

Thirteenth Kerala Legislative Assembly

Bill No. 190

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**THE KERALA LOCAL AUTHORITIES ENTERTAINMENTS  
TAX (AMENDMENT) BILL, 2013**

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TAX (AMENDMENT) BILL, 2013**

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THE KERALA LOCAL AUTHORITIES ENTERTAINMENTS TAX  
(AMENDMENT) BILL, 2013

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*BILL*

*further to amend the Kerala Local Authorities Entertainments Tax Act, 1961.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Local Authorities Entertainments Tax Act, 1961 for the purposes hereinafter appearing;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Local Authorities Entertainments Tax (Amendment) Act, 2013.

(2) It shall be deemed to have come into force on the 25th day of November, 2012.

2. *Insertion of new section 3C.*—In the Kerala Local Authorities Entertainments Tax Act, 1961 (20 of 1961) (hereinafter referred to as the principal Act), after section 3B, the following section shall be inserted, namely:—

“ 3C. *Levy and collection of cess.*—(1) There shall be levied and collected a cess for the purposes of the Kerala Cultural Activists’ Welfare Fund constituted under the Kerala Cultural Activists’ Welfare Fund Act, 2010 (6 of 2011) at such rate not exceeding three rupees on each admission to cinema, the price of admission to which exceed twenty five rupees, as the Government may, by notification in the Gazette, specify, from time to time.

(2) The cess levied under sub-section (1) shall be collected by the local authority along with the tax on each price for admission to cinema and the proceeds of the cess, less collection charges at such rate specified by the Government, shall be paid to the Kerala Cultural Activists’ Welfare Fund Board constituted under the Kerala Cultural Activists’ Welfare Fund Act, 2010 (6 of 2011).

(3) The proceeds of the cess collected under sub-section (2) for each calender month shall be remitted by the Secretary of the local authority to the account of the Kerala Cultural Activists’ Welfare Fund Board on or before the 15th day of the succeeding month.

(4) Where the proceeds of the cess collected by the local authority is not paid within the time limit specified in sub-section (3), the local authority concerned shall pay the said amount to the Kerala Cultural Activists' Welfare Fund Board together with penalty at the rate of one and a half per cent per mensem from the said time limit.

(5) The Secretary and the President or the Chairperson of the local authority concerned shall be jointly responsible for all belated payments and any amount paid to the Kerala Cultural Activists' Welfare Fund Board by way of penalty shall be realised from such Secretary and President or Chairperson of the local authority.

(6) The provisions of sections 5, 6, 7, 7A and sections 8 to 10 shall apply in respect of cess on tickets for admission to cinema and the word 'tax' therein shall be construed as to include 'cess' also."

3. *Amendment of section 5.*—In section 5 of the principal Act,—

(a) in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

“(aa) with a ticket in the electronic form, indicating the proper tax for such ticket, generated out of an electronic device with an application software approved by the Government, having the facility for access and verification of any data or information in respect of the tax due to the local authority as and when required by any officer authorised by the local authority; or” ;

(b) to sub-section (1), the following proviso shall be added, namely:—

“Provided that the Government may, by notification in the Gazette, specify that the admission to any class or classes of entertainments or to any place or places where an entertainment is held, shall be made only with a ticket under clause (aa) of sub-section (1) and thereupon no ticket under clause (a) shall be issued for admission to such entertainment.”;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) For the purpose of installing the electronic devices with the hardware and application software required for generating the tickets in the electronic form as provided in clause (aa) of sub-section (1) and for the maintenance of such devices, an amount at such rate and in such manner as may be specified in the rules made by the Government shall be levied and collected towards service charges along with the ticket.”.

4. *Amendment of section 6.*—In section 6 of the principal Act,—

(a) in sub-section (1), after the word, letter and brackets “clause\ (a)”, the words, letters and brackets “or clause (aa)” shall be inserted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Notwithstanding anything contained in the Kerala Cinemas (Regulation) Act, 1958 (32 of 1958) or in the Kerala Panchayat Raj Act, 1994 (13 of 1994) or in the Kerala Municipality Act, 1994 (20 of 1994), no licence or permit for conducting a cinema theatre and exhibition thereof shall be renewed by the local authority concerned unless the proprietor of such theatre has remitted the entertainment tax due upto the preceding month.”.

5. *Amendment of section 11.*—In section 11 of the principal Act, after clause (b) of sub-section (2), the following clause shall be inserted, namely:—

“(c) for the fixation of the rate of service charges and the manner in which it is to be collected and paid towards installation and maintenance of hardware and software applications for generating tickets in the electronic form under sub-section (3) of section 5.”.

6. *Repeal and saving.*—The Kerala Local Authorities Entertainments Tax (Amendment) Ordinance, 2013 (11 of 2013) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

#### STATEMENT OF OBJECTS AND REASONS

Government have decided to levy a cess on each ticket exceeding twenty five rupees to be credited to the Kerala Cultural Activists’ Welfare Fund, constituted under the Kerala Cultural Welfare Fund Act, 2010 (6 of 2011).

2. The Government have received various complaints about evasion of huge amount of entertainments tax due to the local authorities from the cinema theatres in the State. Accordingly, the Government examined the matter and found that the present system of levy of entertainments tax with a ticket stamped with an impressed, embossed, engraved or adhesive stamp issued by the local authority indicating the tax for such ticket is not sufficient to prevent the tax evasion. Therefore, the Government decided to introduce the system of issuing tickets in the electronic form, for admission to the entertainments as may be notified by the Government, so as to prevent tax evasion. In order to meet the expenses relating to installation of electronic devices for the said purpose and the maintenance of such

devices, the Government have also decided to collect an amount towards service charges along with the ticket at such rate as may be specified by rules made under the Act.

3. The Government have also found that owners of certain theatres do not pay entertainments tax in time. Therefore, the Government have decided to make provision in the Act to the effect that if no such tax has been paid up to the preceding month, the licence or permit for conducting the cinema theatre and exhibition thereof shall not be renewed by any local authority. Hence, the Government have decided to amend sections 3, 5, 6 and 11 of the Act for the purpose.

4. As the Kerala Legislative Assembly was not in session and circumstances existed for making immediate legislation for implementing the above said decision, the Kerala Local Authorities Entertainments Tax (Amendment) Ordinance, 2012 was promulgated by the Governor of Kerala on the 24th day of November, 2012 and the same was published as Ordinance No. 61 of 2012 in the Kerala Gazette Extraordinary No.1260 dated 25th November, 2012.

5. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 10th day of December, 2012 and ended on the 21st day of December, 2012.

6. As per the provisions of sub-clause (a) of clause (2) of article 213 of the Constitution of India, an Ordinance promulgated by the Governor under the said article shall cease to operate at the expiration of six weeks from the re-assembly of the Legislature.

7. In order to keep alive the provisions of the said Ordinance, the Kerala Local Authorities Entertainments Tax (Amendment) Ordinance, 2013 was promulgated by the Governor on the 14th day of January, 2013 and the same was published as Ordinance No. 11 of 2013 in the Kerala Gazette Extraordinary No. 119 dated 15th January, 2013.

8. This Bill seeks to replace Ordinance No. 11 of 2013 by an Act of the State Legislature.

#### 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

Section 3C proposed to be inserted in the principal Act by clause 2 of the Bill seeks to empower the Government to issue notification specifying the rate of cess, not exceeding three rupees on each admission to cinema the price of admission to which exceeds twenty five rupees, for the purposes of the Kerala Cultural Activists Welfare Fund constituted under the Kerala Cultural Activists Welfare Fund Act, 2010 (6 of 2011).

2. The proviso proposed to be added to sub-section (1) of section 5 of the principal Act by sub-clause (b) of clause 3 of the Bill seeks to empower the Government to issue notification specifying the entertainments or classes of entertainments or place or places where entertainment is held, in which admission shall in made only with a ticket in the electronic form.

3. Sub-section (3) proposed to be inserted in section 5 of the principal Act by sub-clause (c) of clause 3 of the Bill seeks to empower the Government to specify by rules, the rate of service charges for the purpose of installing electronic devices with hardware and application software for generating electronic ticket and for their maintenance.

4. Clause (c), proposed to be inserted in sub-section (2) of section 11 of the principal Act by clause 5 of the Bill seeks to empower the Government to make rules for the fixation of the rate of service charges and the manner in which it is to be collected and paid towards installation and maintenance of hardware and software applications for generating ticket in the electronic form.

5. The matters in respect of which rules may be made or notifications may be issued are matters of procedure and are of routine or of administrative in nature. Further, the rules after they are made, will be subject to scrutiny by the Legislative Assembly. The delegation of legislative power is, therefore, of a normal character.

MANJALAMKUZHI ALI.

EXTRACT OF THE RELEVANT PORTIONS FROM  
THE KERALA LOCAL AUTHORITIES  
ENTERTAINMENTS TAX ACT, 1961  
(20 OF 1961)

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3. *General provision regarding the levy of tax and the rate of tax.*—Any local authority may levy a tax (hereinafter referred to as the entertainments tax) at a rate not less than twenty four per cent and not more than forty-eight per cent on each price for admission to any entertainment:

Provided that the rate thus fixed shall not be lower than the sum of the entertainment tax levied under this section and additional tax on entertainment levied under the Kerala Additional Tax on Entertainment and Surcharge on Show Tax Act, 1963 (22 of 1963) prevailing in the area prior to the date of commencement of the Kerala Decentralisation of Powers Act, 2000.

3A. \*\*                                      \*\*                                      \*\*                                      \*\*

3B. *Entertainment tax for amusement parks.*—(1) Notwithstanding anything contained in sections 3, 3A and 4 and subject to such rules as may be made by Government in this behalf, a proprietor of an amusement park shall pay an annual entertainment tax fixed by the local authority within the range of rates specified against each category, namely:—

<i>Category</i>	<i>Range of rates of entertainment tax to be fixed by the local authority</i>
(1)	(2)

**Category A**

Amusement park having an investment up to Rupees 3 Crores and having area to an extent of 2 hectares and below (excluding the area provided for parking vehicles and other unutilized/vacant area)	Rs. 3 to 6 lakhs
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(1)	(2)
<b>Category B</b>	
Amusement park having an investment of above Rupees 3 Crores but below 10 Crores and having area to an extent of above 2 hectares but below 4 hectares (excluding the area provided for parking vehicles and other unutilized/vacant area)	Rs. 10 to 15 lakhs
<b>Category C</b>	
Amusement park having an investment of Rupees 10 Crores and above but below Rupees 20 Crores and having area to an extent of 4 hectares and above but below 6 hectares (excluding the area provided for parking vehicles and other unutilized/vacant area)	Rs. 25 to 30 lakhs
<b>Category D</b>	
Amusement park having an investment of Rupees 20 Crores and above but below Rupees 50 Crores and having area to an extent of 6 hectares and above but below 10 hectares (excluding the area provided for parking vehicles and other unutilized/vacant area)	Rs. 50 to 60 lakhs
<b>Category E</b>	
Amusement park having an investment of Rupees 50 Crores and above and having area to an extent of 6 hectares and above but below 10 hectares and above (excluding the area provided for parking vehicles and other unutilized/vacant area)	Rs. 80 to 100 lakhs

Provided that during the first four year period of operation of an amusement park the annual entertainment tax leviable shall be relaxed at the following rates, namely:—

<i>Period</i>	<i>Relaxation of rate of entertainment tax</i>
(a) First year	Sixty per cent
(b) Second year	Forty per cent
(c) Third year	Twenty per cent
(d) Fourth year	Ten per cent

Provided further that the local authority may permit the proprietor of an amusement park to pay the entertainment tax in equated monthly installments.

*Explanation 1:*—Amusement park means a permanent out door facility set-up for entertainment which may include structures and buildings where admission is based on payment.

*Explanation 2:*—For the purpose of this section in categorizing the amusement park, if both the investment and area of land do not come under any of the above categories, but either the investment or the area comes under any one of the categories, the amusement park shall be assessed in the category to which the higher rate of tax is applicable.

(2) (a) The Government may by notification in the Gazette constitute a Committee for the purpose of categorization of the amusement parks, ensuring the safety of parks and to advise the Government for review of the tax structure every three years.

- (b) The Committee shall consist of,—
- (i) The Secretary to Government, Local Self Government Department (Urban)— *ex-officio*;
  - (ii) The Secretary to Government, Local Self Government Department (Rural)— *ex-officio*;
  - (iii) The Secretary to Government, Finance Department— *ex-officio*;
  - (iv) The Secretary to Government, Tourism— *ex-officio*;
  - (v) Chairperson, Mayor's Chamber;

- (vi) Chairperson, Municipal Chairperson's Chamber;
- (vii) President, Kerala Grama Panchayat Association;
- (viii) Chief Town planner.

(c) The Committee shall exercise such other functions as may be specifically authorised in this behalf.

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5. *Admission of persons to entertainments subject to tax.*—(1) Save in the cases referred to in section 4 and section 6A, no person shall be admitted for payment to any entertainment where the price for admission is subject to entertainments tax except,—

(a) with a ticket stamped with an impressed, embossed, engraved or adhesive stamp issued by the local authority indicating the proper tax for such ticket; or

(b) in special cases, with approval of the local authority, through a barrier which, or by means of a mechanical contrivance which, automatically registers the number of persons admitted.

Unless the proprietor of the entertainment has made arrangements approved by the local authority for furnishing returns of the payments for admission to the entertainment and has given security approved by the local authority for the payment of the entertainments tax.

(2) Nothing contained in sub-section (1) shall be deemed to preclude the local authority from requiring security from the proprietor of an entertainment for the payment of the entertainments tax in any other case.

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6. *Manner of payment of tax.*—(1) The entertainments tax shall be levied in respect of each person admitted for payment and in the case of admission by ticket, shall be paid by means of a ticket referred to in clause (a) of sub-section (1) of section 5, and in the case of admission otherwise than by ticket, shall be calculated and paid on the number of admissions.

(2) The entertainments tax in the case of admission otherwise than by ticket shall be recoverable from the proprietor.

(3) Where the payment of the price for admission to an entertainment is made wholly or partly by means of a lump sum paid as a subscription or contribution to any institution, or for a season ticket or for the right of admission

to a series of entertainments or to any entertainment during a certain period of time, the entertainments tax shall be paid on the amount of the lump sum, but where the local authority is of the opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment or covers admission to an entertainment during any period during which the tax has not been in operation, the tax shall be levied on such amount as appears to the local authority to represent the right of admission to entertainments in respect of which the entertainments tax is payable.

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11. *Power of the Government to make rules.*—(1) The Government may make rules to carry out all or any of the purposes of this Act, not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power they may make rules,—

(a) for the composition and consolidated payment of tax under section 4; and

(b) for the presentation and disposal of application for exemption from payment of the entertainments tax.

(3) In making any rules the Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees.

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