

THE KERALA FINANCE BILL, 2011

A *BILL*

to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2011-2012.

Preamble.- WHEREAS, it is expedient to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2011 – 2012;

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

1. *Short title and commencement.-* (1) This Act may be called the Kerala Finance Act, 2011.

(2) It shall come into force on the 1st day of April, 2011.

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 symbol “31st December, 2010”, the figures, words and symbol “31st March, 2011” shall be substituted;

(ii) in sub-section (4), for the figures, words and symbol “31st December, 2010”, the figures, words and symbol “31st March, 2011” shall be substituted;

(2) in section 3B,-

(i) in sub-section (2), for the figures, words and symbol “31st December, 2010”, the figures, words and symbol “31st March, 2011” shall be substituted;

(ii) in sub-section (3), for the figures, words and symbol “31st December, 2010”, the figures, words and symbol “31st March, 2011” shall be substituted.

3. *Amendment of Act 17 of 1959.*- In the Kerala Stamp Act, 1959 (17 of 1959), in the SCHEDULE, in serial number 48, in clause (a), for the words “brother or sister of a person”, the words “brother, sister or legal heirs of the deceased children of a person” shall be substituted.

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

(1) to section 7, the following proviso shall be added, namely:-

“Provided that the rate of tax mentioned under clause (b) of item (i) above shall be one hundred and ten per cent for those bar hotels who have paid compounded tax under this Act continuously for the last five years and one hundred and twelve per cent for those who have paid compounded tax continuously for the last three years.”;

(2) in section 23B,-

(i) in sub-section (3), for the figures, words and symbol “31st December, 2010”, the figures, words and symbol “31st March, 2011” shall be substituted;

(ii) in sub-section (4), for the figures, words and symbol “31st December, 2010”, the figures, words and symbol “31st March, 2011” shall be substituted;

(3) in section 23BA,-

(i) in sub-section (2), for the figures, words and symbol “31st December, 2010”, the figures, words and symbol “31st March, 2011” shall be substituted;

(ii) in sub-section (3), for the figures, words and symbol “31st December, 2010”, the figures, words and symbol “31st March, 2011” shall be substituted.

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

(1) in section 2,-

(i) clause (ca) shall be omitted;

(ii) clause (fa) shall be omitted;

(2) in section 4,-

(i) in sub-section (1),-

(a) in item (ii), the words “by cable operators and” shall be omitted;

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

“Provided that this sub-section shall not apply to,-

(i) halls and auditoriums located within the premises of places of worship owned by religious institutions;

(ii) to the retiring rooms in the railway stations, managed by Indian Railways; and

(iii) to dormitories.”;

(c) the second proviso shall be omitted;

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

(a) clause (d) shall be omitted;

(b) for the words and symbol “and shall be collectable from the person enjoying the luxury:” the words and symbol “and shall be collectable from the person enjoying the luxury and the luxury tax, if any, collected shall be paid over to the Government.” shall be substituted;

(c) the provisos after clause (f) shall be omitted;

(3) in section 4D,-

(i) in the marginal heading, the words “cable operators and” shall be omitted;

(ii) in the first sentence, the words “cable operators and” shall be omitted;

(4) in section 5A, in sub-section (1), for the existing items (i) to (iv) and the entries against it, the following items and entries shall be substituted, namely:-

“(i)	non air-conditioned house-boat with one bed room	Eight thousand rupees
(ii)	non air-conditioned house-boat with two bed rooms	Twelve thousand rupees
(iii)	additional compounded tax payable for each additional room in a non air-conditioned house-boat with more than two bed rooms	Four thousand rupees
(iv)	air-conditioned house-boat with one bed room	Fifteen thousand rupees
(v)	air-conditioned house-boat with two bed rooms	Twenty two thousand rupees
(vi)	additional compounded tax payable for each additional room in an air-conditioned house-boat with more than two bed rooms	Seven thousand rupees
(vii)	non air-conditioned house boats primarily used for conferences	Thirty thousand rupees
(viii)	air-conditioned house boats primarily used for conferences	Fifty thousand rupees”.

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

(1) in section 4, in sub-section (6), the following sentence shall be added at the end, namely:-

“The Bench or Benches shall ordinarily sit at such places as the Government may, by notification, specify.”;

(2) in section 6,-

(i) in sub-section (1),-

(a) in the fifth proviso, in clause (b), after the words “Canteen Stores Department”, the words and symbol “Indian Naval Canteen Stores or Air Force Canteen, as the case may be,” shall be substituted;

(b) in the eleventh proviso, the words “with effect on and from the 1st day of April, 2005” shall be added at the end;

(c) after the eleventh proviso, the following provisos shall be inserted, namely:-

“Provided also that cooked food and beverages served in a houseboat paying compounded tax under the Kerala Tax on Luxuries Act, 1976 (32 of 1976) shall be exempted from tax:

Provided also that the tax payable on ayurvedic cosmetic products manufactured under a drug license granted under the Drugs and Cosmetics Act, 1940 (Central Act 23 of 1940) containing added medicaments having subsidiary therapeutic or prophylactic uses and those notified under clause (d) of sub-section (1) of section 6, for the period on and from the 1st day of April, 2005 to the 12th day of November, 2009 shall be at four per cent.”;

(ii) in sub-section (1A), in clause (a), the words “and he shall be eligible for input tax credit” shall be added at the end;

(iii) in sub-section (5), after the fifth proviso, the following proviso shall be inserted, namely:-

“Provided also that notwithstanding anything contained in the Act or rules made thereunder if the turnover of a dealer, who opted for payment of tax under this sub-section has exceeded the turnover limit during the course of an year, he shall be eligible for input tax credit on the turnover in excess of rupees fifty lakhs.”;

(3) in section 8,-

(i) in clause (e), in the Explanation, the following sentence shall be added at the end, namely:-

“This Explanation shall have effect on and from the 1st day of April, 2005.”;

(ii) in clause (f),-

(a) in sub-clause (i), in Explanation 6, for the figures “2009-10” and “2010-11”, wherever they occur, the figures “2010-11” and “2011-12” shall respectively be substituted;

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

“(ia) Notwithstanding anything contained in this clause, a dealer shall not be allowed to opt for the payment of tax under this clause unless he has conducted business up to a full year as on the first day of April of the year to which the option relates.”;

(c) in sub-clause (v),-

(i) in item (a), for the words “one hundred and five per cent of such”, the words “the same amount of” shall be substituted;

(ii) in item (b), for the words “one hundred and ten per cent”, the words “one hundred and five per cent” shall be substituted;

(d) sub-clause (vi) shall be omitted;

(4) in section 10,-

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

“(1A) Every person making any payment or discharging any liability to any person liable to pay tax under section 6 on account of any amount purporting to be the full or part payment of consideration for the transfer

of the right to use any goods for any purpose shall deduct at source an amount calculated at the rate of four per cent from such sum towards full satisfaction of the tax payable under this Act in respect of the transfer of the right to use such goods and remit it to Government, in the prescribed manner, on or before the fifth day of the month succeeding the month in which such deduction is made. Every such person shall also file such return as may be prescribed.”;

(ii) in sub-section (3),-

(a) for the word “awarder” wherever it occurs, the words “awarder or the person” shall be substituted;

(b) for the words, symbols and figure “under sub-section (1)”, the words, symbols, figures and letter “under sub-section (1) or (1A)” shall be substituted;

(5) 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 2005-06 and 2006-07 under this section shall be extended up to 31st March, 2012.”;

(6) 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 2005-06 and 2006-07 under this section shall be extended up to 31st March, 2012.”;

(7) in section 40A, sub-section (3) shall be omitted;

(8) in section 52, after the words and symbol “railway authorities,”, the words and symbol “operators of leased railway wagons,” shall be inserted;

(9) in section 86, in the Explanation, for the words “Centre for Taxation Studies”, the words “Gulati Institute of Finance and Taxation” shall be substituted;

(10) in section 94, in sub-section (2), after the words “hearing the parties”, the words “pass orders within three months or within such time as may be extended by the Commissioner” shall be inserted;

(11) in the SCHEDULES,-

(a) in the First Schedule,-

(i) in serial number 18, after item (3) and the entries against it in columns (2) and (3), the following items and entries shall respectively be inserted, namely:-

“(4)	Nylon Rope	5607.50.40
(5)	Polyester Rope, Polyester twine	5607.50.90”;

(ii) after serial number 28 and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be inserted, namely:-

“(28A)	Laterite stones of all types	****”;
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(iii) in serial number 34, in item (1), after sub-item (g) and the entries against it in columns (2) and (3), the following sub-items and entries shall respectively be inserted, namely:-

“(ga) bone meal including crushed bones

(1) Bone meal	0506.90
(2) Bones including horn cores, crushed of wild animals	0506.10.11
(3) Other	0506.10.19

(gb) organic meal and leather meal	****”;
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(iv) after serial number 60 and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be inserted, namely:-

“(60A) Goods sold inside the places of worship to devotees,
to be used as offerings. ****”;

(b) in the Third Schedule,-

(i) serial number 17 and the entries against it in columns (2) and (3) shall be omitted;

(ii) in serial number 44, in the heading, after the words “similar products”, the words “other than those specified in the First Schedule” shall be added;

(iii) after serial number 82 and the entries against it in columns (2) and (3), the following serial number and entries shall respectively be inserted, namely:-

“82A Manufactured sand ****”;

(iv) in serial number 90, after item (4) and the entries against it in columns (2) and (3), the following item and entries shall respectively be inserted, namely:-

“(4A) Soil ****”;

(v) serial number 92A and the entries against it in columns (2) and (3) shall be omitted;

(vi) serial number 99A and the entries against it in columns (2) and (3) shall be omitted;

(vii) in serial number 137, for the entry against item (13) in column (2), the following entry shall be substituted, namely:-

“Choodarapetties of all kinds”.

**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, 2011 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 2011-2012 as announced in paras 179, 200, 202, 205, 207 to 210 and 212 to 229 in the Budget Speech 2011 - 2012, 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 Tax on Luxuries Act, 1976 (32 of 1976);
5. 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 (1) of clause 6 of the Bill which proposes to amend sub-section (6) of section 4 of the Kerala Value Added Tax Act, 2003 (30 of 2004), seeks to empower the Government to specify, by notification in the Gazette, the places where the Bench or Benches of the Appellate Tribunal is to be situated.

2. Sub-clause (4) of clause 6 of the Bill which proposes to amend section 10 of the Kerala Value Added Tax Act, 2003, seeks to empower the Government to prescribe the manner in which the remittance of tax payable in respect of the transfer of the right to use any goods and also to prescribe the filing of returns.

3. The matters in respect of which rules are to be made or notifications may be issued are matters of procedure and are of routine or administrative nature. 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.

