

Thirteenth Kerala Legislative Assembly
Bill No. 87

THE KERALA FINANCE BILL, 2012

A

BILL

to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2012-2013.

Preamble.—WHEREAS, it is expedient to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2012-2013;

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

1. *Short title.*—This Act may be called the Kerala Finance Act, 2012.

2. *Amendment of Act 17 of 1959.*—In the Kerala Stamp Act, 1959 (17 of 1959), in the SCHEDULE,—

(1) in serial number 31, in clause (i), for the entry in column (2), the following entry shall be substituted, namely:—

“Where the gift is in favour of father, mother, grandfather, grandmother, husband, wife, son, daughter, brother, sister or grandchildren of a person.”;

(2) in serial number 42,—

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

“One rupee for every rupees 100 or part thereof of the fair value of the separated share or shares of land and the value of other properties in such separated share or shares set forth in the instrument or of the value of all the properties of the separated share or shares as set forth in the instrument, whichever is higher, subject to a maximum of rupees 1000.”;

(b) for the Explanation, the following Explanation shall be substituted, namely:—

“*Explanation.*—Family means father, mother, grandfather, grandmother, husband, wife, son, daughter, grandchildren, brother, sister and legal heirs of the deceased children, if any, as the case may be.”;

(3) in serial number 48, for clause (a) and the entries against it in columns (2) and (3), the following clause and entries shall, respectively be substituted, namely:—

“(a) When such release operates in favour of father, mother, grandfather, grandmother, husband, wife, son, daughter, brother, sister, grandchildren or legal heirs of the deceased children of a person.	One rupee for every rupees 100 or part thereof of the amount of the fair value of the land and the value of other properties or claims of which the right is relinquished in proportion to the right relinquished or the value of all the properties or claims of which the right is relinquished in proportion to the right relinquished or consideration for the release, whichever is higher, subject to a maximum of rupees 1000.”;
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(4) in serial number 51, in clause (a), in sub-clause (i), for the entry in column (2), the following entry shall be substituted, namely:—

“Where the settlement is in favour of father, mother, grandfather, grandmother, husband, wife, son, daughter, brother, sister or grandchildren of a person.”.

3. *Amendment of Act 13 of 1961.*—In the Kerala Land Tax Act, 1961 (13 of 1961), in section 6,—

(1) in sub-section (1),—

(a) for the words “one rupee”, “two rupees” and “four rupees”, the words “two rupees”, “four rupees” and “eight rupees” shall, respectively, be substituted ;

(b) in the proviso, for the words “fifty paise”, “one rupee” and “two rupees”, the words “one rupee”, “two rupees” and “four rupees” shall, respectively, be substituted ;

(2) in sub-section (2), for the words “one-fifth”, the words “two-fifth” shall be substituted ;

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

(1) in section 17,—

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

“Provided also that all assessments pending as on 31st March, 2011 shall be completed on or before the 31st March, 2013.”;

(b) in sub-section (8),—

(i) for the first proviso, the following proviso shall be substituted, namely:—

“Provided that all such assessments or re-assessments pending as on 31st March, 2011 shall be completed on or before 31st March, 2013.”;

(ii) for the third proviso, the following proviso shall be substituted, namely:—

“Provided also that all such modified assessments or modified re-assessments or remanded assessments pending as on 31st March, 2011 shall be completed on or before 31st March, 2013.”;

(2) after section 58, the following section shall be inserted, namely:—

“58A. *Electronic filing and payment.*—(1) The Government may require the assesseees to file returns, forms and other statements to be submitted by him under this Act and make the payment of tax, fee or other amounts due under this Act, electronically through the official website of the Commercial Taxes Department.

(2) Notwithstanding anything contained in section 57, the Commissioner may, for the purpose of implementation of electronic filing of returns, forms and other statements or electronic payment of tax, fee or other amounts, by notification in the Gazette, make suitable modifications in the forms prescribed under this Act and make necessary changes in the manner of submission and authentication of such returns, forms and other statements. The modifications or changes so made shall be published in the website of the Commercial Taxes Department also and in such other manner as the Commissioner may deem fit.”.

5. *Amendment of Act 19 of 1976.*—In the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), in Annexure I to the Schedule, in serial number A, for items 3, 4, 5 and 6 in column (1) and the entries against them in columns (2) and (3), the following items and entries shall, respectively, be substituted, namely:—

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|---|---|
| “3. Motor cars and Private Service Vehicles for personal use (NTV) having purchase value upto rupees five lakhs | 6% of the purchase value of the vehicle |
| 4. Motor cars and Private Service Vehicles for personal use (NTV) having purchase value of more than rupees five lakhs and upto rupees ten lakhs | 8% of the purchase value of the vehicle |
| 5. Motor cars and Private Service Vehicles for personal use (NTV) having purchase value of more than rupees ten lakhs and upto rupees fifteen lakhs | 10% of the purchase value of the vehicle |
| 6. Motor cars and Private Service Vehicles for personal use (NTV) having purchase value of more than rupees fifteen lakhs | 15% of the purchase value of the vehicle.”. |

6. *Amendment of Act 32 of 1976.*—In the Kerala Tax on Luxuries Act, 1976 (32 of 1976), in section 4B, to sub-section (1), the following proviso shall be added, namely:—

“Provided that the halls and auditoriums owned by religious institutions and located within the premises of places of worship shall not be liable to get registered under this Act.”.

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

(1) in section 2,—

(a) after clause (xviiiia), the following clause shall be inserted, namely:—

“(xviiiib) “Firm” means a firm as defined in the Indian Partnership Act, 1932 (Central Act 9 of 1932) and includes a limited liability partnership as defined in the Limited Liability Partnership Act, 2008 (Central Act 6 of 2009).”;

(b) after clause (xxxii), the following clause shall be inserted, namely:—

“(xxxia) “Partner” and “partnership” shall have the same meaning as defined in the Indian Partnership Act, 1932 (Central Act 9 of 1932) and in the Limited Liability Partnership Act, 2008 (Central Act 6 of 2009).”;

(2) in section 6,—

(a) in sub-section (1),—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) in the case of goods specified in the Second and Third Schedules at the rates specified therein and at all points of sale of such goods within the State and in the case of goods specified below, at the rates mentioned in column (4), at all points of sale of such goods within the State, namely:—

<i>Sl. No.</i>	<i>Description of goods</i>	<i>HSN Code</i>	<i>Rates of tax in percentage</i>
(1)	(2)	(3)	(4)
1	Cigars, cheroots, cigarillos and cigarattes, of tobacco or of tobacco substitutes	2402	15
2	Aerated branded soft drinks, excluding soda	***	20
3	Carry bags made of plastic which have a self carrying feature, commonly known as vest type bags or any other feature to carry commodities such as “D” punched bags	***	20
4	Pan masala	2106.90.20	22.5
5	Churna for pan	2106.90.70	22.5
6	Pan chutney	***	22.5
7	Other manufactured tobacco and manufactured tobacco substitutes homogenized or reconstituted tobacco; tobacco extracts and essences	2403	22.5

*Explanation:—*The ‘Rules of Interpretation of the Schedules’ appended to the Schedules of this Act shall apply to the interpretation of the HSN codes mentioned in this clause.”;

(ii) in clause (c), for the words “four per cent”, the words “five per cent” shall be substituted;

(iii) in clause (d), for the figures and symbol “12.5%”, occurring in both places, the figures and symbol “13.5%” shall be substituted;

(iv) in clause (f), for the figures and words “12.5 per cent”, the figures and words “13.5 per cent” shall be substituted;

(v) in the first proviso, for the words “four per cent”, the words “five per cent” shall be substituted;

(vi) in the fourth proviso, for the words “four per cent”, the words “five per cent” shall be substituted;

(vii) in the fifth proviso, in item (a), for the words “Central Police Canteen and Canteen Stores Department”, the words “Canteen Stores Department, Central Police Canteen and fourteen numbers of subsidiary canteens that may be established by the Kerala Police in each District of the State and affiliated to the Central Police Canteen” shall be substituted;

(viii) in the seventh proviso, for the words “four per cent” the words “five per cent” shall be substituted;

(b) in sub-section (2), in clause (b) for the words “four per cent”, the words “five per cent” shall be substituted;

(c) in sub-section (5), to the sixth proviso, the following Note shall be added, namely:—

“Note:—The sixth proviso shall be deemed to have come into force on and from the 1st day of April, 2005 irrespective of any amendments made in the turnover limit specified in this sub-section.”;

(3) in section 8,—

(a) in clause (b),—

(i) in sub-clause (ii), for the letters, figures and words “Rs. 1,40,000 per annum”, the letters, figures and words “Rs. 1,60,000 per annum” shall be substituted ;

(ii) in sub-clause (iii), for the letters, figures and words “Rs. 2,80,000 per annum”, the letters, figures and words “Rs. 3,20,000 per annum” shall be substituted;

(iii) in sub-clause (iv), for the letters, figures and words “Rs. 15,00,000 per annum”, the letters, figures and words “Rs. 18,00,000 per annum” shall be substituted;

(iv) in the second proviso, for the words “twenty-five thousand” and “one lakh”, the words “thirty thousand” and “one lakh twenty thousand” shall, respectively, be substituted;

(b) in clause (e),—

(i) for the figure and words “4 per cent”, the figure and words “5 per cent” shall be substituted;

(ii) after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that with respect to hospitals which have not taken any registration under this Act, but has purchased any goods,—

(a) from an importer or a manufacturer, who has opted for payment of tax under this clause; or

(b) from another registered dealer where the tax on the maximum retail price of such goods was paid in the State under this clause on an earlier sale; shall not be liable to pay tax on the sale of such goods for the period on and from the 1st April, 2005 to the 31st March, 2012.”;

(c) in clause (g), for the figures and symbol “12.5%”, the figures and symbol “13.5%” shall be substituted;

(4) in section 11, in sub-section (3), in the third proviso, for the words “four per cent” the words “five per cent” shall be substituted;

(5) in section 12, in sub-section (1), in the third proviso, for the words “four per cent”, the words “five per cent” shall be substituted;

(6) in section 13, in sub-section (2), in the second proviso, for the words “four per cent”, the words “five per cent” shall be substituted;

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

“18A. *Special provisions for registration and continuance of business as the legal heir of a deceased dealer.*—(1) Notwithstanding anything contained in section 11, where any dealer who is a sole proprietor registered under this Act dies and his legal heir continues the business, then, if such a legal heir is not a registered dealer, he shall, within four months from the date of death of the dealer, obtain registration under this Act.

(2) The legal heir who continues the business shall apply to the assessing authority with the consent of all other legal heirs, if any, of the deceased dealer for recognition of continuance of the business for the purposes of filing returns, payment of tax, input tax credit, special rebate, payment of tax under section 8 and the continuance of the registration number under this Act.

(3) The assessing authority shall, after making necessary enquiries on an application under sub-section (2), pass orders on the same within fifteen days from the date of receipt of such application.

*Explanation:—*The expression “the legal heir who continues the business” used in this section shall also include a partnership consisting solely of the legal heirs of the deceased dealer as partners.”;

(8) in section 24, in sub-section (1), for the fourth proviso, the following proviso shall be substituted, namely:—

“Provided also that the time limit for the completion of assessments for the years upto 2007-08 under this section shall be extended upto 31st March, 2013.”;

(9) in section 25, in sub-section (1), for the third proviso, the following proviso shall be substituted, namely:—

“Provided also that the time limit for the completion of assessments for the years upto 2007-08 under this section shall be extended upto 31st March, 2013.”;

(10) after section 25, the following section shall be inserted, namely:-

“25A. *Assessment of Tax based on Audit Objections.*—Notwithstanding anything contained in this Act, where an objection has been raised by the Comptroller and Auditor General of India in respect of an assessment or re-assessment made or scrutiny of any return filed under this Act, and if the assessing authority is satisfied that such objection is lawful, the assessing authority shall proceed to re-assess the dealer or dealers with respect to whose assessment or re-assessment or scrutiny as the case may be, the objection has been made:

Provided that no order under this section shall be passed without giving the dealer an opportunity of being heard.”;

(11) after section 93, the following section shall be inserted, namely:-

“93A. *Electronic filing and payment.*—(1) The Government may require the assesseees to file returns, forms and other statements to be submitted by him under this Act and make the payment of tax, fee or other amounts due under this Act, electronically through the official website of the Commercial Taxes Department.

(2) Notwithstanding anything contained in section 92, the Commissioner may, for the purpose of implementation of electronic filing of returns, forms and other statements or electronic payment of tax, fee or other amounts, by notification in the Gazette, make suitable modifications in the forms prescribed under this Act and make necessary changes in the manner of submission and authentication of such returns, forms and other statements. The modifications or changes so made shall be published in the website of the Commercial Taxes Department also and in such other manner as the Commissioner may deem fit.”;

(12) in the SCHEDULES,—

(a) in the First Schedule,—

(i) in serial number 2, after item (8) and the entries against it in columns (2) and (3), the following item and entries shall, respectively, be inserted, namely:—

“(9) Intra Ocular Lens 9002.19.00”;

(ii) after serial number 8 and the entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be inserted, namely:—

“8A. Carry bags made of cloth ***”;

(iii) after serial number 24A and the entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be inserted, namely:—

“24B Honey, honey-bee box and accessories

(1) Honey 0409.00.00

(2) Honey-bee box and accessories ****”;

(iv) after serial number 30B and the entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be inserted, namely:—

“30C. Life Saving Devices

(1) Pace makers for stimulating hearts
muscles including parts and
accessories

9021.50.00

(2) Heart valve ****

(3) Cardiac stents *****;

(v) 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 Tamarind seed and powder *****;

(b) in the Second Schedule,—

(i) after serial number 1 and the entries against it in columns (2) and (3), the following serial numbers and entries shall, respectively, be inserted, namely:—

“2 Chillies dried	0904.20.10
2A Coriander Seeds	0909.20.00
2B Edible Oils	
(1) Soyabean oil	1507.90.10
(2) Groundnut oil	1508.90.91
(3) Olive oil	1509.90.10
(4) Palm oil	
(a) Refined bleached deodorised palm oil	1511.90.10
(b) Refined bleached deodorised palmolein	1511.90.20
(5) Sunflower oil	1512.19.10
(6) Saffola oil	1512.19.30
(7) Cottonseed oil	1512.29.10
(8) Babassu oil	1513.29.20
(9) Refined colza oil	1514.19.10
(10) Refined rapeseed oil	1514.19.20
(11) Refined mustard oil	1514.99.20
(12) Linseed oil	1515.19.10
(13) Maize (corn) oil	1515.29.10
(14) Castor oil	1515.30.10
(15) Sesam oil	1515.50.91

(16)	Fixed vegetable oils of edible grade namely: mango kernal oil, mahua oil, rice bran oil	1515.90.40
(17)	Other edible oils	1515.90.91
(18)	Other partly or wholly hydrogenated vegetable oils	
(a)	Cottonseed oil	1516.20.11
(b)	Groundnut oil	1516.20.21
(c)	Castor oil	1516.20.31
(d)	Other including Vanaspati	1516.20.91
(19)	Vegetable edible oils excluding HSN heading No. 1516	
(a)	Linseed oil	1518.00.11
(b)	Castor oil dehydrated	1518.00.21
(c)	Other vegetable oils edible grade	1518.00.31
(20)	Palm Kernal oil	1513.21.10
	2C Flour, Atta, Maida, Sooji,—	
(1)	Wheat or Meslin flour	1101.00.00
(2)	Rye flour	1102.10.10
(3)	Maize (corn flour)	1102.20.20
(4)	Rice flour (Puttu podi and the like)	1102.30.00
(5)	Other cereal flour	1102.90.00”;

(ii) 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 Pulses 0713”;

(c) in the Third Schedule,—

(i) in the heading, for the figure and symbol “4%”, the figure and symbol “5%” shall be substituted;

(ii) after serial number 30A and the entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be inserted, namely:—

“30B. Cradles ****”;

(iii) in serial number 36,—

(a) in the heading, the words, letters and brackets “and those notified under clause (d) of sub-section (1) of section 6” shall be omitted;

(b) after item 26 and the entries against it in columns (2) and (3), the following item and entries shall, respectively be inserted, namely:—

“27. Ayurvedic cosmetics containing added medicaments and manufactured under drug license granted under the Drugs and Cosmetics Act 1940 (Central Act 23 of 1940) ****”;

(iv) serial number 38 and the entries against it in columns (2) and (3) shall be omitted;

(v) after serial number 39 and the entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be inserted, namely:—

“40. Electronic Toilets ****”;

(vi) for serial number 48 and the entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be substituted, namely:—

“48. Basen and dough and flours other than those mentioned in Second Schedule

(1) Flour, meal and powder of dried leguminous vegetables 1106

(2) Wet mix ****”;

(vii) in serial number 49A, to the entries in column (2), the words “Chukku Kappi Powder, Fried chips made from banana, cassava and Jack fruit”

Kerala Value Added Tax Act, 2003 (30 of 2004) and” shall be omitted;

(3) in sub-section (5), the words and figures “assessment, input tax credit, special rebate and recovery in the Kerala Value Added Tax Act, 2003 and” shall be omitted.

DECLARATION UNDER THE KERALA PROVISIONAL COLLECTION OF REVENUES ACT, 1985 (ACT 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 on and from the 1st day of April, 2012 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 the Government of Kerala for the financial year 2012-2013 as announced in paras 364, 369, 372 to 394 and 396 of the Budget Speech 2012-2013, namely:—

1. The Kerala Stamp Act, 1959 (17 of 1959);
2. The Kerala Land Tax Act, 1961 (13 of 1961);
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 Value Added Tax Act, 2003 (30 of 2004);
7. The Kerala Finance Act, 2008 (21 of 2008).

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

A new section proposed to be inserted as 58A in the Kerala General Sales Tax Act, 1963 (15 of 1963) by sub-clause (2) of clause 4 of the Bill seeks to

empower the Commissioner of Commercial Taxes to make suitable modifications in the forms prescribed under the said Act and to make necessary changes in the manner of submission and authentication of such returns, forms and other statements for the purpose of implementation of electronic filing of returns, forms and other statements or electronic payments of tax fee or other amounts, by notification in the Gazette.

2. A new section proposed to be inserted as 93A in the Kerala Value Added Tax Act, 2003 (30 of 2004) by sub-clause (11) of clause 7 of the Bill seeks to empower the Commissioner of Commercial Taxes to make suitable modifications in the forms prescribed under the said Act and to make necessary changes in the manner of submission and authentication of such returns, forms and other statements for the purpose of implementation of electronic filing of returns, forms and other statements or electronic payments of tax fee or other amounts, by notification in the Gazette.

3. The matters in respect of which notifications may be issued are only with regard to deviation from forms and matters of routine or administrative in nature. The delegation of legislative power is, thus, of a normal character.

K. M. MANI.