

THE KERALA FINANCE BILL, 2010

A

BILL

to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2010-2011.

Preamble.- WHEREAS, it is expedient to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2010 – 2011;

BE it enacted in the Sixty-first Year of the Republic of India as follows:-

1. *Short title and commencement.*- (1) This Act may be called the Kerala Finance Act , 2010.

(2) It shall come into force on the 1st day of April, 2010.

2. *Amendment of Act 11 of 1957.*- In the Kerala Surcharge on Taxes Act, 1957 (11 of 1957),-

(1) in section 3A,-

(i) in sub-section (3), for the figures, words and symbols “30th September, 2008 or on such date as may be notified by the Government.”, the figures, words and symbols “30th June, 2010.” shall be substituted;

(ii) for sub-section (4), the following sub-section shall be substituted, namely:-

“(4) On receipt of an application under sub-section (3), the assessing authority shall verify the same and intimate the amount due to the assessee and there upon the assessee shall remit the amount in lumpsum or in three equal instalments, on or before 30th June, 2010:

Provided that notwithstanding anything contained in this section, where,

(a) after the last date for filing option, the Government have notified a further date under sub-section (3); and

(b) if an applicant had filed his option earlier and remitted at least one instalment, but had failed to remit the balance amount due and his earlier option was revoked by the assessing authority,

on furnishing of a fresh option, the amount paid under the earlier option shall be treated as the amount paid under the subsequent option.”;

(2) in section 3B,-

(i) in sub-section (2), for the figures, words and symbols “30th September, 2009 or on such date as may be notified by the Government.”, the figures, words and symbols “30th June, 2010.” shall be substituted;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:-

“(3) On receipt of an application under sub-section (2), the assessing authority shall verify the same and intimate the amount due to the assessee and thereupon the assessee shall remit the amount in lumpsum or in three equal instalments on or before 30th June, 2010;

Provided that notwithstanding anything contained in this section, where,

(a) after the last date for filing option, the Government have notified a further date under sub-section (3); and

(b) if an applicant had filed his option earlier and remitted at least one instalment, but had failed to remit the balance amount due and his earlier option was revoked by the assessing authority,

on furnishing of a fresh option, the amount paid under the earlier option shall be treated as the amount paid under the subsequent option.”.

3. *Amendment of Act 17 of 1959.* - In the Kerala Stamp Act, 1959 (17 of 1959),-

(1) after section 30, the following section shall be inserted, namely:-

“30A. *No surcharge on stamp duty.* - Notwithstanding anything contained in the Kerala Panchayath Raj Act, 1994 (13 of 1994) or in the Kerala Municipality Act, 1994 (20 of 1994), no surcharge on stamp duty shall be levied and collected on any instrument by a Grama Panchayat, Municipality or Municipal Corporation.”;

(2) in section 45A,-

(i) in sub-section (1), the words and symbols “other than an instrument of partition, settlement or gift among members of a family,” shall be omitted;

(ii) in sub- section (3), for the words “the instrument shall be duly registered”, the words “he shall duly register such instrument and certify by endorsement on the instrument under his seal and signature that proper stamp duty has been charged and paid” shall be substituted;

(3) in the SCHEDULE,-

(i) in serial number 5,-

(a) clause (c) and the entries against it in columns (2) and (3) shall be omitted;

(b) in clause (d), for the entries against it in column (3), the following entries shall be substituted, namely:-

“One hundred rupees”;

(ii) in serial number 6, after sub-clause (b) and the entries against it in columns (2) and (3), the following sub-clause shall be inserted, namely:-

“(c) in any other case:

If the amount secured is up to rupees 5 lakhs, at the rate of 0.5%.

If the amount secured exceeds rupees 5 lakhs but does not exceed rupees 20 lakhs, at the rate of 0.5% subject to a maximum of rupees 5000.

If the amount secured exceeds rupees 20 lakhs but does not exceed rupees 50 lakhs, at the rate of 0.5% subject to a maximum of rupees 10000.

If the amount secured exceeds rupees 50 lakhs, at the rate of 0.25% subject to a minimum of rupees 20000 and a maximum of rupees 25000.”;

(iii) in serial number 21,-

(a) for the entries in column (3), the following entries shall be substituted, namely:-

“Seven rupees for every rupees 100 or part thereof of the fair value of the land or the amount or value of the consideration for such conveyance, whichever is higher.”;

(b) the proviso shall be omitted;

(iv) for serial number 22 and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be substituted, namely:-

“22 Conveyance as defined by section 2(d), not being a transfer charged or exempted under No. 55 of immovable property situated,-

(i) within the Municipalities/ Townships/ Cantonments other than Corporations.

Eight rupees for every rupees 100 or part thereof of the fair value of the land or the amount or value of the consideration for such conveyance, whichever is higher.

(ii) within the Municipal Corporations.

Nine rupees for every rupees 100 or part thereof of the fair value of the land or the amount or value of the consideration for such conveyance, whichever is higher.”;

(v) in serial number 29, for the entries in column (3), the following entries shall be substituted, namely: -

“The same duty as a conveyance (No. 21 or 22 as the case may be) for the fair value of the land or for the amount of the consideration whichever is higher, of the property of the greater value as set forth in such instrument.”;

(vi) for serial number 31 and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be substituted, namely: -

“31 Gift – instrument of not being a settlement or will or transfer,

(i) where the gift is in favour of a family member Two rupees for every rupees 100 or part thereof of the fair value of the land or the value set forth in the instrument, whichever is higher.

(ii) in any other case The same duty as a conveyance (No. 21 or 22 as the case may be).”;

(vii) in serial number 42,-

(a) in clause (i), for the entries in column (3), the following entries shall be substituted, namely:-

“Two rupees for every rupees 100 or part thereof of the amount of the value or fair value of the separated share or shares of the property, whichever is higher.”;

(b) in clause (ii), for the entries in column (3), the following entries shall be substituted, namely:-

“Six rupees for every rupees 100 or part thereof of the amount of the value or fair value of the separated share or shares of the property, whichever is higher.”;

(viii) in serial number 44,-

(a) in clause (a), for the entries in column (3), the following entries shall be substituted, namely:-

“Fifty rupees.”;

(b) in clause (b), for the entries in column (3), the following entries shall be substituted, namely:-

“One hundred rupees.”;

(c) in clause (c), for the entries in column (3), the following entries shall be substituted, namely:-

“Three hundred rupees.”;

(d) in clause (d), for the entries in column (3), the following entries shall be substituted, namely:-

“One thousand rupees.”;

(e) in clause (e), for the entries in column (3), the following entries shall be substituted, namely:-

“The same duty as a conveyance (No. 21 or 22 as the case may be) for the fair value of the land or for the amount of the consideration, whichever is higher.”;

(f) in clause (f), for the entries in column (3), the following entries shall be substituted, namely:-

“The same duty as a conveyance (No. 21 or 22 as the case may be) for the fair value of the land or the amount of consideration/estimate, whichever is higher.”;

(g) in clause (g), for the entries in column (3), the following entries shall be substituted, namely:-

“Rupees three hundred for each person authorised.”;

(ix) in serial number 51, for clause (a) and the entries against it in columns (2) and (3), the following clause and entries shall respectively be substituted, namely: -

“(a) instrument of (including a deed of dower),

(i) where the settlement is in favour of a family member Rupees two for every rupees 100 or part thereof of the fair value of the land or the value set forth in such instrument, whichever is higher.

(ii) in any other case The same duty as Bottomry Bond (No. 14) for a sum equal to the amount or value of the property settled as set forth in such instrument or fair value of the land, whichever is higher.”.

4. *Amendment of Act 15 of 1963.*- In the Kerala General Sales Tax Act, 1963 (15 of 1963),-

(1) for section 7, the following section shall be substituted, namely:-

“7. *Payment of tax at compounded rates.*- Notwithstanding anything contained in sub-section (2) of section 5, any bar attached hotel, not being a star hotel of and above four star hotel, heritage hotel or club, may, at its option, instead of paying turnover tax on foreign liquor in accordance with the said sub-section, pay turnover tax on the turnover of foreign liquor calculated at the rates in clauses (a) or (b) of items (i) and (ii), respectively, whichever is higher,-

(i) in respect of a bar attached hotel of and below two star,

(a) at one hundred and forty per cent of the purchase value of such liquor, in the case of those situated within the area of a municipal corporation or a municipal council or a cantonment, and at one hundred and thirty five percent of the purchase value of such liquor, in the case of those situated in any other place; or

(b) at one hundred and fifteen per cent of the highest turnover tax payable by it as conceded in the return or accounts or the turnover tax paid for any of the previous consecutive three years; and

(ii) in respect of a bar attached hotel of three stars,

(a) at one hundred and eighty percent of the purchase value of such liquor, in the case of those situated within the area of a municipal corporation or a municipal council or a cantonment, and at one hundred and seventy percent of the purchase value of such liquor, in the case of those situated in any other place; or

(b) at one hundred and twenty five per cent of the highest turnover tax payable by it as conceded in the return or accounts or the turnover tax paid for any of the previous consecutive three years.”;

(2) in section 17,-

(i) in sub-section (6), for the fourth proviso, the following proviso shall be substituted, namely:-

“Provided also that the assessment relating to the years upto and including the year 2004-05 pending as on 31st March, 2010 shall be completed on or before the 31st day of March, 2011.”;

(ii) in sub-section (8),-

(a) for the first proviso, the following proviso shall be substituted, namely:-

“Provided that all such assessments or reassessments pending as on 31st March, 2010 shall be completed on or before 31st March, 2011.”;

(b) for the third proviso, the following proviso shall be substituted, namely: -

“Provided also that all such modified assessments or modified reassessments or remanded assessments pending as on 31st March, 2010 shall be completed on or before 31st March, 2011.”;

(3) in section 23B,-

(i) in sub-section (3), for the figures, words and symbols “30th September, 2008 or on such date as may be notified by the Government.”, the figures, words and symbols “30th June, 2010.” shall be substituted;

(ii) for sub-section (4), the following sub-section shall be substituted, namely:-

“(4) On receipt of an application under sub-section (3), the assessing authority shall verify the same and intimate the amount due to the assessee and thereupon the assessee shall remit the amount in lumpsum or in three equal instalments on or before 30th June, 2010:

Provided that notwithstanding anything contained in this section, where,

(a) after the last date for filing option, the Government have notified a further date under sub-section (3); and

(b) if an applicant had filed his option earlier and remitted at least one instalment, but had failed to remit the balance amount due and his earlier option was revoked by the assessing authority,

on furnishing of a fresh option, the amount paid under the earlier option shall be treated as the amount paid under the subsequent option.”;

(4) in section 23BA,-

(i) in sub-section (2), for the figures, words and symbols “30th September, 2009 or on such date as may be notified by the Government.”, the figures, words and symbols “30th June, 2010.” shall be substituted;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:-

“(3) On receipt of an application under sub-section (2), the assessing authority shall verify the same and intimate the amount due to the assessee and thereupon the assessee shall remit the amount in lumpsum or in three equal instalments on or before 30th June, 2010:

Provided that notwithstanding anything contained in this section, where,

(a) after the last date for filing option, the Government have notified a further date under sub-section (3); and

(b) if an applicant had filed his option earlier and remitted at least one instalment, but had failed to remit the balance amount due and his earlier option was revoked by the assessing authority,

on furnishing of a fresh option, the amount paid under the earlier option shall be treated as the amount paid under the subsequent option.”;

(5) in the SCHEDULE, in serial number 2. Foreign Liquor, -

(i) in item (i) Beer and wine, for the figure “60” under the heading rate of tax (per cent), the figure “50” shall be substituted;

(ii) in item (ii) Other than Beer and wine, for the figure “90” under the heading rate of tax (per cent), the figure “100” shall be substituted.

5. Amendment of Act 19 of 1976.- In the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976),-

(1) in section 3,-

(i) in sub-section (1), for the second proviso, the following proviso shall be substituted, namely:-

“Provided further that in respect of a new motor vehicle of any of the classes specified in item numbers 1,2,6,10(iii) and 11 of the Schedule to this Act, there shall be levied from the date of purchase of the vehicle one-time tax at the rate specified in Annexure I, at the time of first registration of the vehicle and thereafter tax shall be levied at the time of renewal of such vehicle at the rate specified in the Schedule as per fourth proviso to sub-section (1) of section 4.”;

(ii) after the third proviso the following proviso shall be inserted, namely: -

“Provided also that in respect of new autorickshaws specified in item number 7(i)(b) of the Schedule to this Act , there shall be levied from the date of purchase of the new vehicle, a tax in advance for a period of five years at the rate specified in Annexure II, at the time of first registration of the vehicle and thereafter tax shall be levied for 5 years at the time of renewal of permit or one year after the expiry of existing tax at the rate specified in the seventh proviso to sub-section (1) of section 4.”;

(2) in section 4, in sub-section (1), for the sixth proviso, the following provisos shall be substituted, namely:-

“Provided also that the owner or a person liable to pay tax in respect of vehicle specified in item numbers 1,2,6,7(i)(b),10(iii) and 11 of the Schedule to this Act shall not be liable to pay any periodical increase in tax during the period for which he has paid tax for such vehicle:

Provided also that the owner or a person liable to pay tax in respect of autorikshaws specified in item number 7(i)(b) of the Schedule shall have an option to remit tax in lumpsum for 5 years at the time of renewal of permit at the rate specified in Annexure II or to remit tax for one year at the rate specified in item number 7(i)(b) of the Schedule.”;

(3) in the SCHEDULE,-

(i) for serial number 3. Goods Carriages and the entries related thereto in columns (1), (2) and (3), the following serial number and entries shall respectively be substituted, namely:-

“3. Goods Carriages

(i)	Goods Carriages other than those fitted with tipping Mechanism					
(a)	Motor Cycle trucks not exceeding			300 Kg.	in gross vehicle weight	135.00
(b)	Vehicles not exceeding			1000 Kg.	”	220.00
(c)	Vehicles exceeding	1000 Kg.	but not exceeding	1500 Kg.	“	420.00
(d)	”	1500 Kg.	”	2000 kg.	”	550.00
(e)	”	2000 Kg.	”	3000 Kg.	”	705.00
(f)	”	3000 Kg.	”	4000 Kg.	”	840.00
(g)	”	4000 Kg.	”	5500 Kg.	”	1210.00
(h)	”	5500 Kg.	”	7000 Kg.	”	1430.00
(i)	”	7000 Kg.	”	9000 Kg.	”	1760.00
(j)	”	9000 Kg.	”	9500 Kg.	”	1870.00
(k)	”	9500 Kg.	”	10500 Kg.	”	2090.00
(l)	”	10500 Kg.	”	11000 Kg.	”	2310.00
(m)	”	11000 Kg.	”	12000 Kg.	”	2530.00
(n)	”	12000 Kg.	”	13000 Kg.	”	2750.00
(o)	”	13000 Kg.	”	14000 Kg.	”	2970.00
(p)	”	14000 Kg.	”	15000 Kg.	”	3080.00
(q)	”	15000 Kg.			”	3080.00+ Rs. 110 for every 250 Kg. or part thereof in excess of 15000 Kg.

(ii)	Goods Carriages fitted with tipping mechanism (Tipper Goods Carriages)					
(a)	Motor Cycle trucks not exceeding			300 Kg.	in gross vehicle weight	170.00
(b)	Vehicles not exceeding			1000 Kg.	„	280.00
(c)	Vehicles exceeding	1000 Kg.	but not exceeding	1500 Kg.	„	530.00
(d)	„	1500 Kg.	„	2000 kg.	„	690.00
(e)	„	2000 Kg.	„	3000 Kg.	„	880.00
(f)	„	3000 Kg.	„	4000 Kg.	„	1050.00
(g)	„	4000 Kg.	„	5500 Kg.	„	1510.00
(h)	„	5500 Kg.	„	7000 Kg.	„	1790.00
(i)	„	7000 Kg.	„	9000 Kg.	„	2200.00
(j)	„	9000 Kg.	„	9500 Kg.	„	2350.00
(k)	„	9500 Kg.	„	10500 Kg.	„	2610.00
(l)	„	10500 Kg.	„	11000 Kg.	„	2900.00
(m)	„	11000 Kg.	„	12000 Kg.	„	3160.00
(n)	„	12000 Kg.	„	13000 Kg.	„	3440.00
(o)	„	13000 Kg.	„	14000 Kg.	„	3710.00
(p)	„	14000 Kg.	„	15000 Kg.	„	3850.00
(q)	„	15000 Kg.			„	3850.00+ Rs.140 for every 250 Kg. or part thereof in excess of 15000 Kg.”;

(ii) in serial number 6, for the words, brackets and symbol “Omni Bus for Private use (Private Service Vehicle – Non-Transport)” in column (2), the words, brackets and symbol “Private Service Vehicle for Personal Use (Non-Transport)” shall be substituted;

(iii) in serial number 10,-

(a) in item (i), the words “Cranes and Earth Moving Vehicles such as Dumper, Bulldozer” shall be omitted;

(b) after item (ii) and the entries against it in columns (2) and (3), the following item and entries shall respectively be inserted, namely:-

“(iii) Construction equipment vehicles such as Excavators, Loaders, Backhoe, Compactor Rollers, Road Rollers, Dumpers, Motor Graders, Mobile Cranes, Dozers, Forklift Trucks, Self Loading Concrete Mixers etc.

(a)	Not Exceeding	1000 Kg			In gross vehicle weight	35.00
(b)	Exceeding	1000 Kg.	but not exceeding	1500.Kg.	„	55.00
(c)	„	1500 Kg.	„	2275 Kg.	„	80.00
(d)	„	2275 Kg.	„	3050 Kg.	„	100.00
(e)	„	3050 Kg.	„	4300 Kg.	„	110.00
(f)	„	4300 Kg.	„	5575 Kg.	„	120.00
(g)	„	5575 Kg.	„	7600 Kg.	„	145.00
(h)	„	7600 Kg.	„	9000 Kg.	„	165.00
(i)	”	9000 Kg.			”	165.00+ Rs. 25 for every 1000 Kg. or part thereof in excess of 9000 Kg.”;

(iv) for serial number 13 and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be substituted, namely: -

“13.1. Educational Institution Bus

(a) Vehicles with 20 or less seats including that of the driver	500.00
(b) Vehicles with more than 20 seats	1000.00
2. Ambulance	550.00
3. Tractor	220.00
4. Vehicles exclusively used for imparting instructions in driving of motor vehicles,-	
(a) Light motor vehicles excluding Motor Car	550.00
(b) Medium goods / passenger vehicles	1100.00
(c) Heavy goods / passenger vehicles	1650.00.”;

(v) for the existing Annexure, the following Annexures shall be substituted, namely: -

“ANNEXURE- I

ONE TIME TAX

[See proviso to section 3(1)]

<i>Sl. No.</i>	<i>Class of Vehicle</i>	<i>Rate of one time tax</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
A.	New Motor Cycles (including Motor Scooters and Cycles with attachments for propelling the same by mechanical power) and three wheelers (including tricycles and cycle rickshaws with attachment for propelling the same by mechanical power) not used for transport of goods or passengers and Private Service Vehicle for personal use (NTV), Motor Cars and Construction Equipment Vehicle.	
1	Motor Cycles (including motor scooters and cycles with attachments for propelling the same by mechanical power) and bicycles of all categories with or without side car or drawing a trailer.	6% of the purchase value of the vehicle.
2	Three Wheelers (including tricycles and cycle rikshaws with attachment for propelling the same by mechanical power) not used for transport of goods or passengers.	6% of the purchase value of the vehicle.
3	Private Service Vehicle for personal use (NTV) having cubic capacity below 1500.	6% of the purchase value of the vehicle.
4	Motor cars having cubic capacity below 1500.	6% of the purchase value of the vehicle.
5	Private Service Vehicle for personal use (NTV) having cubic capacity 1500 and above.	8% of the purchase value of the vehicle.
6	Motor cars having cubic capacity 1500 and above.	8% of the purchase value of the vehicle.
7	Construction Equipment Vehicles such as excavators, loaders, backhoe, compactor rollers, road rollers, dumpers, motor graders, mobile cranes, dozers, forklift trucks, self loading concrete mixers etc.	6% of the purchase value of the vehicle.
B	Motor Cycles (including motor scooter and cycles with attachments for propelling the same by mechanical power) and three wheelers (including	As per the Table below.

tricycles and cycle rickshaws with attachment for propelling the same by mechanical power) not used for transport of goods or passengers and private service vehicle for personal use (NTV) and motor cars which were originally registered in other States on or after 1st April, 2007 and migrated to Kerala State.

- C** Motor Cycles (including motor scooter and cycles with attachments for propelling the same by mechanical power) and three wheelers (including tricycles and cycle rickshaws with attachment for propelling the same by mechanical power) not used for transport of goods or passengers and private service vehicle for personal use (NTV) and motor cars which were registered on or after 1st April, 2007 and reclassified from the category of transport vehicles. As per the Table below.
- D** Construction Equipment Vehicles which are originally registered in other States on or after 1st April, 2010 and migrated to the Kerala State. As per the Table below.

TABLE

<i>Sl. No</i>	<i>Age of vehicle from the month of original registration</i>	<i>Percentage of one time tax leviable under A above</i>
(1)	(2)	(3)
1	Not more than 1year	100%
2	more than 1year but not more than 2years	93%
3	more than 2 years but not more than 3 years	87%
4	more than 3 years but not more than 4 years	80%
5	more than 4years but not more than 5 years	73%
6	more than 5 years but not more than 6 years	67%
7	more than 6 years but not more than 7 years	60%
8	more than 7 years but not more than 8 years	53%
9	more than 8 years but not more than 9 years	47%
10	more than 9years but not more than 10 years	40%
11	more than 10 years but not more than 11 years	33%
12	more than 11years but not more than 12 years	27%
13	more than 12 years but not more than 13 years	20%
14	more than 13 years but not more than 14 years	13%
15	more than 14 years but not more than 15 years	7%

ANNEXURE- II

Lumpsum Tax

[See proviso to section 4(1)]

<i>Class of Vehicle</i>	<i>Rate of tax</i>
New auto rickshaws and auto rickshaws which were originally registered in other States on or after 1 st April, 2010 and migrated to Kerala State with seating capacity three, excluding driver seat.	Rs.2000 for five year.”.

6. *Amendment of Act 32 of 1976.*- In the Kerala Tax on Luxuries Act, 1976 (32 of 1976),—

(1) in section 2,-

(i) after clause (d), the following clauses shall be inserted, namely:-

“(da) "Direct-To-Home (DTH) Broadcasting Service" means a system of distribution of multi-channel television programmes in *ku* band using a satellite system of providing television signals direct to the subscriber's premises in an encrypted form which will be received by an antenna and decrypted by an electronic device, thus providing television signals to the television set or other viewing devices of the subscriber, without passing through an intermediary such as cable operator.

(db) “Direct-To-Home (DTH) Broadcasting Service Provider” means, a company registered under the Companies Act, 1956 (Central Act 1 of 1956) having granted license to provide Direct-To- Home (DTH) Broadcasting Service by the Government of India under section 4 of the Telegraph Act, 1885 (Central Act 13 of 1885) and Indian Wireless Telegraphy Act, 1933 (Central Act 17 of 1933) and providing such service within the State.”;

(ii) after clause (fc), the following clause shall be inserted, namely:-

“(fd) “Luxury provided by Direct-To-Home (DTH) Broadcasting Service Provider” means any service by means of transmission of television signals and the films or moving pictures or series of pictures which are viewed and heard on television receiving set or other devices through a Direct-To-Home (DTH) service at a residential or a non-residential place of a subscriber, providing pleasure, comfort and entertainment to the subscribers and viewers.”;

(iii) after clause (k), the following clause shall be inserted, namely:-

“(l) "subscriber" means a person who enjoys the luxury by receiving the signal of cable television network or a direct- to- home service at a place indicated by him to the cable operator or the Direct-To-Home (DTH) Service Provider, without further transmitting it to any other person.”;

(2) in section 4,-

(i) in the proviso to sub-section (1), the words “and to cable operators whose total number of connections, including those given through franchisees, is five thousand or less” shall be added at the end;

(ii) in sub-section (2), in clause (a),-

(a) in sub-clause (i), for the words "ten percent", the words "seven and a half percent" shall be substituted;

(b) in sub-clause (ii), for the words, "fifteen percent", the words "twelve and a half percent" shall be substituted;

(iii) after sub-section (4), the following sub-section shall be inserted, namely:-

"(5) Every Direct-To-Home (DTH) Broadcasting Service Provider in the State shall pay luxury tax at the rate of one percent on the gross charges received or receivable by him every month in any manner including installation charges, subscription charges, recharges, or other charges by whatever name called from the subscribers in the State in respect of the luxury provided by him.";

(3) in section 4D,-

(i) in its marginal heading, after the words "cable operators", the words and brackets "and Direct-To-Home (DTH) Broadcasting Service Provider" shall be inserted;

(ii) in the first sentence, after the words "cable operator", the words and brackets "and Direct-To-Home (DTH) Broadcasting Service Provider" shall be inserted;

(4) in section 10B,-

(i) in sub-section (3), for the figures, words and symbols "30th September, 2008 or on such date as may be notified by the Government.", the figures, words and symbols "30th June, 2010." shall be substituted;

(ii) for sub-section (4), the following sub-section shall be substituted, namely:-

"(4) On receipt of an application under sub-section (3), the assessing authority shall verify the same and shall intimate the amount due to the assessee and thereupon the assessee shall remit the amount in lumpsum or in three equal instalments on or before 30th June, 2010:

Provided that notwithstanding anything contained in this section, where,

(a) after the last date for filing option, the Government have notified a further date under sub-section (3), and

(b) if an applicant had filed his option earlier and remitted at least one instalment, but had failed to remit the balance amount due and his earlier option was revoked by the assessing authority,

on furnishing of a fresh option, the amounts paid under the earlier option shall be treated as the amount paid under the subsequent option."

7. *Amendment of Act 15 of 1991.*- In the Kerala Agricultural Income Tax Act, 1991 (15 of 1991), in section 37C,-

(1) in sub-section (3), for the figures, words and symbols “30th June, 2009 or on such date as may be notified by the Government.”, the figures, words and symbols “30th June, 2010.” shall be substituted;

(2) for sub-section (4), the following sub-section shall be substituted, namely:-

“(4) On receipt of an application under sub-section (3), the assessing authority shall verify the same and shall intimate the amount due to the assessee and thereupon the assessee shall remit the amount in lumpsum or in three equal instalments on or before 30th June, 2010:

Provided that notwithstanding anything contained in this section, where,

(a) after the last date for filing option, the Government have notified a further date under sub-section (3), and

(b) if an applicant had filed his option earlier and remitted at least one instalment, but had failed to remit the balance amount due and his earlier option was revoked by the assessing authority,

on furnishing of a fresh option, the amount paid under the earlier option shall be treated as the amount paid under the subsequent option.”.

8. *Amendment of Act 30 of 2004.*- In the Kerala Value Added Tax Act, 2003 (30 of 2004),-

(1) in section 2,-

(i) after clause (vi), the following clause shall be inserted, namely:-

“(via) “Assistant Commissioner (Appeals)” means any person appointed to be an Assistant Commissioner (Appeals) under sub- section (3) of section 3.”;

(ii) after clause (xvi), the following clause shall be inserted, namely:-

“(xvii) “Deputy Commissioner (Appeals)” means any person appointed to be a Deputy Commissioner (Appeals) under sub-section (3) of section 3.”;

(2) in section 3,-

(i) in sub-section (3), after the words “Deputy Commissioners”, the words, brackets and symbol “Deputy Commissioner (Appeals), Assistant Commissioner (Appeals)” shall be inserted;

(ii) to sub-section (4), the following proviso shall be inserted, namely:-

“Provided that no such orders, inspections or directions shall be given so as to interfere with the discretion of the Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals) in the exercise of their appellate functions.”;

(3) in section 6,-

(i) in sub-section (1), for the fifth proviso, the following proviso shall be substituted, namely:-

“Provided also that where,

(a) the sale is to or by Military, Naval, Air Force or National Cadet Corps Canteen, Indian Naval Canteen Service and Canteen Stores Department; and

(b) in case of motor vehicles, the sale is to Defence personnel or ex-service men on production of authorisation duly issued by the authorised officer of such canteens,

the tax payable under clauses (a) or (b) above shall subject to such conditions and restrictions as may be prescribed, be at half the rate applicable to such goods.”;

(ii) in sub-section (2), after the existing proviso, the following proviso shall be inserted, namely:-

“Provided further that Khadi and Village Industrial Units manufacturing splints and veneers shall not be liable to tax under this sub-section on the turnover of purchase of softwood effected from unregistered dealers for the years 2005-06 and 2006-07.”;

(4) in section 8,-

(i) in clause (a), after the existing provisos, the following proviso shall be inserted, namely:-

“Provided also that with regard to an automobile repair contract, the dealers may file option for paying compounded tax in respect of the work relating to the period from 1st April, 2005 onwards.”;

(ii) in clause (b),-

(a) in sub-clause (ii), for the letters, figures and words “Rs. 1,50,000 per annum”, the letters, figures and words “Rs. 1,40,000 per annum” shall be substituted;

(b) in sub-clause (iii), for the letters, figures and words “Rs. 3,00,000 per annum”, the letters, figures and words “Rs. 2,80,000 per annum” shall be substituted;

(c) in sub-clause (iv), for the letters, figures and words “Rs. 10,00,000 per annum”, the letters, figures and words “Rs. 15,00,000 per annum” shall be substituted;

(d) for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that notwithstanding anything contained in this clause, dealers with a single crushing machine of size not exceeding 30.48 cm x 22.86 cm shall pay rupees twenty five thousand only per annum and those with a single crushing machine of size above 30.48 cm x 22.86 cm but not exceeding 40.64 cm x 25.40 cm shall pay rupees one lakh only per annum, as tax under this clause.”;

(iii) in clause (c), in sub-clause (ii), after the existing proviso, the following proviso shall be inserted, namely:-

“Provided further that, where a dealer had paid tax under this sub-clause for the previous year, the tax payable for the succeeding year under this clause shall be one hundred and fifteen per cent of such tax paid during the previous year.”;

(iv) in clause (f),-

(a) in sub-clause (i),-

(i) in Explanation 6,-

(a) for the figures and symbol “2008-09” wherever they occur, the figures and symbol “2009 –10” shall be substituted;

(b) for the figures and symbol “2009-10” wherever they occur, the figures and symbol “2010-11” shall be substituted;

(ii) after Explanation 7, the following Explanation shall be inserted, namely:-

Explanation 8.- Where a dealer who had opted and paid tax under this clause during previous years with respect to a branch that had remained closed during the whole of the year 2009-10, for the purpose of determining the compounded tax payable for 2010-2011, the tax paid in respect of that branch shall not be reckoned.”;

(b) for sub-clause (v), the following sub-clause shall be substituted, namely:-

“(v) Where a dealer had paid tax under this clause for the previous year, the tax payable for the succeeding year under this clause shall be,

(a) one hundred and five percent of such tax paid during the previous year, in case their turnover for the above goods for the preceding year was rupees ten lakhs or below;

(b) one hundred and ten percent of such tax paid during the previous year, in case their turnover for the above goods for the preceding year was above rupees ten lakhs and upto rupees forty lakhs;

(c) one hundred and fifteen per cent of such tax paid during the previous year, in case their turnover for the above goods for the preceding year was above rupees forty lakhs and up to rupees one crore; and

(d) one hundred and twenty five per cent of such tax paid during the previous year, in case their turnover for the above goods for the preceding year exceeded rupees one crore:

Provided that in case of dealers covered under Explanation 6 of this clause, the tax payable under this sub-clause shall be at the appropriate percentage of tax mentioned in (a),(b), (c) or (d) of the tax so re-determined.”;

(5) in section 11, in the proviso to sub-section (5), for the words, figures and symbol “30th June, 2009”, the words, figures and symbol “30th September, 2010” shall be substituted;

(6) in section 12, in the second proviso, after the words “Provided also that where the goods”, the words and symbols “except plywood, packing cases and veneers” shall be inserted;

(7) in section 24, in sub-section (1), after the existing provisos, the following proviso shall be inserted, namely:-

“Provided also that the time limit for the completion of assessments for the year 2005-06, under this section shall be extended upto 31st March, 2011.”;

(8) in section 25, in sub-section (1), after the existing provisos, the following proviso shall be inserted, namely:-

“Provided also that the time limit for the completion of assessments for the year 2005-06, under this section shall be extended upto 31st March, 2011.”;

(9) in section 42, in sub-section (1), for the words “rupees forty lakhs”, the words “rupees sixty lakhs” shall be substituted;

(10) in section 44,-

(i) in sub-section (8), for the words “fifty per cent of the value of the goods”, the words “fifty per cent of the value of taxable goods” shall be substituted;

(ii) in sub-section (10),-

(a) after the words “books of accounts of the dealer”, the symbol and words “, unless proved otherwise” shall be inserted;

(b) in the proviso, after the words “the registering authority”, the words “within ten days of its usage” shall be inserted;

(11) in section 46,-

(i) in sub-section (3), after the existing proviso, the following proviso shall be inserted, namely:-

“Provided also that notwithstanding anything contained in this sub-section, in case of transport of notified goods for which advance tax has been paid under sub-section (16A) of section 47, to the shop, branches or godowns of the dealer mentioned in his certificate for registration, delivery note shall not be insisted, if the transport is accompanied by the proof of remittance of advance tax along with any of the other documents specified in this sub-section.”;

(ii) after sub-section (6), the following sub-section shall be inserted, namely:-

“(7) For the effective enforcement of the provisions of this Act, the Commissioner may, from time to time, issue necessary instructions for regulating the movement of vehicles carrying goods, through selected border check posts.”;

(12) after section 54, the following section shall be inserted, namely:-

“55. Appeals to the Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals).- (1) Any person aggrieved by any order issued or proceedings recorded other than those under sub-section (3), sub-section (8) or sub-section (9) of section 16, sub-section (8) of section 19 passed by an authority empowered to do so under this Act not being an authority above the rank of an Assistant Commissioner may, within a period of thirty days from the date on which the order was served on him, appeal against such order,

(i) to the Deputy Commissioner (Appeals), if the order was passed by an authority of the rank of an Assistant Commissioner; and

(ii) to the Assistant Commissioner (Appeals), if the order was passed by an authority of the rank of a Commercial Tax Officer:

Provided that orders passed under sections 48, 49, 67, 69, 70, 70A and 72 shall be appealable only to the Deputy Commissioner (Appeals):

Provided further that the Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals) may admit an appeal presented after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting the appeal within the said period:

Provided also that no appeal shall be entertained under this sub-section unless it is accompanied by satisfactory proof of the payment of the tax or other amounts admitted by the appellant to be due or such instalment thereof as might have become payable, as the case may be, where the appeal is against an assessment completed under sub-section (6) of section 23, or under section 24 or section 25.

(2) Where an appeal lies against any order under sub-section (1), any order issued under section 66 to rectify any error in such order shall also be appealable under the said sub-section.

(3) The appeal shall be in such form and shall be verified in such manner as may be prescribed, and shall be accompanied by a fee of five hundred rupees.

(4) Notwithstanding that an appeal has been preferred under sub-section (1), the tax or other amounts shall be paid in accordance with the order against which the appeal has been preferred:

Provided that the Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals) may, at his discretion, give such directions as he thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to his satisfaction in such form and in such manner as may be prescribed.

(5) In disposing of an appeal, the Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals) may, after giving the appellant a reasonable opportunity of being heard,-

(a) in the case of an order of assessment or penalty, either confirm, reduce, enhance or annul the assessment or the penalty or both;

(b) set aside the assessment and direct the assessing authority to make a fresh assessment after such further enquiry as may be directed;

(c) or pass such other orders as he may think fit; or

(d) in the case of any other order, confirm, cancel or vary such order:

Provided that at the hearing of any appeal against an order of the assessing authority, the assessing authority or the officer empowered by the Commissioner in this behalf shall be heard.

(6) The order of the Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals) disposing of an appeal before it shall state the point for determination, the decision thereon and the reason for arriving at such decision.

(7) Where as a result of the appeal any change becomes necessary in the order appealed against, the Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals) may, direct the assessing authority to amend such order accordingly and on such amendment being made, any amount paid in excess by the appellant shall be refunded to him or as the case may be the further amount of tax, if any, due from him shall be collected in accordance with the provisions of this Act, as the case may be.”;

(13) in section 56, in sub-section (2), in clause (b), after the words “an appeal to the”, the words and brackets “Deputy Commissioner (Appeals) or the Assistant Commissioner (Appeals) or” shall be inserted;

(14) in section 58,-

(i) in sub-section (1), after the words “subordinate to him”, the words and brackets “other than that of the Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals) or” shall be inserted;

(ii) in sub-section (2), in clause (b), after the words “an appeal to the”, the words and brackets “the Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals) or” shall be inserted;

(15) in section 59, in sub-section (1), after the words “an order of”, the words, brackets and figure “the Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals) under section 55” shall be inserted;

(16) in section 60,-

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) Any person objecting to an order passed by the Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals) under sub-section (5) of section 55 or any officer empowered by the Government in this behalf may within a period of 60 days from the date on which the order was served on him, in the manner prescribed, appeal against such order to the Appellate Tribunal:

Provided that the Appellate Tribunal may admit an appeal presented after the expiration of the said period if it is satisfied that the appellant had sufficient cause for not presenting the appeal within the said period:

Provided further that no appeal shall lie in cases where suo moto revision proceedings under section 58 is pending.”;

(ii) sub-section (1A) shall be omitted;

(iii) for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) The officer authorised under sub-section (1) or the person against whom an appeal has been preferred, as the case may be, on receipt of notice that an appeal against the order of the Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals) has been preferred under sub-section (1) by the other party may notwithstanding that he has not appealed against such order or any part thereof, file within 30 days of the receipt of the notice, a memorandum of cross objection, verified in the prescribed manner, against any part of the order of the Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals) and such memorandum shall be disposed by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (1).”;

(17) in section 65, after the words and brackets “Deputy Commissioner (Appeals)”, the symbol, words and brackets “, Assistant Commissioner (Appeals)” shall be inserted;

(18) after section 71, the following section shall be inserted, namely:-

“71A. *Penal provisions for the misuse of registration numbers.* - (1) Any person, who knowingly and willfully, uses a false registration number or uses a registration number of another person with a view to,

- (i) evade payment of tax due, or
- (ii) to claim any input tax credit, without actually effecting the purchase, or
- (iii) to shield the identity of the person to whom the sale has been effected,

in the invoices issued or in the sale and purchase lists to be filed along with the returns under this Act, shall, on conviction by a Magistrate, be punished with simple imprisonment for a period which may extend to six months or with fine not less than five times of the tax sought to be evaded, or both.

(2) The assessing authority may cancel his registration granted under this Act on conviction by the Magistrate under sub-section (1).

Explanation. - For the purpose of this section, return shall mean revised return if such revised return is filed and registration number shall mean Tax Payers Identification Number (TIN) or the Presumptive taxpayers Identification Number granted or generated under the provisions of this Act.”;

(19) in section 85, in sub-section (2), in sub-clause (b) of clause (x), after the words “to be furnished by an”, the words and brackets “Assistant Commissioner (Appeals) or” shall be inserted;

(20) in section 94,-

(i) in sub-section (1), for the words “three Deputy Commissioners”, the words “three officers in the rank of Deputy Commissioners or Joint Commissioners or both” shall be substituted;

(ii) in sub-section (5), the words and brackets “including Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals)”, shall be inserted at the end.;

(21) in the SCHEDULES,-

(a) in the First Schedule,-

(i) after serial number 3 and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be inserted, namely:-

“3A. Artistic paintings sold through Art Galleries *****”;

(ii) in serial number 37, in the entries against it in column (2), the symbols and words “, vibhuti, rosaries, prayer beads, and robes for holy mass.” shall be added at the end;

(iii) after serial number 38A and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be inserted, namely: -

“38B. Products made from water hyacinth and arecanut palm fronds *****”;

(iv) in serial number 49, in the entries in column (2), the words “excluding imported sugar,” shall be omitted;

(b) in the Third Schedule,-

(i) after serial number 5 and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be inserted, namely:—

“5A. Ayurvedic tooth powders *****”;

(ii) after serial number 33 and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be inserted, namely: -

“33A. Dahashamini, i.e. barks, herbs, seeds, and other plant parts, its mixtures, powders etc. used to make ayurvedic medicinal drinking water *****”;

(iii) after serial number 49 and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be inserted, namely: -

“49A. Food products like, dry prawns/dry fish roasts, its chutneys and powders, coconut chutney powders and veppilai katti. *****”;

(iv) after serial number 51A and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be inserted, namely: -

“51B. Ghee *****”;

(v) in serial number 55, in the entries against it in column (2), the words “at the point of sale by dealers whose annual turnover of this item does not exceed rupees two crores” shall be omitted;

(vi) after serial number 95 and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be inserted, namely: -

“95A. Packaged drinking water of and above 20 Litres *****”;

(vii) in serial number 124, in the entries against it in column (2), the words and bracket “sugar (imported)” shall be omitted;

(viii) in serial No.145, in the entries against it in column (2), the words “either prospectively or retrospectively.” shall be added at the end;

(c) in List A,-

(i) after serial No. 41 and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be inserted, namely :—

“41A. Corrugated sheets of polypropylene *****”;

(ii) in serial No.82,in item (1), for the entries against it in column (2), the following entries shall be substituted, namely :—

“Iron oxide including iron oxide pigments of all colour shades commonly called Red oxide, black oxide, yellow oxide etc” ;

(iii) after serial No. 135 and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be inserted, namely :-

“135A. Rubber latex dipped goods namely, industrial gloves, agricultural gloves and finger caps only. *****”.

DECLARATION UNDER THE KERALA PROVISIONAL COLLECTION OF REVENUES ACT, 1985 (10 OF 1985)

It is hereby declared that it is expedient in the public interest that all the provisions of this Bill shall have effect from the 1st day of April, 2010 under the Kerala Provisional Collection of Revenues Act, 1985 (10 of 1985).

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend the following enactments to give effect to the financial proposals of Government of Kerala for the financial year 2010-2011 as announced in paras 189, 190, 193, 195 to 200, 202 to 208, 210 to 216, 218 to 229, 231, 232, 234 to 237, 239 to 242 and 247 in the Budget Speech 2010 - 2011, namely:-

1. The Kerala Surcharge on Taxes Act, 1957 (11 of 1957).
2. The Kerala Stamp Act, 1959 (17 of 1959).
3. The Kerala General Sales Tax Act, 1963 (15 of 1963).
4. The Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976).
5. The Kerala Tax on Luxuries Act, 1976 (32 of 1976).
6. The Kerala Agricultural Income Tax Act, 1991 (15 of 1991).
7. The Kerala Value Added Tax Act, 2003 (30 of 2004).

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) (i) of clause 8 of the Bill proposes to amend section 6 of the Kerala Value Added Tax Act, 2003, which seeks to empower the Government to prescribe such conditions and restrictions in respect of the issue of authorisation by the concerned officers for producing the same for tax reduction in sale to defence personnel, ex-service men etc.

2. Sub-clause (12) of clause 8 of the Bill proposes to insert section 55 of the Kerala Value Added Tax Act, 2003, which seeks to empower the Government to prescribe the form and manner in which the appeal against the order of the Commercial Tax Officers has to be filed and also to prescribe the form and manner in which the appellant has to furnish sufficient security regarding payment of tax in accordance with the order on which the appeal is preferred.

3. Sub-clause (16) of clause 8 of the Bill proposes to amend section 60 of the Kerala Value Added Tax Act, 2003, which seeks to empower the Government to prescribe the manner in which the appeal against the order of the Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals) has to be filed and also to prescribe the manner in which the memorandum of cross objection filed in this behalf has to be verified.

The matters in respect of which rules are to be made are either administrative in nature or matters of detail. Further, the rules, after they are made, will be subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is, thus, of a normal character.

Dr. T. M. THOMAS ISSAC.