOVERNMENT OF BIHAR.  
LEGISLATIVE DEPARTMENT.



THE  
BIHAR AGRICULTURAL INCOME-  
TAX ACT, 1938.

[BIHAR ACT VII OF 1938.]

*[As modified up to the 22nd September 1939.]*



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## **PREFACE.**

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THE Bihar Agricultural Income-tax Act, 1938 (Bihar Act VII of 1938), has been amended by the Bihar Agricultural Income-tax (Amendment) Act, 1939 (Bihar Act V of 1939), and the Bihar Agricultural Income-tax (Second Amendment) Act, 1939 (Bihar Act IX of 1939)

In this reprint of the Act

- (1) repealed matter has been omitted, explanatory notes being inserted;
- (2) the amendments made by the later Acts have been inserted in their proper places with explanatory foot-notes; and
- (3) some further foot-notes have been added for convenience of reference.

J. A. SAMUEL,

*Secretary to Government.*

*The 22nd September 1939.*



## STATEMENT OF REPEALS AND AMENDMENTS.

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Section 16	...	Amended	...	Bihar Act IX of 1939, s. 2.
Section 17	...	Amended	...	Bihar Act V of 1939, s. 2.
Section 20	...	Amended	...	Bihar Act V of 1939, s. 3.
Section 20A	...	Inserted	...	Bihar Act V of 1939, s. 4.
Section 22	...	Amended	...	Bihar Act V of 1939, s. 5.
Section 24	...	Amended	...	Bihar Act V of 1939, s. 6.
Section 27	...	Amended	...	Bihar Act V of 1939, s. 7.
Section 29	...	Amended	...	Bihar Act V of 1939, s. 8.
Section 31	...	Amended	...	Bihar Act V of 1939, s. 9.
Section 42A	...	Inserted	...	Bihar Act V of 1939, s. 10.
Section 45	...	Amended	...	Bihar Act IX of 1939, s. 3.



**The Bihar Agricultural Income-tax Act, 1938.**

**BIHAR ACT VII OF 1938.**

[As modified up to the 22nd September 1939.]

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SCHEDULE.



## BIHAR ACT VII OF 1938.

### The Bihar Agricultural Income-tax Act, 1938.[<sup>1</sup>].

[As modified up to the 22nd September 1939.]

[The assent of the Governor to this Act was published in the Bihar Gazette, of the 12th October, 1938.]

#### An Act to provide for the imposition of a tax on Agricultural Income.

WHEREAS it is expedient to impose a tax on agricultural income arising from lands situated in the Province of Bihar;

It is hereby enacted as follows :—

#### CHAPTER I.

##### PRELIMINARY.

1. This Act may be called the Bihar Agricultural Income-Short title, tax Act, 1938.

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

(a) “ agricultural income ” means—

(1) any rent or income derived from land which is used for agricultural purposes, and is either assessed to land-revenue in Bihar or subject to a local cess or rate assessed and collected under any Bengal Act or under any Bihar and Orissa Act or under any Bihar Act;

(2) any income derived from such land by—

(i) agriculture, or

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[<sup>1</sup>] *Legislative papers*.—For Statement of Objects and Reasons, see the Bihar Gazette, 1937, Pt. V, p. 156; for Report of the Joint Committee, see *ibid*, 1938, Pt. V, p. 48; for proceedings in Legislature, see—

(i) Bihar Legislative Assembly Debates, Vol. II, pp. 793, 816 and 980, and Vol. III, pp. 254, 1402, 1437, 1487, 1542, 1803, 1872, 1879, 1945, 1967, 2010, 2269, 2369 and 3196, and

(ii) Bihar Legislative Council Debates, Vol. III, pp. 960, 971, 1025, 1063, 1134, 1171, 1213, 1255, 1294, 1332 and 1357.

The Act applies to the Santal Parganas and the Chota Nagpur Division, see notification no. 262-F.R., dated the 10th October 1938, published in the Bihar Gazette, 1938, Pt. II, p. 1494.

## (Sec. 2.)

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (ii);

(b) " agricultural income-tax " means the tax payable under this Act;

(c) " Agricultural Income-tax Officer " means a person appointed to be a Bihar Agricultural Income-tax Officer under sub-section (2) of section 16;

(d) " agricultural year " means, where the Bengali year prevails, the year commencing on the first day of *Baisakh*,<sup>[1]</sup> where the *Fasli* or *Amlī* year prevails, the year commencing on the first day of *Asin*<sup>[2]</sup>, and, where any other year prevails for agricultural purposes, that year;

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

(f) " Assistant Commissioner of Agricultural Income-tax " means a person appointed to be a Bihar Assistant Commissioner of Agricultural Income-tax under sub-section (2) of section 16;

(g) " Board " means the Bihar Board of Agricultural Income-tax appointed under sub-section (2) of section 16;

(h) " Commissioner of Agricultural Income-tax " means a person appointed to be a Bihar Commissioner of Agricultural Income-tax under sub-section (2) of section 16;

(i) " company " means a company as defined in the Indian Companies Act, 1913<sup>[3]</sup>, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession, and includes any foreign association carrying on business in British India, whether incorporated or not, and whether its principal place of business is

[1] The month of *Baisakh* corresponds to the last part of April and the first part of May.

[2] The month of *Asin* corresponds to the last part of September and the first part of October.

[3] Printed in Central Acts, 1911—16, Ed. 1938, p. 234.

(Sec. 2.)

situate in British India or not, which the Board may, by general or special order, declare to be a company for the purposes of this Act ;

(j) " financial year " means the year beginning on the 1st April and ending on the 31st March next following ;

IX of 1932. (k) " firm " has the same meaning as in the Indian Partner-ship Act, 1932[<sup>1</sup>];

VIII of 1886. (l) " landlord " has the same meaning as in the Bihar Tenancy Act, 1885[<sup>2</sup>];

(m) " person " means any individual, or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for another, either as owner, trustee, receiver, common manager, administrator or executor or in any capacity recognised by law, and includes an undivided Hindu family, firm or company ;

(n) " prescribed " means prescribed by rules made under this Act ;

(o) " previous year " means the agricultural year, the last day of which falls within the financial year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said financial year in respect of a period of twelve months ending on any date other than the last day of an agricultural year, then, at the option of the assessee, the twelve months ending on the day on which his accounts have been so made up :

Provided that where an assessee has once decided in any year that in his case the term ' previous year ' shall be taken as a particular agricultural year or a period of twelve months ending on a particular date, he shall not in future be entitled to vary in his case the meaning of the term ' previous year ' except with the consent of the Agricultural Income-tax Officer and upon such conditions as the Agricultural Income-tax Officer may think fit ;

(p) " principal officer " used with reference to any company or association means—

(i) the secretary, treasurer, manager or agent of the company or association, or

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[1] Printed in General Acts, 1928—32, Ed. 1933, p. 294.

[2] Printed in Bihar and Orissa Code, Vol. I, Second Edition, p. 402.

(Secs. 3-6.)

(ii) any person connected with the company or association upon whom the Agricultural Income-tax Officer has served a notice of his intention of treating him as principal officer thereof; and

(q) "total agricultural income" means the aggregate of the amounts of agricultural income of the different classes specified in sections 6 and 7 as determined respectively in the manner laid down in the said sections.

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## CHAPTER II.

### CHARGE OF AGRICULTURAL INCOME-TAX.

Charge of agricultural income-tax.

3. Agricultural income-tax at the rate or rates specified in the Schedule to this Act shall be charged for each financial year in accordance with, and subject to the provisions of, this Act on the total agricultural income of the previous year of every person.

Application of the Act.

4. Save as hereinafter provided, this Act shall apply to all agricultural income derived from land situated in the Province of Bihar.

Limits of taxable income.

5. Agricultural income-tax shall be payable by a person whose total agricultural income of the previous year exceeds Rs. 5,000 :

Provided that the tax shall not be payable by a person who receives no agricultural income other than income referred to in sub-clause (2) (i) of clause (a) of section 2 and who is in cultivating possession of less than 200 acres.

Determination of agricultural income.

6. The agricultural income mentioned in sub-clause (1) of clause (a) of section 2 shall be deemed to be the sum realised in the previous year on account of agricultural income mentioned in the said sub-clause (1), after making the following deductions :—

(a) the sum actually paid in the previous year as revenue to the Crown or as rent to a landlord in respect of the land from which such agricultural income is derived;

(b) the sum actually paid in the previous year in respect of such land as any local cess or rate collected under any Bengal Act or under any Bihar and Orissa Act or under any Bihar Act;

(Sec. 6.)

- (c) a sum equal to  $12\frac{1}{2}$  per cent of the total amount of the rent which accrued due in the previous year, in respect of the charges for collecting the same;
- (d) any sum paid in respect of the land from which such agricultural income is derived in accordance with rules<sup>[1]</sup> made under the Bengal Irrigation Act, 1876<sup>[2]</sup>;
- (e) any rate paid under the Village Chaukidari Act, 1870<sup>[3]</sup>, or the Chota Nagpur Rural Police Act, 1914<sup>[4]</sup>, in respect of any building used by the assessee as an office for the collection of the rents due in respect of the land from which such agricultural income is derived;
- (f) any expense incurred on the maintenance of any irrigation or protective work constructed for the benefit of the land from which such agricultural income is derived;
- (g) any expense incurred on the maintenance of any capital asset purchased or constructed before this Act came into force, if such maintenance is required in connection with the collection of rents due in respect of the land from which such agricultural income is derived;
- (h) interest actually paid on any amount borrowed and actually spent on any capital expenditure incurred after the passing of this Act for the benefit of the land from which such agricultural income is derived;
- (i) depreciation at the prescribed rate in respect of any capital asset purchased or constructed after the commencement of this Act for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land;
- (j) any interest paid on any mortgage or any other kind of debt or any interest paid on other capital charge

Ben. Act  
III of  
1876.

Ben. Act  
VI of 1870.  
B. & O.  
Act I of  
1914.

[1] For rules made under the Bengal Irrigation Act, 1876, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Pt. VI.

[2] Printed in Bihar and Orissa Code, Vol. II, Second Edition, p. 205.

[3] Printed in *ibid*, p. 121.

[4] Printed in *ibid*, Vol. III, p. 125.

(Sec. 7.)

incurred for the purpose of acquiring the property from which such agricultural income is derived;

(k) when the property from which such agricultural income is derived is subject to a mortgage created before the 3rd day of April, 1938, the amount of any interest actually paid on such mortgage;

(l) any *malikana* paid by the assessee in respect of the land from which such agricultural income is derived; and

(m) any sum actually paid as interest in respect of loans taken under the Bihar and Orissa Natural Calamities Loans Act, 1934. B. & O.  
Act I of  
1934.

Determi-  
nation of  
agricul-  
tural in-  
come men-  
tioned in  
clause (a)  
(2) of sec-  
tion 2.

7. (1) The agricultural income mentioned in sub-clause (2) of clause (a) of section 2 shall, at the option of the assessee,—

(a) be deemed, for the purposes of assessment to agricultural income-tax, to be a multiple,

(i) in the case of land assessed to rent, of the rent of such land,

(ii) in the case of land not assessed to rent, of the cess valuation of such land; or

(b) be assessed on the net amounts of such income determined in the prescribed manner.

(2) The multiple<sup>[1]</sup> referred to in clause (a) of sub-section (1) shall be such multiple not exceeding six as may be fixed for each district by the Board.

(3) Rules prescribing the manner of determining the net amounts of agricultural income for the purpose of clause (b) of sub-section (1) shall provide that the following deductions shall be made from the gross amounts of such income, namely :—

(a) the sum actually paid in the previous year as revenue to the Crown or as rent to a landlord in respect of the land from which such agricultural income is derived;

(b) the sum actually paid in the previous year in respect of such land as any local cess or rate collected under

[1] For multiples fixed under this sub-section, see the notification of the Bihar Board of Agricultural Income-tax, dated the 26th February, 1939, published in the *Bihar Gazette*, 1939, Pt. II, p. 209.

(Sec 7.)

any Bengal Act or under any Bihar and Orissa Act or under any Bihar Act;

Ben. Act  
VI of 1870.  
B. & O.  
Act I of  
1914.

(c) any rate paid under the Village Chaukidari Act, 1870<sup>[1]</sup>, or the Chota Nagpur Rural Police Act, 1914<sup>[2]</sup>, in respect of any building used for the purposes of the cultivation of the land from which such agricultural income is derived;

Ben. Act  
III of 1876.

(d) any sum paid in respect of the land from which such agricultural income is derived in accordance with rules<sup>[3]</sup> made under the Bengal Irrigation Act, 1876<sup>[4]</sup>;

(e) the expenses of cultivating the crop from which such agricultural income is derived, of transporting such crop to market, including the maintenance of agricultural implements and cattle required for the purpose of such cultivation and for transporting the crop to market;

(f) any tax, cess or rate paid under any Bihar Act on the cultivation or sale of the crop from which such agricultural income is derived;

(g) (i) any expense incurred on the maintenance of any irrigation or protective work constructed for the benefit of the land from which such agricultural income is derived,

(ii) any expense incurred on the maintenance of any capital asset purchased or constructed before this Act came into force, if such maintenance is required for the purpose of deriving such agricultural income from such land,

(iii) interest actually paid on any amount borrowed and actually spent on any capital expenditure incurred after the passing of this Act for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land,

[1] Printed in Bihar and Orissa Code, Vol. II, Second Edition, p. 121.

[2] Printed in *ibid.*, Vol. III, p. 125.

[3] For rules made under the Bengal Irrigation Act, 1876, see the Bihar and Orissa Local Statutory Rules and Orders, Vol. I, Pt. VI.

[4] Printed in Bihar and Orissa Code, Vol. II, Second Edition, p. 205.

(Secs. 8-9.)

(iv) depreciation at the prescribed rate in respect of any capital asset purchased or constructed after the commencement of this Act for the benefit of the land from which such agricultural income is derived, or for the purpose of deriving such agricultural income from such land, and

(v) any interest paid on any mortgage or other capital charge incurred for the purposes of acquiring the property from which such agricultural income is derived or for the purposes of cultivation of the property :

Provided that no deduction shall be made under this clause, if it has already been made under section 6; and

(h) such other deductions as may be prescribed.

Exemption  
of charit-  
able or  
religious  
trusts.

**8.** (1) Where the assessee is a trustee and the trust under which he holds is a trust, created before the commencement of this Act, for public purposes of a charitable or religious nature, any income applied, or finally set apart for application, to any public purpose of a charitable or religious nature in accordance with the terms of the trust subject to which he holds the property from which such agricultural income is derived, shall not be included in the total agricultural income of such assessee.

(2) In this section purposes of a charitable nature include relief of the poor, education, medical relief and advancement of any other object of general public utility.

Exemption  
of *Wakf-  
alal-aulad*.

**9.** All agricultural income of Muslim trusts referred to in section 3 of the Musalman Wakf Validating Act, 1913<sup>[1]</sup>, created VI of 1913, before the commencement of this Act, shall be excluded from the operation of this Act :

Provided that the share of a beneficiary under a trust under the aforesaid Act, commonly known as *Wakf-alal-aulad*, shall not be exempted and the tax may be realised from the *mutawali* and the basis of taxation shall be the share of each beneficiary.

*Explanation.*—For the purposes of this section, a beneficiary means the settlor, his family, children and descendants.

(Secs. 10-11.)

**10.** The total agricultural income of a Hindu undivided family shall be treated as the income of one individual and assessed as such : Assessment of a Hindu undivided family.

Provided that if a Hindu undivided family consists of brothers only, or of a brother or brothers and the son or sons of a brother or brothers, the total agricultural income of the family shall be assessed—

- (a) at the rate applicable to the share of a brother, if such share exceeds Rs. 5,000;
- (b) at six pies in the rupee, if the share of a brother is Rs. 5,000 or less.

*Explanation.*—For the purposes of this section,—

- (1) the expression “ share of a brother ” means the portion of the total agricultural income of a Hindu undivided family, which would have been allotted to a brother, if a partition of the property of such family had been effected according to the ordinary rule of Hindu law applicable to such family, on the day before the assessment is made; and
- (2) “ son ” includes a son’s son.

**11.** (1) Save as provided in sections 9, 12 and 13, if a person holds land from which agricultural income is derived partly for his own benefit and partly for the benefit of beneficiaries or wholly for the benefit of beneficiaries, agricultural income-tax shall be assessed on the total agricultural income derived from such land at the rate which would have been applicable if such person had held the land exclusively for his own benefit, and the agricultural income-tax so payable shall be assessed on the person holding such land, and he shall be liable to pay the same. Assessment of tax on land held for the benefit of several persons.

(2) Any person holding such land shall be entitled, before paying to any beneficiary the amount of agricultural income which such beneficiary is entitled to receive from the agricultural income derived from such land, to deduct the amount of agricultural income-tax at the rate at which the agricultural income is or will be assessed under sub-section (1).

*Explanation.*—In this section “ beneficiary ” means a person entitled to a portion of the agricultural income derived from the land.

(Secs. 12-14.)

**Assessment of tax on common manager, receiver, etc.**      **12.** Where any person holds land, from which agricultural income is derived, as a common manager appointed under any law for the time being in force or under any agreement or as receiver, administrator or the like on behalf of persons jointly interested in such land or in the agricultural income derived therefrom, the aggregate of the sums payable as agricultural income-tax by each person on the agricultural income derived from such land and received by him shall be assessed on such common manager, receiver, administrator or the like, and he shall be deemed to be the assessee in respect of the agricultural income-tax so payable by each such person and shall be liable to pay the same.

**Court of Wards, etc.**      **13.** In the case of agricultural income chargeable under this Act, which is received by the Court of Wards, the Administrator-General or the Official Trustee, the tax shall be levied upon and recoverable from such Court of Wards, Administrator-General, or Official Trustee, in the like manner and to the same amounts as it would be leviable upon and recoverable from any person on whose behalf such agricultural income is received, and all the provisions of this Act shall apply accordingly.

**Exemptions in case of life insurances.**      **14.** (1) (a) Agricultural income-tax shall not be payable by an assessee in respect of any sums paid by him out of his total agricultural income to effect an insurance on his own life or on the life of his wife, or in respect of a contract for a deferred annuity on his own life or on the life of his wife, or as a contribution to any provident fund to which the Provident Funds Act, 1925<sup>[1]</sup>, <sup>XIX of 1925.</sup> applies :

Provided that agricultural income-tax shall be payable on the remainder of the total agricultural income of such assessee at the rate which would have been applicable if such deduction had not been made.

(b) Nothing in this sub-section shall be deemed to entitle an assessee, who is assessed to income-tax under the Indian Income-tax Act, 1922<sup>[2]</sup>, to claim a deduction in respect of any sum paid by him, as mentioned in clause (a), if such sum was exempted <sup>XI of 1922.</sup> under section 15 of the said Act.

(2) Where the assessee is a Hindu undivided family, there shall be exempted under sub-section (1) any sums paid to effect an insurance on the life of any member of the family.

[1] Printed in General Acts, 1924—27, Ed. 1928, p. 182.

[2] Printed in General Acts, 1921—23, Ed. 1928, p. 86.

(Secs. 15-16.)

(3) The aggregate of any sums exempted under this section shall not exceed one-sixth of the total agricultural income of the assessee.

15. Where owing to the fact that the total agricultural income of any assessee has reached or exceeded a certain limit, he is liable to pay agricultural income-tax or to pay agricultural income-tax at a higher rate, the amount of agricultural income-tax payable by him shall, where necessary, be reduced so as not to exceed the aggregate of the following amounts, namely :—

Reduction of tax when margin above a certain limit is small.

(a) the amount which would have been payable if his total agricultural income had been a sum less by one rupee than that limit, and

(b) the amount by which his total agricultural income exceeds that sum.

### CHAPTER III.

#### INCOME-TAX AUTHORITIES.

16. (1) There shall be the following classes of income-tax authorities for the purposes of this Act, namely —

Income-tax authorities.

(a) The Bihar Board of Agricultural Income-tax ;

(b) Bihar Commissioners of Agricultural Income-tax ;

(c) Bihar Assistant Commissioners of Agricultural Income-tax ; and

(d) Bihar Agricultural Income-tax Officers.

(2) The authorities<sup>[1]</sup> specified in sub-section (1) shall be appointed by the Governor and shall exercise and perform <sup>[2]</sup>in such areas as the Provincial Government may by notification determine] the prescribed powers and duties, and their conditions of service, and their relation to each other shall be such as may be prescribed.

[1] For the authorities appointed under this sub-section, see notification no. 202-F., dated the 7th January 1939, published in the *Bihar Gazette*, 1939, Pt. II, p. 47.

[2] These words were substituted for the words " in the prescribed areas " by the Bihar Agricultural Income-tax (Second Amendment) Act, 1939 (Bihar Act IX of 1939), s. 2

(Secs. 17-18.)

## CHAPTER IV.

## ASSESSMENT, DEDUCTIONS AND EXEMPTIONS.

Return of  
income.

**17.** (1) The principal officer of every company shall prepare and on or before the prescribed date in each year, furnish to the Agricultural Income-tax Officer a return, in the prescribed form and verified in the prescribed manner, of the total agricultural income of the company during the previous year :

Provided that the Agricultural Income-tax Officer may, in his discretion, extend the date for the delivery of the return in the case of any company or class of companies.

(2) In the case of any person other than a company whose total agricultural income is, in the opinion of the Agricultural Income-tax Officer, of such amount as to render such person liable to the payment of agricultural income-tax for any financial year, the Agricultural Income-tax Officer shall serve in that financial year a notice in the prescribed form upon him requiring him to furnish, within the prescribed period, a return in the prescribed form and verified in the prescribed manner setting forth his total agricultural income during the previous year :

[<sup>1</sup>] [Provided that when the previous year ends on, or within a period of three months immediately preceding, the last day of such financial year, the notice may be served in such financial year (whether the previous year has ended or not) or in the next succeeding financial year.]

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2), or, having furnished a return under either of those sub-sections, discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made, and any return so made shall be deemed to be made in due time under this section.

Assess-  
ment.

**18.** (1) If the Agricultural Income-tax Officer is satisfied that a return made under section 17 is correct and complete, he shall assess the total agricultural income of the assessee, and shall determine the sum payable by him on the basis of such return.

(2) If the Agricultural Income-tax Officer has reason to believe that a return made under section 17 is incorrect or incomplete, he shall serve on the person who made the return a notice requiring him, on the date to be therein specified, either to attend at the

[<sup>1</sup>] This proviso was inserted by the Bihar Agricultural Income-tax (Amendment) Act, 1939 (Bihar Act V. of 1939), s. 2.

(Sec. 19.)

office of the Agricultural Income-tax Officer or to produce or to cause to be there produced any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be, the Agricultural Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Agricultural Income-tax Officer may require on specified points, shall, by an order in writing, assess the total agricultural income of the assessee and determine the sum payable by him on such assessment.

(4) If the principal officer of any company or other person fails to make a return under sub-section (1) or sub-section (2) of section 17, as the case may be, or, having made the return, fails to comply with all the terms of the notice issued under sub-section (2) of this section, or to produce any evidence required under sub-section (3) of this section, the Agricultural Income-tax Officer shall make the assessment to the best of his judgment

Provided that before making such assessment, the Agricultural Income-tax Officer may allow the assessee such further time as he thinks fit to make the return or comply with the terms of the notice or to produce the evidence.

(5) Save as otherwise provided in section 26, no person, other than a company, on whom a notice under sub-section (2) of section 17 has not been served shall be liable to pay agricultural income-tax.

(6) Notwithstanding anything to the contrary contained in sub-sections (1), (3) and (4), where agricultural income-tax is charged on an assessee for the financial year 1938-39, the sum which shall be determined as payable by the assessee in respect of such tax for the said financial year shall be an amount equal to fifty *per centum* of the sum which, but for the provision of this sub-section, would have been determined by the Agricultural Income-tax Officer under this section.

**19.** (1) If the Agricultural Income-tax Officer or the Assistant Commissioner of Agricultural Income-tax or the Commissioner of Agricultural Income-tax, in the course of any proceeding under this Act, is satisfied that an assessee has concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars of such income and has thereby returned it below its real <sup>Penalty for concealment of income.</sup>

## (Sec. 20.)

amount, he may direct that the assessee shall, in addition to the agricultural income-tax payable by him, pay by way of penalty a sum not exceeding the amount of agricultural income-tax which would have been avoided if the agricultural income so returned by the assessee had been accepted as the correct income :

Provided that no such order shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard :

Provided further that no prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(2) If the Commissioner of Agricultural Income-tax or the Assistant Commissioner of Agricultural Income-tax makes an order under sub-section (1), he shall forthwith send a copy of the same to the Agricultural Income-tax Officer.

power to  
assess in-  
dividual  
members of  
firms, asso-  
ciations and  
companies.

**20.** (1) Where the [1][Agricultural Income-tax Officer] is satisfied that any firm or other association of individuals carrying on any business, other than a Hindu undivided family or a company, is under the control of one member thereof, and that such firm or association has been formed or is being used for the purpose of evading or reducing the liability to agricultural income-tax of any member thereof, he may, with the previous approval of the Assistant Commissioner of Agricultural Income-tax, pass an order that the sum payable as agricultural income-tax by the firm or association shall not be determined, and thereupon the share of each member in the agricultural income of the firm or association shall be included in his total agricultural income for the purpose of his assessment thereon.

*Explanation.*—A member of a firm or association who owns the whole or the major portion of the capital of the firm or association shall not by reason only of that fact be deemed to control the firm or association.

(2) Where the Agricultural Income-tax Officer is satisfied that a company is under the control of not more than five of its members and that its agricultural income is allowed to accumulate beyond its reasonable needs, existing and contingent, having regard to the maintenance and development of its business, without being

[1] These words were substituted for the words " Income-tax Officer " by the Bihar Agricultural Income-tax (Amendment) Act, 1939 (Bihar Act V of 1939), s. 3.

(Sec. 20.)

distributed to the members, or that a reasonable part of its agricultural income, having regard to the said needs, has not been distributed to its members in such manner as to render the amount distributed liable to be included in their total agricultural income, and that such accumulation or failure to distribute is for the purpose of preventing the imposition of agricultural income-tax upon any of the members in respect of their shares in the agricultural income so accumulated or not distributed, the Agricultural Income-tax Officer may, with the previous approval of the Assistant Commissioner of Agricultural Income-tax, pass an order that the sum payable as agricultural income-tax by the company shall not be determined, and thereupon the proportionate share of each member in the agricultural income of the company, whether such agricultural income has been distributed to the members or not, shall be included in the total agricultural income of such member for the purpose of his assessment thereon :

Provided that this sub-section shall not apply to any company which is a subsidiary company or in which the public are substantially interested.

*Explanation.*—For the purposes of this sub-section—

(a) a company shall be deemed to be a subsidiary company if, by reason of the beneficial ownership of shares therein, the control of the company is in the hands of a company not being a company to which the provisions of this sub-section apply or of two or more companies none of which is a company to which those provisions apply ;

(b) a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than twenty-five *per cent* of the voting power have been allotted unconditionally to, or acquired unconditionally by, and are at the end of the previous year beneficially held by, the public (not including a company to which the provisions of this sub-section apply), and if any such shares have in the course of such previous year been the subject of dealings in any stock exchange in British India or are, in fact, freely transferable by the holders to other members of the public ;

(c) unless the contrary is proved, a company shall be deemed to be under the control of any persons where the majority of the voting power or shares is in the hands of those persons or of relatives or nominees of those persons ;

(Sec. 20-A.)

(d) "nominee" means a person who may be required to exercise his voting power on the directions of, or holds shares directly or indirectly on behalf of, another person.

(3) The Assistant Commissioner of Agricultural Income-tax shall not give his approval to any order proposed to be passed by the Agricultural Income-tax Officer under this section, until he has given the firm, association or company concerned an opportunity of being heard.

(4) (i) Where any member of a firm or association of individuals makes default in the payment of agricultural income-tax on his share of agricultural income which has been included in his total agricultural income under the provisions of sub-section (1), such agricultural income-tax may be recovered from the firm or association, as the case may be.

(ii) Where the proportionate share of any member of a company in the undistributed agricultural income of the company has been included in his total agricultural income under the provisions of sub-section (2), the agricultural income-tax payable in respect thereof shall be recoverable from the company and may be recovered from such member, if there are not sufficient funds in the hands of the company to pay the tax, or if the winding up of the company has commenced.

(iii) Where agricultural income-tax is recoverable from a company, firm or other association under this sub-section, a notice of demand shall be served upon it in the prescribed form showing the sum so payable, and such company, firm or association shall be deemed to be the assessee in respect of such sum, for the purposes of Chapter V.

(5) Where agricultural income-tax has been paid in respect of any undistributed agricultural income of a company under this section and such agricultural income is subsequently distributed in any year, the proportionate share therein of any member of the company shall be excluded in computing his total agricultural income of that year.

Tax of  
deceased  
person  
payable  
by represen-  
tative.

[1][20A. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person to the extent to which the estate is capable

[1] This section was inserted by the Bihar Agricultural Income-tax (Amendment) Act, 1939 (Bihar Act V of 1939), s. 4.

*(Secs. 21-22.)*

of meeting the charge the agricultural income-tax assessed as payable by such person, or any agricultural income-tax which would have been payable by him under this Act if he had not died.

(2) Where a person dies before he is served with a notice under sub-section (2) of section 17 or section 26, as the case may be, the Agricultural Income-tax Officer may serve on his executor, administrator or other legal representative a notice under sub-section (2) of section 17 or under section 26, as the case may be, and may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee.

(3) Where a person dies, without having furnished a return which he has been required to furnish under the provisions of sub-section (2) of section 17 or having furnished a return which the Agricultural Income-tax Officer has reason to believe to be incorrect or incomplete, the Agricultural Income-tax Officer may make an assessment of the total agricultural income of such person and determine the tax payable by him on the basis of such assessment, and for this purpose may require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which he might under the provisions of sub-sections (2) and (3) of section 18 have required from the deceased person.]

**21.** When the Agricultural Income-tax Officer has determined a sum to be payable by an assessee under section 18, or when an order has been passed under section 19 for the payment of penalty, the Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

**22.** (1) Any assessee objecting to the amount or rate at which he is assessed under section 18 or denying his liability to be assessed under this Act or objecting to any order against him under section 19 made by the Agricultural Income-tax Officer, may appeal to the prescribed authority against the assessment or against such order.

(2) Every appeal under this section shall ordinarily be presented within the prescribed period, but the authority before whom the appeal is filed may admit an appeal after the expiration of the prescribed period, if it is satisfied that the appellant had sufficient cause for not presenting it within the prescribed period.

*(Sec. 23.)*

(3) The prescribed authority shall fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing and make such further enquiry as it thinks fit.

(4) Every appeal under this section shall be presented in the prescribed form, and shall be verified in the prescribed manner.

(5) In disposing of an appeal, the prescribed authority may, in the case of an order of assessment,—

(a) confirm, reduce, enhance or annul the assessment ;

(b) set aside the assessment and direct the [1][authority which made the assessment] to make a fresh assessment after such further enquiry as may be directed,

or, in the case of an order under section 19 confirm, cancel or vary such order :

Provided that no enhancement of an assessment shall be made under this section, unless the appellant has had a reasonable opportunity of showing cause against such enhancement.

Reference to Board of Referees.      **23.** (1) Any person aggrieved by an order passed under section 20 may, within thirty days of the date on which he was served with notice of such order, lodge an appeal in the office of the Commissioner of Agricultural Income-tax.

(2) The appeal shall be in the prescribed form, and shall be verified in the prescribed manner.

(3) The Commissioner of Agricultural Income-tax shall refer such appeal, with a statement of his own opinion thereon, to a Board of Referees for decision ; and the Board of Referees shall decide the appeal after hearing the appellant and any person deputed by the Commissioner of Agricultural Income-tax :

Provided that, before making a reference to a Board of Referees, the Commissioner of Agricultural Income-tax may, and at the request of the appellant shall, decide the matters in dispute, and thereupon the assessee may withdraw his appeal or proceed with it.

(4) The decision of the Board of Referees shall be forwarded to the Commissioner of Agricultural Income-tax who shall transmit it

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[1] These words were substituted for the words " prescribed authority " by the Bihar Agricultural Income-tax (Amendment) Act, 1939 (Bihar Act V of 1939), s. 5.

(Sec. 24.)

to the Agricultural Income-tax Officer who passed the original order, and shall also send copies to each Agricultural Income-tax Officer who has made any assessment consequent upon such order; and where a decision reverses or modifies the order of the Agricultural Income-tax Officer, fresh assessments shall be made in accordance therewith, or such consequential adjustments as may be required shall be made in any assessment already made.

(5) The decision of a Board of Referees shall not be subject to appeal to any Agricultural Income-tax authority, and shall not be revised by the Commissioner of Agricultural Income-tax or by the Board.

(6) A Board of Referees shall consist of not less than three and not more than five persons, of whom not less than one-half shall be non-officials having experience of *zamindari* or cultivation, and one shall be a judicial officer not inferior in rank to a Subordinate Judge or a Judge of Small Cause Court who has held judicial office for a period of not less than ten years.

(7) Subject to the provisions of sub-section (6), the Board may make rules<sup>[1]</sup> regulating the formation, composition and procedure of Boards of Referees.

**24.** (1) The agricultural income-tax authority immediately superior to the authority disposing of an appeal under section 22 may call for the record of such appeal. Power of revision.

(2) On receipt of the record such superior authority may make such enquiry, or cause such enquiry to be made, and subject to the provisions of this Act, may pass such orders thereon as he thinks fit:

Provided that he shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard.

(3) Any order passed <sup>[2]</sup> [ \* \* \* \* ] under sub-section (2) shall be final, subject to any reference made to the High Court under section 25.

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[1] For rules made under this sub-section, see the notification of the Bihar Board of Agricultural Income-tax no. 25—11—11, dated the 6th May 1939, published in the *Bihar Gazette*, 1939, Pt. II, p. 346.

[2] The words " by the Commissioner of Agricultural Income-tax " were omitted by the Bihar Agricultural Income-tax (Amendment) Act, 1939 (Bihar Act V of 1939), s. 6.

## (Sec. 25.)

Reference  
of case  
by Com-  
missioner  
to High  
Court.

**25.** (1) If, in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under Chapter VI, a question of law arises, the Board may, either of its own motion or on reference from any agricultural income-tax authority subordinate to it, draw up a statement of the case and refer it with its own opinion thereon to the High Court.

(2) Within sixty days of the date on which he is served with notice of an order under section 22 or of an order under section 24 enhancing an assessment or otherwise prejudicial to him, or of a decision by a Board of Referees under section 23, the assessee in respect of whom the order or decision was passed may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed, require the Board to refer to the High Court any question of law arising out of such order or decision, and the Board shall, within sixty days of the receipt of such application, draw up a statement of the case and refer it with its own opinion thereon to the High Court :

Provided that a reference shall be from an order under section 24 only on a question of law arising out of that order itself, and not on a question of law arising out of a previous order under section 22 revised by the order under section 24 :

Provided further that, if, in exercise of his power of revision under section 24, the revisional authority decides the question or if the Board rejects the application on the ground that it is time-barred or otherwise incompetent, or if, in exercise of its power under sub-section (3), the Board refuses to state the case, the assessee may, within thirty days from the date on which he receives notice of the order passed by the revisional authority or by the Board, as the case may be, withdraw his application, and if he does so, the fee paid shall be refunded.

(3) If on any application being made under sub-section (2), the Board refuses to state the case on the ground that no question of law arises, the assessee may apply, within six months from the date on which he is served with notice of the refusal, to the High Court, and the High Court, if it is not satisfied of the correctness of the decision of the Board, may require the Board to state the case and to refer it, and, on receipt of any such requisition, the Board shall state and refer the case accordingly.

(4) If, on any application being made under sub-section (2), the Board rejects it on the ground that it is time-barred, the assessee may, within two months from the date on which he is served with notice of the order of the Board, apply to the High

(Sec. 26.)

Court, and the High Court, if it is not satisfied of the correctness of the decision of the Board, may require the Board to treat the application as made within the time allowed under sub-section (2).

(5) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Board to make such additions thereto or alterations therein as the Court may direct in that behalf.

(6) The High Court upon the hearing of any such case shall decide the questions 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 the signature of the Registrar, and the Board shall dispose of the case accordingly, or, if the case arose on a reference from any Agricultural Income-tax authority subordinate to it, shall forward a copy of such judgment to such authority who shall dispose of the case conformably to such judgment.

(7) Where a reference is made to the High Court on the application of an assessee, the costs shall be in the discretion of the Court.

(8) Notwithstanding that a reference has been made under this section to the High Court, agricultural income-tax shall be payable in accordance with the assessment made in the case :

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Board may allow.

(9) Section 5 of the Indian Limitation Act, 1908<sup>[1]</sup>, shall apply to an application to the High Court by an assessee under sub-section (3) or sub-section (4).

**26.** If for any reason any agricultural income chargeable to agricultural income-tax has escaped assessment for any financial year, or has been assessed at too low a rate, the Agricultural Income-tax Officer may, at any time within one year of the end of that financial year, serve on the person liable to pay agricultural income-tax on such agricultural income or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 17, and may proceed to assess or re-assess such

Income  
escaping  
assessment.

[1] Printed in Central Acts, 1908—10, Ed. 1938, p. 351.

(Secs. 27-28.)

income, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that subsection :

Provided that the tax shall be charged at the rate at which it would have been charged if such income had not escaped assessment or full assessment, as the case may be.

Rectifi-  
cation of  
mistake.

27. (1) The authority which passed an order on appeal<sup>[1]</sup>[or revision] may, at any time within one year from the date of such order, and the Agricultural Income-tax Officer may, at any time within one year from the date of any demand made upon an assessee, of his own motion, rectify any mistake apparent from the record of the appeal or assessment, as the case may be, and shall within the like period rectify any such mistake as has been brought to his notice by such assessee :

Provided that <sup>[2]</sup> [no such rectification shall, if it has the effect of enhancing the assessment, be made], unless the appellate authority or the Agricultural Income-tax Officer, as the case may be, has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, the Agricultural Income-tax Officer shall make any refund which may be due to such assessee.

(3) Where any such rectification has the effect of enhancing the assessment, the Agricultural Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under <sup>[3]</sup> [section 21], and the provisions of this Act shall apply accordingly.

Tax to  
be collect-  
ed to the  
nearest  
anna.

28. In the determination of the amount of agricultural income-tax or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded, and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.

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[1] These words were inserted by the Bihar Agricultural Income-tax (Amendment) Act, 1939 (Bihar Act V of 1939), s. 7(a).

[2] These words were substituted for the words " no such rectification shall be made having the effect of enhancing assessment " by *ibid.*

[3] The word and figures " section 21 " were substituted for the word and figures " section 17 " by *ibid.*, s. 7(b).

(Sec. 29.)

29. (1)[<sup>1</sup>] [The Board of Agricultural Income-tax, the Commissioner of Agricultural Income-tax, the Assistant Commissioner of Agricultural Income-tax and the Agricultural Income-tax Officer shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908<sup>[2]</sup>, when trying a suit in respect of the following matters, namely:—

Power to take evidence on oath.

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents; and
- (c) issuing commissions for the examination of witnesses;

and any such proceeding before [<sup>3</sup>] [such Board, Commissioner, Assistant Commissioner or Income-tax Officer under this Chapter shall be deemed to be a "judicial proceeding" within the meaning of sections [<sup>4</sup>] [193 and 228 and for the purposes of section 196] of the Indian Penal Code<sup>[5]</sup>.

(2) If any person assessed to agricultural income-tax in respect of agricultural income mentioned in sub-clause (1) of clause (a) of section 2 produces before the Agricultural Income-tax Officer, for the purpose of calculating his agricultural income, any rent roll or other similar papers showing the amount of rent received by him, he shall not be entitled to recover, or to institute a suit to recover, rent due to him for any tenure or holding included in such return at a rate higher than the rate mentioned in such return as payable for such tenure or holding, unless the rent shown in such return has, since the date of the return, been lawfully enhanced.

(3) Any person who has produced a rent roll referred to in subsection (2) may, within one year of producing such roll, apply to the Agricultural Income-tax Officer to make any correction therein, and the Agricultural Income-tax Officer may, if he is satisfied that such correction should be made, pass an order correcting such rent roll.

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[<sup>1</sup>] These words were substituted for the words "The Commissioner of Agricultural Income-tax" by the Bihar Agricultural Income-tax (Amendment) Act, 1939 (Bihar Act V of 1939), s. 8.

[<sup>2</sup>] Printed in Central Acts, 1908—10, Ed. 1988, p. 8.

[<sup>3</sup>] These words were substituted for the words "such Commissioner" by the Bihar Agricultural Income-tax (Amendment) Act, 1939 (Bihar Act V of 1939), s. 8.

[<sup>4</sup>] These figures and words were substituted for the figures and word

V of  
1908.

XLV of  
1880.

(Secs. 30-31.)

(4) Where the Agricultural Income-tax Officer passes any order under sub-section (3), he may assess under section 26 any income escaping assessment by reason of the original incorrectness of any entry corrected.

Power  
to call  
for infor-  
mation.

**30.** The Assistant Commissioner of Agricultural Income-tax or the Agricultural Income-tax Officer may, for the purposes of this Act,—

- (1) require any firm or Hindu undivided family to furnish him with a return of the names of members of the firm or of the names of manager or the brothers and sons of brothers of the family, as the case may be, and of their addresses;
- (2) require any person whom he has reason to believe to be a trustee, guardian or agent to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent and of their addresses.

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## CHAPTER V.

### RECOVERY OF TAX AND PENALTIES.

Tax when  
payable.

**31.** (1) Any amount specified as payable in a notice of demand under section 21 or an order under section 22, 23 or 24 shall be paid in four equal instalments.

(2) The first of such instalments shall be paid within one month [1] [of the date of the notice of demand or of the order, as the case may be,] and the second and subsequent instalments shall be paid at intervals of approximately ninety days on such dates as may be fixed by the Agricultural Income-tax Officer.

(3) If any such instalment is not paid on the date fixed under sub-section (2) the assessee shall be in default :

Provided that when an assessee has presented an appeal under section 22, the Agricultural Income-tax Officer may, in his discretion, treat the assessee as not being in default as long as such appeal is undisposed of, and if in any such case the Agricultural Income-tax Officer considers that the assessee should be held to be in default, he shall refer the matter to the authority to whom the

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[1] These words were substituted for the words "of the date of the order" by the Bihar Agricultural Income-tax (Amendment) Act, 1939 (Bihar Act V of 1939), s. 9.

(Sec. 32.)

appeal was presented for orders, and shall treat the assessee as not being in default until the said authority passes orders to the contrary :

Provided further that if no instalments are paid during the pendency of an appeal, all instalments due shall be payable within three months after the date on which such appeal is disposed of.

32. (1) When an assessee is in default in making a payment of agricultural income-tax, the Agricultural Income-tax Officer may, in his discretion, direct that, in addition to the amount of the arrears, a sum not exceeding one-eighth of that amount shall be recovered from the assessee by way of penalty. Mode and time of recovery.

(2) For the purpose of sub-section (1), the Agricultural Income-tax Officer may direct the recovery of any sum less than one-eighth of the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed one-eighth of the amount of the arrears payable.

(3) When an assessee is in default, the Agricultural Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from the assessee, and the Collector on receipt of such certificate shall proceed to recover from such assessee the amount specified therein as a public demand payable to the Collector.

(4) (a) When agricultural income-tax is, under section 8, payable by a trustee, or, under section 9, payable by a *mutawali* of a *Musalman Wakf* referred to in section 3 of the *Musalman Wakf Validating Act, 1913*[<sup>1</sup>], and such trustee or *mutawali* is in default, the Agricultural Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from the assessee, and the Collector on receipt of such certificate shall proceed to recover from such trustee or *mutawali* the amount specified therein as a public demand :

VI of  
1913.

B. & O.  
Act IV of  
1914.

Provided that, notwithstanding anything to the contrary contained in section 15 of the *Bihar and Orissa Public Demands Recovery Act, 1914*[<sup>2</sup>], any land held by such trustee or *mutawali* as such shall not be attached and sold in execution of such a

[<sup>1</sup>] Printed in Central Acts, 1911—16, Ed. 1938, p. 219.

[<sup>2</sup>] Printed in Bihar and Orissa Code, Vol. III, Second Edition, p. 171.

(Secs. 33-35.)

certificate but such arrears may be realised from the income of the *wakf* estate by the appointment of a receiver of any property of the *wakf*.

(b) The provisions of Order XI, of the Code of Civil Procedure, 1908<sup>[1]</sup>, shall apply to a proceeding under this sub-section, **V** of 1908. and the Certificate Officer shall be deemed to be a Civil Court within the meaning of the said Order XI.

(5) No proceeding for the recovery of any sum payable under this Act shall be commenced after the expiration of one year after the date on which the last instalment fixed under section 31 falls due or after the expiration of one year after the date on which any appeal relating to such sum has been disposed of, whichever date is later.

Recovery of penalties.

**33.** Any sum imposed by way of penalty under the provisions of section 19 or section 32 shall be recoverable in the manner provided in this Chapter for the recovery of an arrear of tax.

Right, title and interest of a member of Hindu undivided family or of other persons on whose behalf property is held to pass to the purchaser when property is sold for realization of arrears of tax.

**34.** Notwithstanding anything contained in section 26 of the Bihar and Orissa Public Demands Recovery Act, 1914<sup>[2]</sup>,— **B. & O. Act IV of 1914.**

(a) where any property of a Hindu undivided family is sold under the said Act for the realization of arrears of agricultural income-tax, the right, title and interest of all members of such family in the property shall pass to the purchaser;

(b) save as provided in sub-section (4) of section 32, where any person has been assessed to agricultural income-tax on the agricultural income derived from land held by him wholly or partly for the benefit of other persons and the tax payable by him is in arrear, the land so held by him may be attached and sold for the realization of such arrears, and on such sale, the right, title and interest of such persons in the said land shall pass to the purchaser.

## CHAPTER VI.

### OFFENCES AND PENALTIES.

False statement in declaration.

**35.** If any person makes a statement in a verification mentioned in section 17 or section 22 which is false, and which

[1] Printed in Central Acts, 1908—10, Ed. 1938, p. 8.

[2] Printed in Bihar and Orissa Code. Vol. III, Second Edition p. 171.

(Secs. 36-38.)

KLV of 1860.

he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code<sup>[1]</sup>.

**36.** (1) A person shall not be proceeded against for an offence under section 35 except at the instance of the Assistant Commissioner of Agricultural Income-tax.

Prosecution to be at the instance of Assistant Commissioner.

(2) Before instituting proceedings against any person under sub-section (1), the Assistant Commissioner of Agricultural Income-tax shall call upon such person to show cause why proceedings should not be instituted against him.

(3) The Assistant Commissioner of Agricultural Income-tax may stay any such proceeding or compound any such offence.

**37.** If any person fails, without reasonable cause or excuse, to furnish in due time any of the returns mentioned in section 17 or section 30, he shall be punishable with fine which may extend to five rupees for every day during which the default continues.

Failure to furnish returns or to supply information.

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## CHAPTER VII.

### MISCELLANEOUS.

**38.** (1) An assessee shall, subject to any orders passed under sub-section (2), be assessed at the headquarters of the district in which is situated the land from which the greater part of the agricultural income in respect of which he is assessed is derived.

Place of assessment.

(2) (a) An assessee may, on receipt of the first notice served on him under sub-section (2) of section 17, apply to the Agricultural Income-tax Officer by whom such notice is served to be assessed at his usual place of residence or at the place where the accounts relating to his agricultural income are kept, if either of such places is situated in the Province of Bihar, and such Agricultural Income-tax Officer may pass an order that the assessee shall be assessed at the place specified in the application, or refer the matter to the Assistant Commissioner of Income-tax, whose decision shall be final.

(b) Where an order is passed under clause (a) of sub-section (2), the assessee shall not be entitled to make any further application to change his place of assessment :

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[1] Printed in Central Acts, 1834—71, Ed. 1938, p. 235.

(Secs. 39-43.)

Provided that the Agricultural Income-tax Officer may allow the assessee to be assessed at any other place upon such conditions as he thinks fit.

(3) Notwithstanding anything contained in this section, every Agricultural Income-tax Officer shall have all the powers conferred by or under this Act on the Agricultural Income-tax Officer in respect of any agricultural income derived from land situated within the area to which he is appointed.

**Bar of suits in Civil Courts.** **39.** No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any officer of the Crown for anything in good faith done or intended to be done under this Act.

**Computation of periods of limitation.** **40.** In computing the period of limitation prescribed for any appeal under this Act, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

**Appearance by authorised representative.** **41.** Any assessee, who is entitled or required to attend before any income-tax authority in connection with any proceeding under this Act, may attend either in person or by any person authorised by him in writing in this behalf.

**Receipts to be given.** **42.** A receipt shall be given for any money paid or recovered under this Act.

**Service of notices.** [1][**42A.** (1) A notice or requisition under this Act may be served on the person therein named either by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, V of 1908. 1908[2].

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or to the manager, or any adult male member of the family, and, in the case of any other association of individuals, be addressed to the principal officer thereof; and any such notice or requisition so addressed shall be deemed to be a notice or requisition to the firm, family or association of individuals, as the case may be.]

**Indemnity.** **43.** Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another

[1] This section was inserted by the Bihar Agricultural Income-tax (Amendment) Act, 1939 (Bihar Act V of 1939), s. 10.

[2] Printed in Central Acts, 1908—10, Ed. 1938, p. 8.

(Secs. 44-45.)

person is hereby indemnified for the deduction, retention or payment thereof.

44. Nothing in this Act shall be deemed to authorise any of the income-tax authorities mentioned in section 16 to call for any papers or documents for the purpose of ascertaining agricultural income or for any other purpose under this Act except the papers noted below :—

Powers of income-tax authorities to call for papers or documents.

- (1) papers showing the amount of rent which accrued due in the previous year;
- (2) papers showing the actual receipt of agricultural income by an assessee in the previous year;
- (3) ledgers showing the actual expenditure incurred for which a deduction or exemption is claimed under this Act; and
- (4) original vouchers supporting the items of expenditure referred to in clause (3).

45. (1) The Provincial Government may, after previous publication, make rules<sup>[1]</sup> for carrying out the purposes of this Act, and such rules may be made for the whole of the Province or for such part thereof as may be specified.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the manner in which the net income from land referred to in clause (b) of sub-section (1) of section 7 shall be calculated;
- (b) prescribe the powers and duties of income-tax authorities appointed under sub-section (2) of section 16, <sup>[2]</sup> [\* \* \* \* \*] the relation of such authorities to each other and the conditions of service of such authorities;
- (c) prescribe the date before which returns shall be submitted under sub-section (1) of section 17, the form of such returns and the manner in which they shall be verified;

[1] For rules made under this section, see notification no. 1000-F., dated the 6th February 1939, published in the *Bihar Gazette*, 1939, Pt. II, p. 118.

[2] The words "the areas in which such powers and duties shall be exercised and performed" were omitted by the Bihar Agricultural Income-tax (Second Amendment) Act, 1939 (Bihar Act IX of 1939), s. 3.

## (Sec. 45.)

- (d) prescribe the period within which returns referred to in sub-section (2) of section 17 shall be submitted, the form of such returns and the manner in which they shall be verified;
- (e) prescribe the form of the notice of demand mentioned in section 21;
- (f) prescribe the authority to whom appeals may be preferred under sub-section (1) of section 22, the period, not being less than thirty days, within which such appeals shall be presented, the form of such appeals and the manner in which they shall be verified;
- (g) prescribe the fee mentioned in sub-section (2) of section 25;
- (h) prescribe the form of the notice of demand mentioned in sub-section (3) of section 27;
- (i) prescribe the method by which the assessment of agricultural income as determined under section 6 or section 7 shall be made in the case of an assessee who does not reside in the Province of Bihar, or of an assessee who resides in the Province of Bihar and is temporarily absent therefrom;
- (j) prescribe the manner in which the tax payable by an assessee who has died since the date of the assessment made on him shall be payable;
- (k) prescribe the manner in which the tax shall be payable where the assessment is made on the agricultural income of a Hindu undivided family and a partition of the property of such family has been effected after the date of such assessment;
- (l) provide for the circumstances in which refunds of the tax paid under this Act shall be made and prescribe the manner in which such refunds shall be made; and
- (m) provide for any other matter which by this Act has to be or may be prescribed.

(Schedule.)

SCHEDULE.

(See SECTION 3.)

*Rates of Agricultural Income-tax.*

	<b>Rate.</b>
(1) When the total agricultural income exceeds Rs. 5,000 but does not exceed Rs. 10,000.	Six pies in the rupee.
(2) When the total agricultural income exceeds Rs. 10,000 but does not exceed Rs. 15,000.	Seven pies in the rupee.
(3) When the total agricultural income exceeds Rs. 15,000 but does not exceed Rs. 20,000.	Eight pies in the rupee.
(4) When the total agricultural income exceeds Rs. 20,000 but does not exceed Rs. 30,000.	Ten pies in the rupee.
(5) When the total agricultural income exceeds Rs. 30,000 but does not exceed Rs. 40,000.	Twelve pies in the rupee.
(6) When the total agricultural income exceeds Rs. 40,000 but does not exceed Rs. 75,000.	Fifteen pies in the rupee.
(7) When the total agricultural income exceeds Rs. 75,000 but does not exceed Rs. 1,00,000.	Eighteen pies in the rupee.
(8) When the total agricultural income exceeds Rs. 1,00,000 but does not exceed Rs. 1,50,000.	Twenty-two pies in the rupee.
(9) When the total agricultural income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000.	Twenty-four pies in the rupee.
(10) When the total agricultural income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000.	Twenty-six pies in the rupee.
(11) When the total agricultural income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000.	Twenty-eight pies in the rupee.
(12) When the total agricultural income exceeds Rs. 10,00,000 but does not exceed Rs. 15,00,000.	Twenty-nine pies in the rupee.
(13) When the total agricultural income exceeds Rs. 15,00,000.	Thirty pies in the rupee.























