West Bengal Professional Tax - An Insight
(Part 1)

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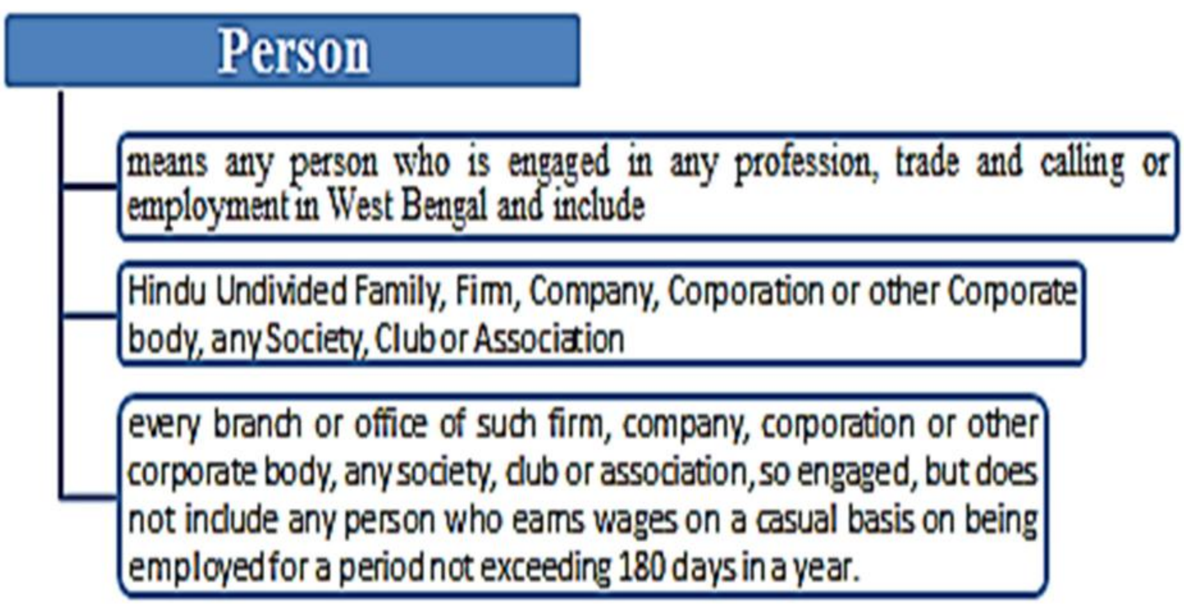
West Bengal Professional Tax

Profession Tax is a tax levied on a person engaged in any profession, trade, calling and employment in West Bengal. The West Bengal State Legislature enacted the "West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979" in exercise of the power conferred by the Article 276 of the Constitution of India (under Entry No. 60 of the "State List" relating to taxes on professions, trades, callings and employments). The Act came into effect on and from 1-4-1979.

> *Article 276 of the Constitution of India lays down that* "there shall be levied and collected a tax on professions, trades, callings and employments, in accordance with the provisions of this Act. Every person engaged in any profession, trade, calling or employment and falling under one or the other of the classes mentioned in the second column of the Schedule shall be liable to pay to the State Government tax at the rate mentioned against the class of such persons in the third column of the said Schedule. Provided that entry 23 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."

Who is liable to pay Professional Tax?

Levy base for the professional tax may be divided into two categories namely; PERSONS (engaged in professions, trades, calling and employments) and EMPLOYER (Government, Public and Private Sectors who disburse salary/wages to the employees).



Employer

Employer means the person or the officer who is responsible for disbursement of salary or wages, and includes the head of the office or any establishment as well as the manager or agent of the employer.

Concept Of Enrollment & Registration under WB Professional Tax structure		
(A) Enrollment		
Coverage	**Description**	**Non-Compliance**
Every person who is covered by **entry number 2 to 4** of the Schedule forming part of the act and as modified vide Notification No.440-L-11th March, 2014 read along with Notification No.848-F.T.-28th May, 2014.	• Certificate of Enrollment is to be obtained **within 90 days** from the date of liability to pay tax. Professional Tax liability has to be discharged first and challan evidencing payment has to be submitted to the prescribed authority along with application form. • Application for enrollment is to made online through **E - Form II.** • If an applicant has more than one branch or office or place of work in WB, has an option to make a single application covering the principal and the branch offices.	• If a person willfully fails to apply for enrollment within 90 days from the date of liability to pay, penalty of Rs.100 per calendar month or part thereof may be imposed. • Where a person liable for enrollment has deliberately given false information in any application submitted under this section, the prescribed authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees one thousand.

- Currently, 21 states in India impose professional tax.
- Article 276 of the Constitution of India which provides for levy of tax in respect of profession, trade, calling and employment also fixes a ceiling of Rs.2, 500 per taxpayer per annum.
- For some cities, professional tax is the most important source of income after property tax.

(B) Registration

Coverage	Description	Non-Compliance
Every employer is liable to deduct profession tax from the salary or wages payable to his employee(s), as per the slab mentioned in **Serial No.1 of the Schedule.** Such employer (not being an officer of Government) is required to apply and secure a Certificate of Registration.	• Certificate of Registration is to be obtained **within 90 days** from the date of liability to pay tax. Professional Tax liability has to be discharged first and challan evidencing payment has to be submitted to the prescribed authority along with application form. • Application for enrollment is to made online through **E- Form I.** • If an employer having more than one place of work within the jurisdiction of different authorities shall make separate application for registration. However, the Commissioner of Profession Tax may allow an application for single Registration for the whole of West Bengal.	• If a employer willfully fails to apply for enrollment within 90 days from the date of liability to pay, penalty of Rs.500 per calendar month or part thereof may be imposed. • Where an employer liable for enrollment has deliberately given false information in any application submitted under this section, the prescribed authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees one thousand.

Serial Number 1 of the Schedule determines the slab wise coverage

Employees earning monthly salary or wage -	Rate of Tax
Not exceeding Rs.8,500	Nil
Above Rs.8,500 but not above Rs.10,000	Rs.90 per month
Above Rs.10,000 but not above Rs.15,000	Rs.110 per month
Above Rs.15,000 but not above Rs.25,000	Rs.130 per month
Above Rs.25,000 but not above Rs.40,000	Rs.150 per month
Above Rs.40,000	Rs.200 per month

- **Salary and wages shall include** - Pay, Dearness Allowance and any other amount paid by way of allowance, all remunerations received on regular basis whether payable in cash or kind; honorarium, perquisites and profit in lieu of salary as defined in Section-17 of the Income Tax Act, 1961; encashment of leave amount (excluding payable on retirement or on death of the employee); subsistence allowance, leave concessional pay. Salary and Wage shall not include: Medical reimbursement, traveling allowance, reimbursement of conveyance charges, stipend paid to trainee, salary paid to apprentice under Apprentices Act, leave travel assistance payment, statutory Bonus, gratuity, lay of compensation and ex-gratia payment.

- Pension granted to an employee is not salary and hence pensioners are not liable to pay Profession Tax on pension.
- In Chennai professional tax collection contributes Rs.200 crore annually to the state exchequer, half as much property tax.
- Profession tax contributes around Rs.90 crore to the revenues of Surat Municipal Corporation, around 30% of its property tax collection.
- The corresponding figure for Hyderabad is around Rs.100 crore.

Payment & Filing of Return		
Description	**Enrolled Person**	**Registered Employer**
Payment can be made only in on-line mode through **"GRIPS" (Government Receipt Portal System).** Refer website via link *https://wbfin.wb.nic.in/.* However, payment can be made directly from **PT_Payment Module** that can be accessed via link *https://egov.wbcomtax.gov.in/PT_ePaYment/home.*	• On or before 31st July of each Financial Year. • For late payment of Tax, a simple interest @ 1% per month or part there-of on the Tax amount shall have to be paid.	• The payment of Tax is to be made by 21st of the next month for the months April to February & before submission of return for the month of March. • For late payment of Tax, a simple interest @ 1% per month or part there-of on the Tax amount shall have to be paid
All **Registered employers** are required to submit **Returns** electronically **through PT Return module**. The hard copy of the return, as electronically transmitted, along with the acknowledgement and tax paid challan(s) are also required to be furnished within 15 days of the following month to the prescribed authority. **(Form III)**	Enrolled Persons are not required to file any return.	• Return is to be filed annually within one month from the date immediately following the date of expiry of each financial year- • Commissioner of Profession Tax or Additional Commissioner of Profession Tax may accord permission, on the application of a registered employer having more than one place of work under the jurisdiction of different authorities, for

		furnishing a "consolidated return and to pay tax centrally (in respect of all such places of work) from his principal place of business. • A Registered Employer can file revised return, to rectify any mistake or omission, within the due date of filing the next return. • For late filing of Return, late fee is payable @ Rs 200/- for the first month of default and Rs 100/- for each subsequent month or part there-of. • Non-submission of return is an offence punishable with simple imprisonment with or without fine. • In addition to this, such return defaulters will be subject to compulsory assessment and penalty.

- If an enrolled person fails to pay due tax or pay less than the amount actually payable by him, the jurisdictional **Deputy Commissioner / Profession Tax Officer** shall determine the tax payable by him after service of notice in **Form-X**.
- If any person fails to get himself enrolled even after being liable to pay tax, the jurisdictional **Deputy Commissioner / Profession Tax Officer** is to determine the tax payable by him after service of notice in **Form-XII**.
- *However, with effect from 01-04-2005, determination of tax of both un-enrolled and enrolled persons is* ***limited to three years from the end of any year or period for which such determination is to be made.***

** *This article only addresses registered employers and enrolled persons.*

<table>
<tr><th colspan="2">Serial Number 2 to 4 of the Schedule</th></tr>
<tr><th>Description</th><th>Rate of Tax</th></tr>
<tr><td colspan="2">(SL 2) Persons being individuals engaged in any profession or calling (but not engaged as an employee) being -</td></tr>
<tr><td>(a) Legal practitioners including solicitors and notaries public;

(b) Medical Practitioners including medical consultants and dentists;

(c) Directors (other than those nominated by Government) of companies registered under the Companies Act, 1956 (1 of 1956) or under the Companies Act, 2013 (18 of 2013);

(d) Technical or professional consultants , or service providers , other than those mentioned elsewhere in the Schedule;

(e) Members of Associations recognised under the Forward Contracts (Regulation) Act, 1952 (74 of 1952);

(f) Members of Stock Exchanges recognised under the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(g) Remisiers recognised by a Stock Exchange;

(h) Holders of permits granted or issued under the Motor Vehicles Act, 1988 (59 of 1988), for transports vehicles, which are adapted to be used for hire or reward, like auto-rickshaws, three- wheeler goods vehicles, taxi including luxury taxi, trucks, trailers or buses;

(i) Postal agents, chief agents, principal agents, special agents, insurance agents, surveyors and loss assessors;

(j) Jockeys licensed by any Turf Club in the State;</td><td>where the annual gross income in the preceding year or part thereof of any such person mentioned above is –

<table>
<tr><td>Not exceeding Rs.60,000</td><td>Nil</td></tr>
<tr><td>>Rs.60,000 but ≤ Rs.72,000</td><td>Rs.480 p.a</td></tr>
<tr><td>>Rs.72,000 but ≤ Rs.84,000</td><td>Rs.540 p.a</td></tr>
<tr><td>>Rs.84,000 but ≤ Rs.96,000</td><td>Rs.600 p.a</td></tr>
<tr><td>>Rs.96,000 but ≤ Rs.1,08,000</td><td>Rs.1,080 p.a</td></tr>
<tr><td>>Rs.1,08,000 but ≤ Rs.1,80,000</td><td>Rs.1,320 p.a</td></tr>
<tr><td>>Rs.1,80,000 but ≤ Rs.3,00,000</td><td>Rs.1,560 p.a</td></tr>
<tr><td>>Rs.3,00,000 but ≤ Rs.5,00,000</td><td>Rs.2,000 p.a</td></tr>
<tr><td>>Rs.5,00,000</td><td>Rs.2,500 p.a</td></tr>
</table></td></tr>
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<table>
<tr><th colspan="2">(SL 3) Persons engaged in any profession or trade involving supply of goods or services or both, being</th></tr>
<tr><th>Description</th><th>Rate of Tax</th></tr>
<tr><td>(a) Dealers as defined under the West Bengal Sales Tax Act, 1994 (West Ben. Act XLIX of 1994) or the West Bengal Value Added Tax Act, 2003 (West Ben. Act XXXVII of 2003) or the Central Sales Tax Act, 1956 (74 of 1956), whether or not liable to pay tax under the aforesaid Acts, but excluding departments of the Central or the State Governments;

(b) Employers and/or Shopkeepers as defined in the West Bengal Shops and Establishments Act, 1963 (West Ben. Act XIII of 1963), whether or not their establishments or shops are situated within an area to which the aforesaid Act applies and also whether registered or not registered under that Act;

(c) Co-operative societies registered or deemed to be registered under the West Bengal Co-operative Societies Act, 1983 (West Ben .Act XLV of 1983) or the West Bengal Co-operative Societies Act, 2006 (West Ben .Act XL of 2006) and other registered societies;

(d) Cable operator, signal provider including M.S.O. and cable hirer in cable television network and their agents;

(e) Contractors of all descriptions engaged in any work;

(f) Owners or occupiers or licencees or lessees of factories as defined in the Factories Act, 1948 (63 of 1948);

(g) Owners, occupiers, licencees or lessees of internet café;

(h) Owners, occupiers, licencees or lessees of weighbridge;

(i) Owners of Subscribers Trunk Dialing (STD) or International Subscriber Dialing (ISD) booths;</td>
<td>where the annual gross turnover or annual gross receipt in the preceding year or part thereof of any such person mentioned above is –

<table>
<tr><td>Not exceeding Rs.5,00,000</td><td>Nil</td></tr>
<tr><td>>Rs.5,00,000 but ≤ Rs.7,50,000</td><td>Rs.300 p.a</td></tr>
<tr><td>>Rs.7,50,000 but ≤ Rs.25,00,000</td><td>Rs.600 p.a</td></tr>
<tr><td>>Rs.25,00,000 but ≤ Rs.50,00,000</td><td>Rs.1,200 p.a</td></tr>
<tr><td>>Rs.50,00,000</td><td>Rs.2,500 p.a</td></tr>
</table>
</td></tr>
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(j) Owners or occupiers of cold storages; (k) Owners or occupiers or licencees or lessees of tutorial homes and training institutes of any description; (l) Owners or occupiers or licencees or lessees of residential hotels including guest houses, lodges, holiday homes or any other similar property let out on rent or against user fee; (m) Owners or occupiers or licencees or lessees of cinema houses and theatres including multiplexes, video parlors, video halls, video rental libraries; (n) Licensed vendors of country liquor, opium, *bhang*, *pachwai* or *toddy*; (o) Owners, occupiers, licencees or lessees of non-air conditioned beauty parlors or spa or hair dressing saloons; (p) Persons providing courier services; (q) Partnership firms constituted under Indian Partnership Act, 1932 (9 of 1932) and limited liability partnership firms established under Limited Liability Partnership Firms Act, 2008 (6 of 2009);	
(SL 4) Persons who are engaged in any profession, trade, or calling in West Bengal, being -	
Description	**Rate of Tax**
(a) Estate agents or promoters or brokers or commission agents or del credere agents or mercantile agents; (b) Stevedores, clearing agents, customs agents, licensed shipping brokers or licensed boat suppliers; (c) Occupier of a jute mill, or shipper of jute, as defined in the West Bengal Sales Tax Act, 1994 (West Ben.Act XLIX of 1994) or the West Bengal Value Added Tax Act, 2003 (West Ben. Act XXXVII of 2003); (d) Occupiers, owners, lessees or licensees of rice mills; (e) Owners or lessees of petrol/diesel/gas filling	**Rs.2, 500 per annum.**

stations and service stations and agents or distributors thereof including retail dealers of liquefied petroleum gas; (f) Owners or occupiers of distilleries, breweries and bottling plants; (g) Licensed vendors of foreign liquor; (h) Owners, licencees or lessees of premises let out for social functions; (i) Air-conditioned beauty parlors or spa; (j) Resorts, gym, slimming centers, and wellness centers of all types and descriptions; (k) Air-conditioned hair dressing saloons; (l) Air-conditioned restaurants; (m) Licensed money lenders under the Bengal Money Lender Act, 1940 (Ben. Act X of 1940); (n) Individuals or institutions conducting chit funds and lotteries and authorised stockists of lottery tickets; (o) Banking companies as defined in the Banking Regulation Act, 1949 (10 of 1949); (p) Companies registered under the Companies Act, 1956 (1 of 1956) or the Companies Act, 2013 (18 of 2013); (q) Persons providing services in relation to the security of any property or person, by providing security personnel or otherwise and including the provision of services in relation to investigation, detection or verification of any fact or activity; (r) Bookmakers and trainers licensed by Royal Calcutta Turf Club or any other Turf Club in the State; (s) Owners or occupiers or licencees or lessees of nursing homes, pathological laboratories including diagnostic centres.	

<u>Explanations forming part of the Schedule</u>

(1) The rate of tax payable by any person covered in entry against serial number 4 above shall be Rs. 2,500 *per annum* irrespective of the amount of gross turnover or gross receipts of such person.

(2) Notwithstanding anything contained in this Schedule, where a person 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 case.

(3) For the purposes of entries against serial number 2, "annual gross income", in relation to a person, shall mean the aggregate of the amounts including fee, remuneration, reimbursement, commission or any other sum, by whatever name called, relating to his profession or calling in West Bengal, receivable by him, and that of all his branches or offices in West Bengal, during the immediately preceding year.

(4) For the purposes of entries under serial number 3, "annual gross turnover" or "annual gross receipt", as the case may be, in relation to a person, shall mean the aggregate of the amounts including valuable consideration, fee, remuneration, reimbursement, commission or any other sum, by whatever name called, relating to his profession or trade in West Bengal, receivable by him, and that of all the branches or offices in West Bengal in respect of a firm, company, corporation or other corporate body, any society, club or association, during the immediately preceding year.

(5) The rate of tax payable by each branch or office of a firm, company, corporation or other corporate body, any society, club or association shall be the same as that payable by that firm, company, corporation or other corporate body, society, club or association, as the case may be, in accordance with any entry of this Schedule.

(6) If any person, who is not liable to make any payment of tax under this Act in any particular year or part thereof, as his annual gross income or annual gross turnover or annual gross receipt, as the case may be, in the previous year or part thereof did not exceed the minimum threshold limit as shown in column pertaining to **"Rate of Tax",** but intends to get himself enrolled under this Act, or intends to continue his enrolment under this Act, as the case may be, he shall be liable to pay for that year or part thereof Rs. 480, if he is a person covered by serial No. 2, and Rs. 300, if he is a person covered by serial No. 3".

<u>**Disclaimer**</u>

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