

'TAZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLTAMENTARY AFFAIRS SECRETARAIT,
MUZAFFARABAD.

Dated the 27" October, 1985

No. 2210-12/LD/Leg/85. The following Act approved by the Azad Jammu and Kashmir Legislative Assembly at its meeting held on 5" October, 1985 and assented by the President on 5" day of October, 1985, is hereby published for general information:-

(ACT XXI of 1985)

AN

ACT

to provide the law relating to the levy Tax on Urban immovable property in the Azad Jammu and Kashmir

WHEREAS it is expedient to provide for law relating to levy of tax on Urban Immovable property in the Azad Jammu and Kashmir Territory;

It is hereby enacted as follows:-

1. Short title, Extent and Commencement. - (1) This Act may be called the Azad Jammu and Kashmir Urban Immovable Property Tax Act, 1985.

(2) It shall extend to the whole of Azad Jammu and Kashmir.

(2) It shall come into force from the First day of July, 1981.

2. Definitions.- In this Act unless the context otherwise, requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say--

(a) "assessing authority" means the assessing authority constituted under this Act;

(b) "Controller" means an Officer appointed by Government by name, or by virtue of his office, to discharge the functions and to perform the duties a Collector under this Act in any specified area;

(c) "Commissioner" means an Officer appointed by Government by name, by virtue of his office, to discharge the functions and to perform the duties of a Commissioner under this Act in any specified area.

(d) "Government" means the Azad Government of the State of Jammu and Kashmir;

1 Repealed by the Azad Jammu and Kashmir Urban Immovable Property Tax (Repeal) Act, 1991.

(e) "members of the family of the owner" means:-

(f) "Owner" includes a mortgagee with possession, a lessee in perpetuity, a trustee having possession of a trust property and has been transferred provisionally or permanently under the re-habilitation Act, 1956;

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

(h) "Relating area" means Urban area where tax is levied

under the provision of this Act;

(i) "tax" means the tax leviable under the provision of Section 3; and

GQ) "urban area" means an area within the boundaries of a Municipal Committee Town Committee, or other authority legally entitled to or entrusted by Government with the controlling or management of Municipal or a local fund;

Levy of tax.- (1) Government may by notification specify urban areas where tax shall be levied under this Act:

Provided that one urban area may be divided into two or more rating areas or several urban areas may be grouped as one rating area.

(2) There shall be charged, levied and paid a tax on the annual value of buildings and lands in a rating area at the rate of ten percent at such value:

Provided that no tax shall be levied under this Act in respect of building occupied by the owner himself either for residential purposes or commercial purposes.

(3) In case of property of the annual value not exceeding twelve thousand rupees, a deduction of two hundred and seventy rupees from the annual value shall be allowed.

(4) Government may, by notification, for reasons to be recorded, remit in whole or part, the payment of the tax by any class or persons in respect of any category of property.

(5) The tax shall be due from the owner of buildings and land.

Out of tax collected under this Act from within the limits of Municipal Committee or a Town Committee, the Government shall after retaining 5% thereof as collection charges and 20 percent as reserved for such expenditure as may be prescribed, pay 75% of the balance to such Municipal Committee or Town Committee as the case may be.

Exemptions.- The tax shall not be leviable in respect of the

following properties, namely:-

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buildings and lands other than those leased in perpetuity, owned by the Azad Government of the State of Jammu and Kashmir.

buildings and lands other than those leased in perpetuity;

(i) owned by the Azad Government of the State of Jammu and Kashmir and not administered by a Local authority;

(ii) owned or administered by a local authority;

(6) buildings and lands the annual value of which does not exceed six hundred and forty eight rupees; or

(ii) Land exclusively used for agricultural purposes;

buildings and lands or portions thereof used exclusively for educational purposes including schools, boarding houses, hostels and libraries;

public parks and playgrounds;

buildings and lands or portions thereof used exclusively for public worship or public charity including mosques, churches, hospitals, dispensaries, orphanages, alms houses, drinking water fountains, infirmaries for the treatment and care of animals and public burial or other places for the disposal of the dead:

Provided that the following buildings and lands or portions thereof shall not be deemed to be used exclusively for public worship or public charity within the meaning of this section, namely:-

@ buildings in or land on which any trade or business is carried on unless the rent derived from such buildings or lands is applied exclusively to religious purposes or such public charitable institutions as may be prescribed;

(ii) buildings or lands in respect of which rent is derived, and such rent is not applied exclusively to religious purposes or to public charitable institutions; and

buildings and lands belonging to disabled persons

windows and minor orphans.

Ascertainment of annual value.- The annual value of any land or building shall be ascertained by estimating the gross annual rent at which such land or building together with its appurtenances and any furniture that may be let for use or enjoyment with such building might reasonably be excepted to be let from year to year, less--

- (a) any allowance not exceeding twenty per centum of the gross annual rent as the assigning authority in each particular case may consider reasonable rent for the furniture let with any such building;
- (b) an allowance of ten per centum for the cost of repairs and for all other expenses necessary to maintain such building in a state to command such gross annual rent. Such deduction shall be calculated on the balance of the gross annual rent after the deduction, if any, under clause (a); and
- (c) any land revenue actually paid in respect of such building or land;

Provided that in calculating the annual value of any building or on such land shall be excluded.

Assessing authority.- (1) There shall be an assessing authority for every rating area.

(2) The assessing authority shall exercise such powers and perform such duties as are conferred on it by this Act or the rules made thereunder.

Making and operation of valuation lists.- (1) A valuation list shall be made by the prescribed authority in accordance with the rules framed under this Act for every rating areas so as to come into force either on the first day of July or the first day of January and thereafter a new valuation list shall be made from time to time so that the interval between the dates on which one valuation list and the next succeeding valuation list respectively come into force shall be period of five years:

Provided that Government may by order--

- (a) reduce by a period not exceeding one year or extend by a period not exceeding three years the interval which would otherwise elapse between the coming into force of any two successive valuation lists for any rating area, or where valuation list has been lost or destroyed by operation of circumstances beyond control, cancel the list, direct the preparation of a new list and order recovery of pending tax to be made on the basis either of the last preceding valuation list or of the new list, prepared under this proviso; and
- (b) divide any rating area into parts for the purposes of a new valuation list and determine the years in which the next following valuation list for each of such parts respectively shall be made and come into force.

(2) Subject to the provisions of any such order as aforesaid, every valuation list shall come into force on the first day of July or the first day of January, as the case may be, next following the date on which it is finally approved by the assessing authority and shall, subject to the provisions of this Act and the rules made thereunder (including the provisions with respect to the alteration of and the making of additions to the valuation list) remain in force until it is superseded by a new valuation list.

Draft valuation list.- (1) Where the assessing authority for any area has issued notice requiring returns in connection with the making of a new valuation list the said authority shall, as soon as may be after the expiration of the period allowed for the delivery of the returns, cause a draft valuation list to be prepared for the area and published in such manner as may be prescribed.

(2) Any person aggrieved by any entry in the draft valuation list, or by the insertion therein or omission therefrom of any matter, or otherwise with respect to the list, may in accordance with the rules made under this Act lodge an objection with the assessing authority:

Provided that special circumstance the Commissioner

may, by notification, extend the period to a maximum of sixty days.

Amendment of current valuation list.- Subject to such rules, if any, as the Government may think fit to make in this behalf, the assessing authority may at any time make such amendments in a valuation list as appear to it to be necessary in order to bring the list into accord with existing circumstances and in particular may--

(a) correct any clerical or arithmetical error in the list;

(b) correct any erroneous insertion or omission or any misdescription;

(i) a new building being erected after the

completion of the valuation list;

(ii) a building included in the valuation list being destroyed or substantially damaged or altered or extended since its value was last previously determined and;

(iti) any change in the ownership or use of any building or land;

Provided that not less than fourteen days before making any such amendment in the valuation list for the time being in force, other than the correction of a clerical

or arithmetical error, or the correction of an erroneous insertion, omission or misdescription, the assessing authority shall send notice of the proposed amendment to the owner of the building or land and shall also consider any objection thereto which may be made by him.

Appeal and provision.- (1) Any person aggrieved by an order of the appropriate authority upon an objection made before that authority under Section 9, 10, 15 or 16 may appeal against such order, at any time before the expiration of thirty days of the date of such order, to the Collector of the district in which the building or land to which the objection related is situated, or to such other officer as the Government may, by notification, appoint in this behalf.

(2) Any person aggrieved by any entry in the valuation list prepared under Section 8, or by the insertion therein or omission therefrom of any matter, or otherwise with respect to the list, may, within sixty days of the date on which the list is to come into force, prefer an appeal in respect of such entry or matter, to the Collector or such other officer as the Government may, by notification, appoint in this behalf.

(3) The Commissioner or such other officer as may be appointed by the Government by notification in this behalf, may, of his own motion at any time, or an application made within a period of one year from the date of the taking of any proceedings or passing of any order by an authority subordinate to the Commissioner call for and examine the record of the proceedings or the order for the purpose of satisfying himself as to the legality or propriety of the same and may pass such order in reference thereto as he may consider fit.

Tax to be levied notwithstanding appeal.- The tax shall be levied in accordance with the valuation list in force for the time being, and shall be collected and be recoverable notwithstanding any appeal which may be pending with respect to that list.

Tax when payable.- The tax shall be payable half-yearly by such dates as may be prescribed.

Provided that Government may, by notification, direct that in any rating area-

(60) the tax shall be paid yearly
(ii) the tax for any specified period shall be paid separately.

Collection of tax.- Tax shall be paid to such person or authority and in such manner as the Government may prescribe.

Recovery of tax from tenants.- Where the tax due from any

person on account of any building or land is in arrears, it shall be lawful for the prescribed authority to serve upon any person paying rent in respect of that building or land, or any part thereof, to the person from whom the arrears are due, a notice stating the amount of such arrears of tax and requiring all future payments of rent (whether the same have already accrued due or not) by the person paying the rent to be made direct to the prescribed authority until such arrears shall have been duly paid, and such notice shall operate to transfer to the prescribed authority the right to recover, receive and give discharge for such rent. If the person paying rent willfully fails or neglects to comply with the notice aforementioned, the prescribed authority may, after giving him an opportunity of being heard, proceed against him as it would have proceeded under the provision of this Act against the owner of the building or land in respect of which tax is in arrears.

Penalty for default in payment. - (1) If any person on being served with such notice as may be prescribed fails to pay within the period specified in the notice any amount due from him on account of the tax, the prescribed authority may recover from him as penalty a sum not exceeding the amount of the tax so unpaid, in addition to the amount of the tax payable by him.

(2) No such penalty shall be imposed unless the prescribed authority is satisfied that the person liable to pay the tax has willfully failed to pay the same.

Recovery of unpaid dues. - (1) If any sum due on account of the tax levied under Section 3 or as a penalty imposed under this Act is not paid within the time allowed for its payment and the person from whom it is due does not show cause to the satisfaction of the Collector or any other person authorised by him why he should not pay the same, such sum (inclusive of all costs of recovery) may be recovered under a warrant in the prescribed form or on a form to the like effect to be signed by the Collector--

(i) by distress or sale of the movable property belonging to such person; or

(ii) by attachment and sale of the immovable property belonging to him.

The warrant may be addressed to an officer of the Excise and Taxation Department for execution, and in exciting it he may obtain such assistance from other servants of the Department as he may consider necessary.

(2) Notwithstanding anything contained in sub-section (1),
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any sum on account of the tax levied or penalty imposed under this Act remaining unrecovered shall be recoverable as arrears of land revenue.

(3) Notwithstanding anything contained in any law and notwithstanding any rights out any contract or otherwise whatsoever, any sum due on account of the tax levied under Section 3 or as a penalty imposed under this Act in respect of any building or land, shall, subject to the prior payment of the land revenue, if any, due to the Government thereon, be a first charge upon such building or land and upon the movable property, if any, found within or upon such building or land and belonging to the person liable for such tax or penalty.

Remuneration of local authority.- When the tax is collected by any local authority such local authority shall be entitled to such remuneration on account of the cost of Collection as may be prescribed.

Power of assessing authority to require returns for valuation

list.- (1) In every case where a new valuation list is intended to be made for any rating area, the assessing authority shall give public notice such intention in such manner as may be prescribed, and may serve a notice on the owner, occupier or lessee of any building or land in the said area, or on any one of them, requiring him, or them, to make a return containing such particulars as may be prescribed.

(2) Every person on whom a notice to make a return is served in pursuance of the provision of this section shall, within thirty days of the date of service of the notice, make a return in such form as is required by the notice and deliver, it in the manner so required to the assigning authority.

(3) If any person on whom such notice has been served fails within the required period to submit such return, the assessing authority may proceed to value such property in such manner as it deems fit.

Powers of assessing authority to require returns at any time.- If the assessing authority at any time desires any person, who is

the owner, lessee or occupier of any building or land wholly or partly within the rating area, to make a return with respect to any of the matters regarding which a return may be prescribed, it may serve a notice on that person requiring the return, and that person shall, within thirty days from the service of the notice

send the required return to be assessing authority:

Provided that the assessing authority may, in its discretion, extend the period for the delivery of any such return.

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Valuation list not to be rendered invalid by certain failures or omission.- Any failure on the part of the assessing authority

to complete any proceedings with respect to the preparation of a valuation list within the time required by this Act or the rules made thereunder, or the omission from a valuation list of any matters required by the rules to be included therein shall not, of itself, render the list invalid.

Assessing authorities, officers and servants to be deemed public servants. - Every assessing authority, and every officer

working under the orders of such authority for the purposes of this Act, shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code as adapted in Azad Jammu and Kashmir.

Exclusion of Jurisdiction of Civil Court.- No Civil Court shall have Jurisdiction in any matter which the Government or an assessing Authority or any Officer or servant is empowered by this Act or the Rules made thereunder to dispose of, take cognizance of the manner in which the Government, or any assigning authority, or any Officer or servant exercise any powers vested in it or him by or under this Act or the Rules made thereunder.

Power to Make Rules.- (1) The Government may make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provision such rules may provide for any or all of the following matters, namely-

(a) the appointment, powers and duties of assessing authorities and other provisions with respect to such authorities;

(b) the placing of identification marks on, and entry into or

upon, any building or land;

(c) the practice and procedure to be followed on and in connection with appeals, including--

(d) the practice and procedure to be followed on and in connection with appeals, including--

(i) notices of appeals;

- (ii) prescription of scales of costs;
- (iii) prescription of fees to be charged in connection with appeals;

(e) the prescription of the form of any notice, valuation list, statement, return, or other document whatsoever which is required or authorised to be used under or for the purposes of this Act;

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(the mode of service of any notice, order or document required or authorised to be served;

(g) the inspection and taking copies of and extracts from any draft valuation list valuation list, notice of objections, proposal for amendment to the valuation list, notice of appeal, valuation made by valuer, and fees for such inspection or copies;

(h) the appointment of valuers to advise or assist in connection with the valuation of buildings or lands and their powers and duties;

(@) the time at the manner in which the amount of tax shall be paid to the Government;

Gj) the portion of the tax to be refunded or remitted and the manner in which and the conditions subject to which such refund or remission may be granted;

(k) the prescription of fees to be charged in connection with any application made under this Act or the rules made thereunder;

() any matter which is required by this Act to be prescribed.

(3) In making any rules under sub-section (1) and (2)

Government may direct that the prescribed authority may impose a penalty not exceeding two hundred rupees on a person who is guilty of a breach of the provisions thereof.

Savings.- Notwithstanding any judgment, decree or order of any court including High Court, every thing done, all actions taken, notifications issued, orders or appointments made, proceedings initiated, jurisdiction or powers exercised under the provisions of the Azad Jammu and Kashmir Urban Immovable property Tax Ordinance 1981 (Ordinance CXXIX of 1981), or its succeeding Ordinances issued from time to time shall be deemed to have been validly, done, taken, issued, made, initiated or exercised under this Act.

Repeal.- The Azad Jammu and Kashmir Urban Immovable property Tax Ordinance, 1985 (Ordinance CLXVII of 1985) is hereby repealed.

Sd/-

