

Office of the
Commissioner of Sales Tax
8th floor, Vikrikar Bhavan,
Mazgaon, Mumbai - 400 010.

TRADE CIRCULAR

To,

No.PT/AMD-2017/1B/Adm-8
Trade Cir. 13 T of 2017.

Mumbai, dated 26/04/2017

Sub: Amendments to Profession Tax Act, Rules and notifications issued thereunder.

- Ref:** (1) Mah. Act No.XXXI of 2017 dt. 15th April 2017.
(2) Notification No. PFT- 2017/C.R. 20A/Taxation-3 dt. 19th April 2017.
(3) Notification No. PFT-2017/C.R. 20B/ Taxation-3 dt. 19th April 2017.
(4) Notification No. PFT-2017/C.R. 20C/Taxation-3 dt. 19th April 2017.
(5) Trade Circular No. 11T of 2017 dt. 20th April 2017.

Hon'ble Finance Minister of Maharashtra presented the Budget on 18th March 2017. In order to give effect to the announcements made in house, certain amendments have been made to the Maharashtra State Tax on Profession, Trade, Callings and Employments Act, 1975 (referred to as the "PT Act"). The Maharashtra Act No. XXXI of 2017 is now published in the Official Gazette on 15th April 2017. The salient features of the amendments are explained in the Trade Circular No.11T of 2017 dated 20th April 2017. Consequential to the amendments to the PT Act corresponding rules are amended and the following notifications are issued:-

1. Notification No. PFT- 2017/C.R. 20A/Taxation-3 dt. 19th April 2017.
2. Notification No. PFT-2017/C.R. 20B/ Taxation-3 dt. 19th April 2017.
3. Notification No. PFT-2017/C.R. 20C/Taxation-3 dt. 19th April 2017.

1. Exemption from payment of late fee:-

To encourage filing of returns it is decided to provide for exemption of late fee subject to certain conditions. Accordingly Government Notification No. PFT-2014/CR-38/Taxation-3, dated 21st August 2014 is amended. The benefit of

exemption of whole of late fee is available to an employer who files return along with the payment of tax for any of the periods upto the 31st March 2017, on or before 30th September 2017.

2. Liability to deduct and pay tax in certain cases (section 4B):-

Section 4B is newly inserted and thereby the State Government is empowered to issue notification to provide for class of persons who shall deduct the tax out of the amount of commission paid or payable to an agent mentioned in notification. As per notification No.PFT-2017/C.R. 20B/Taxation-3 dt. 19th April 2017, the Insurer (Insurance Company) registered under Insurance Regulatory and Development Authority of India (IRDA) Act, 1999, is liable to deduct the profession tax of rupees 2500 per annum per person from the commission payable to Chief Agents, Principal Agents, Insurance Agents and Surveyors and Loss Assessors registered or licensed under the Insurance Act, 1938. The Insurer shall pay such deducted tax on or before the last date of the month in which such deduction is made. The corresponding new schedule entry 1A is inserted to specify that the rate of tax shall be rupees 2500 per annum for such agents.

The provisions such as filing of returns, payment of tax, assessment, recovery, appeals etc. under the PT Act related to an employer and employee shall mutatis mutandis apply to the Insurer liable to deduct the tax and the agents from whom such tax is to be deducted.

Further, if any such agent is already enrolled and paying tax as per the existing entry 2(d) (applicable to Insurance agents etc.) of the SCHEDULE I, then he has two options-

- i) he may continue with such Enrolment Certificate and pay the profession tax at the rate of rupees 2500 per annum under entry 2(d). In such case he shall furnish the certificate prescribed under rule 9A of the PT Act to the Insurer. However the Insurer should ascertain that, such person is enrolled and has paid the tax at rupees 2500 for the said year. In such cases only, Insurer shall not again deduct the tax.
- ii) he may opt to apply for cancellation of Enrolment Certificate with effect from 1st April 2017 or from 1st April of any subsequent year. On receipt of such application the concerned officer shall cancel his enrolment certificate with effect from 1st April and the Insurer

shall deduct the profession tax at the rate of rupees 2500 per annum under the entry 1A. In any case the deduction of tax by Insurer from agent shall not exceed rupees 2500 per annum. There may be an occasion where the agent receives commission from more than one Insurer. In such cases it shall be the responsibility of the agent to authorise one of the Insurer to deduct the tax from the commission paid or payable to him.

3. Change in rate of interest under PT Act:-

Every employer/enrolled person is required to pay tax within the prescribed time. If payment of such tax is delayed then such employer/enrolled person is liable to pay interest u/s 9 of Profession Tax Act. By the amendment to section 9(2) the powers are taken by State Government to prescribe the rates of interest by rule. Accordingly the State Government has issued Notification No.PFT-2017/C.R. 20C/Taxation-3 dt. 19th April 2017. By virtue of the said Notification new rule 11C-1 is inserted to prescribe the rates of interest. Earlier under section 9(2) the rate of interest was one and a quarter percent of the amount of delayed tax payment by the employer. As provided in section 9 (2A) and section 9(3), the rate of interest mentioned under section 9(2) is also applicable on the amount of difference of tax payable by the employer as per assessment order, appeal order, revision order and also to an unenrolled person who has failed to pay the tax within prescribed time. By this amendment to rule, the rate of interest is revised. The said amendment is effective from 1st May 2017. The new rates of interest shall be as specified in the table below:-

TABLE

Sr. No.	Period, liable for interest	Rate of interest
(1)	(2)	(3)
1.	Delay upto one month	One and a quarter per cent. of the amount of such unpaid tax, for the month or for part thereof.
2.	Delay upto three months	(i) <u>Delay upto one month</u> - One and a quarter per cent. of the amount of such unpaid tax, for the month or for part thereof, (ii) <u>Delay beyond one month upto three months</u> - One and half per cent. of the amount of such unpaid tax, for each month or for part thereof.

3.	Delay more than three months	<p>(i) <u>Delay upto one month</u> - One and a quarter per cent. of the amount of such unpaid tax, for the month or for part thereof,</p> <p>(ii) <u>Delay beyond one month upto three months</u> - One and half per cent. of the amount of such unpaid tax, for each month or for part thereof,</p> <p>(iii) <u>Delay more than three months</u> - Two per cent. of the amount of such unpaid tax, for each month or for part thereof.</p>
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The old rate of interest will apply where the default starts and ends before the 1st May 2017. In another words, if the tax has become due before 1st May 2017 and the default continues after the 1st May 2017, then for the period of default before 1st May 2017, the old rate of interest shall apply and in so far as the default continues on or after 1st May 2017, the new rates will apply as per slabs which shall commence on 1st May 2017.

In order to demonstrate the calculation of interest in various contingencies illustrations are provided below:

A) Employer liable to pay interest u/s 9(2):-

Illustration (1)	
Periodicity	Monthly
Period of return	January 2017
Due date of payment	31.01.2017
Paid on	30.04.2017
Interest payable as per section 9(2)	
01.02.2017 to 30.04.2017	@ 1.25% per month
Illustration (2)	
Periodicity	Monthly
Period of return	January 2017
Due date of payment	31.01.2017
Paid on	30.09.2017
Interest payable as per section 9(2) and rule 11C-1	
01.02.2017 to 30.04.2017 u/s 9(2)	@ 1.25% per month
01.05.2017 to 31.05.2017 u/r 11C-1	@ 1.25% per month
01.06.2017 to 31.07.2017	@ 1.5% per month
01.08.2017 to 30.09.2017	@ 2% per month

The same analogy will be applicable for those employers who are having annual periodicity or who are liable to pay interest u/s 9(2A).

B) Enrolled person liable to pay interest u/s 9(3):-

Illustration (1)	
Date of enrolment	31.05.2017
Due date of payment	30.06.2017
Paid on	30.09.2017
Interest payable as per rule 11C-1	
01.07.2017 to 31.07.2017	@ 1.25% per month
01.08.2017 to 30.09.2017	@ 1.5% per month
Illustration (2)	
Due date of enrolment	31.08.2017
Due date of payment	30.09.2017
Paid on	30.11.2017
Interest payable as per rule 11C-1	
01.10.2017 to 31.10.2017	@ 1.25% per month
01.11.2017 to 30.11.2017	@ 1.5% per month

This circular cannot be made use of for legal interpretation of provisions of law, as it is clarificatory in nature. If any member of the trade has any doubt, he may refer the matter to this office for further clarification.

You are requested to bring the contents of this circular to the notice of all the members of your association.



(Rajiv Jalota)

Commissioner of Sales Tax,
Maharashtra State, Mumbai.

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(Trade Cir. 13 T of 2017)

Mumbai, Date: 26/04/2017

Copy forwarded to: Joint Commissioner of Sales Tax (Mahavikas) with the request to upload this Trade Circular on the Departments web-site.



(D.M.Thorat)

Joint Commissioner of Sales Tax, (HQ) 1,
Maharashtra State, Mumbai.