

Thirteenth Kerala Legislative Assembly
Bill No. 20

THE KERALA FINANCE BILL, 2011

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2011

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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.*—This Act may be called the Kerala Finance Act, 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 words and figures “31st December, 2010”, the words and figures “30th September, 2011” shall be substituted ;

(ii) in sub-section (4), for the words and figures “31st December, 2010”, the words and figures “30th September, 2011” shall be substituted ;

(2) in section 3B,—

(i) in sub-section (2), for the words and figures “31st December, 2010”, the words and figures “30th September, 2011” shall be substituted ;

(ii) in sub-section (3), for the words and figures “31st December, 2010”, the words and figures “30th September, 2011” shall be substituted.

3. *Amendment of Act 35 of 1958.*—In the Kerala Money Lenders Act, 1958, after section 11 A, the following section shall be inserted, namely:—

“11 B. *Electronic filing and payment.*—The Government may require the licensees to file forms and other statements etc., to be submitted by him under this Act and make the payment of fee or other amounts due under this Act, electronically through the official website of the Commercial Taxes Department, in the manner as may be prescribed.”.

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

(1) in serial number 31, for clause (i) and the entries against it in columns (2) and (3), the following clause and entries shall, respectively, be substituted, namely:—

“(i) where the gift is in favour of father, mother, husband, wife, son, daughter, brother, sister or grand children of a person.	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, subject to a maximum of rupees 1000.”;
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(2) in serial number 42,—

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

“One rupee 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, subject to a maximum of rupees 1000.”;

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

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

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

“(i) where the settlement is in favour of father, mother, husband, wife, son, daughter, brother, sister or grand children of a person.	Two rupees 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, subject to a maximum of rupees 1000.”.
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5. *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 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 up to and including the year 2005-06 pending as on 31st March, 2011 shall be completed on or before 31st March, 2012.”;

(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, 2011 shall be completed on or before 31st March, 2012.”;

(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, 2011 shall be completed on or before 31st March, 2012.”;

(3) in section 23B,—

(i) in sub-section (3), for the words and figures “31st December, 2010”, the words and figures “30th September, 2011” shall be substituted ;

(ii) in sub-section (4), for the words and figures “31st December, 2010”, the words and figures “30th September, 2011” shall be substituted ;

(4) in section 23BA,—

(i) in sub-section (2), for the words and figures “31st December, 2010”, the words and figures “30th September, 2011” shall be substituted ;

(ii) in sub-section (3), for the words and figures “31st December, 2010”, the words and figures “30th September, 2011” shall be substituted.

6. *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 shall be collectable from the person enjoying the luxury:” the words “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”;

(5) after section 5A, the following section shall be inserted, namely:—

“5B. *Electronic filing and payment.*—The Government may require the assesseees to file returns, forms, and other statements etc., 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, in the manner as may be prescribed.”;

(6) in section 6, in sub-section (4), for the existing proviso, the following proviso shall be substituted, namely:—

“Provided that all assessments relating to the years, up to and including the year 2006-2007, pending as on 31st day of March, 2011, shall be completed on or before the 31st day of March, 2012.”.

7. *Amendment of Act 15 of 1991.*—In the Kerala Agricultural Income Tax Act, 1991 (15 of 1991), after section 35, the following section shall be inserted, namely:—

“35A. *Electronic filing and payment.*—Government may require the assessee to file returns, forms, and other statements etc. 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, in the manner as may be prescribed.”.

8. *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) 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 rate of twenty per cent, 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>
(1)	(2)	(3)
(1)	Pan masala	2106.90.20
(2)	Churna for pan	2106.90.70
(3)	Pan chutney	xxx
(4)	Other manufactured tobacco and manufactured tobacco substitutes homogenized or reconstituted tobacco; tobacco extracts and essences	2403
(5)	aerated branded soft drinks, excluding soda	xxx

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.”;

(b) in the fifth proviso, in item (b), after the words “Canteen, Stores Department”, the words “Indian Naval Canteen Stores or Air Force Canteen, as the case may be,” shall be inserted ;

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

(d) after the eleventh proviso, the following provisos shall be inserted, namely:—

“Provided also that cooked food and beverages served in a house-boat 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),—

(a) for the words “fifty lakh rupees”, the words “sixty lakh rupees” shall be substituted ;

(b) in the third proviso, for the words “fifty lakh rupees”, the words “sixty lakh rupees” shall be substituted ;

(c) in the fifth proviso, for the words “rupees three thousand”, the words “rupees two thousand” shall be substituted ;

(d) after the fifth proviso, the following proviso shall be added, 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 sixty lakh rupees.”;

(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),—

(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 ;

(ii) after Explanation 8, the following Explanation shall be inserted, namely:—

“*Explanation 9*:—For the removal of doubts, it is clarified that for the purpose of this clause, “articles of gold, silver or platinum group metals” shall also include bullion.”;

(iii) the proviso to clause (f) shall be omitted;

(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 (ii), the words “holding of stock exceeding double the quantity held in the previous year” shall be omitted;

(d) 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 calculated at the rates mentioned in item (i) or (ii) below, whichever is higher,—

(i) (a) at the same amount of tax paid during the previous year, in case their turnover for the above goods for the preceding year was rupees ten lakh or below;

(b) at one hundred and five 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 ten lakh and up to rupees forty lakh ;

(c) at 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 lakh and up to rupees one crore ; and

(d) at 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 the tax payable under this sub-clause by the dealers covered under Explanation 6 of this clause shall be at the appropriate percentage of tax mentioned in (a), (b), (c) or (d) above, of the tax re-determined under the said Explanation.

(ii) 1.25% of the turnover of sales of the goods covered under this clause, for the previous year.”;

(e) 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 and 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, figure and bracket “under sub-section (1)”, the words, letter, figures and brackets “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 upto 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 30, in sub-section (2), for the words, letter, figure and bracket “and clause (d) of section 8”, the words, letters, figure and brackets “clause (d) and clause (f) of section 8” shall be substituted ;

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

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

(10) in section 74, in sub-section (1), for the words “four lakh” wherever they occur, the words “eight lakh” shall be substituted ;

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

(12) in section 94,—

(i) 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 ;

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

“(2A) Notwithstanding anything contained in this Act, where a clarification has been issued under this section clarifying the rate of tax of any goods and the registered dealers were paying tax at lower rates on the sale of those goods before the issuance of such clarification, then if the manufacturer or first seller of the goods within the State, who shall also be a registered dealer, pays the entire tax due on the turnover of such goods sold by him at the

Maximum Retail Price, then subsequent registered dealers who had purchased those goods and has sold the same shall not be assessed or penalized for the differential tax payable :

Provided that such payment of tax under this sub-section shall be subject to the conditions and restrictions as may be prescribed.

Explanation:—For the purpose of this section, Maximum Retail Price in respect of the goods mentioned means the maximum price printed on the package of any goods at which such goods may be sold to the ultimate consumer and where such price is not so printed on the package, the price charged on the sale to the ultimate consumer.”;

(13) in the SCHEDULES,—

(i) in the First Schedule,—

(a) after serial number 4A and the entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be inserted, namely:—

“(4B) Bio-fertilizers and bio-insecticides of all types ; *****”

(b) 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”;

(c) 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 *****”;

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

“(30A) Machines for milking animals *****

(30B) Machines for coconut tree climbing *****”;

(e) 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) Others	0506.10.19
(gb) Organic meal and leather meal	**** ”;

(f) after serial number 60 and the entries against it in columns (2) and (3), the following serial number and entries against it shall, respectively, be inserted, namely:—

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

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

(b) in serial number 44,—

(i) in the heading, for the words “bio-fertilizers, micronutrients and similar products”, the words “micronutrients and similar products other than those specified in the First Schedule” shall be substituted ;

(ii) sub-item (i) and the entries against it in columns (2) and (3) shall be omitted ;

(iii) in sub-item (4), in column (2), the word “bio-fertilisers,” shall be omitted ;

(c) 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	****”;
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(d) 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:—

“(4 A) Soil	****”;
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(e) serial number 92A and the entries against it in columns (2) and (3) shall be omitted ;

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

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

“Choodarapetties of all kinds”.

9. *Amendment of Act 21 of 2008.*—In the Kerala Finance Act, 2008 (21 of 2008), in section 6, to sub-section (1), the following proviso shall be added, namely:—

“Provided that the rate of cess payable under this section shall be six per cent on the tax payable under section 5(1)(b) of the Kerala General Sales Tax Act, 1963 (15 of 1963).”.

10. *Levy and collection of cess on luxury cars.*—(1) There shall be levied and collected, in accordance with the provisions of this section, for the purpose of the State, a cess to be called the *Essential Necessities Cess*, at the rate of two per cent on the output tax due under section 6 of the Kerala Value Added Tax Act, 2003 on the sale of cars, the sale price of which exceeds rupees twenty lakh, to fulfil the commitment of the Government to provide and finance a comprehensive scheme for the essential necessities to the general public.

(2) The State Government may, after due appropriation made by the Legislature by law in this behalf, utilise such sums of money of the *Essential Necessities Cess* levied for the purposes specified in sub-section (1) as it may consider necessary.

(3) The provisions regarding the assessment and recovery in the Kerala Value Added Tax Act, 2003 shall *mutatis mutandis* apply to cess under this section.

(4) The provisions of section 30 of the Kerala Value Added Tax Act, 2003 (30 of 2004) shall *mutatis mutandis* apply for the collection of cess under sub-section (1).

11. *Levy and collection of cess on residential buildings.*—(1) There shall be levied and collected, in accordance with the provisions of this section, for the purpose of the State, a cess to be called the *Housing Projects Cess*, at the rate of two per cent on the building tax for residential buildings having a plinth area of 4000 sq. ft. and above, to fulfil the commitment of the Government to provide and finance the housing projects for the weaker sections, taken up by the Panchayaths.

(2) The State Government may, after due appropriation made by the Legislature by law in this behalf, utilise such sums of money of the *Housing Projects Cess* levied for the purposes specified in sub-section (1) as it may consider necessary.

(3) The provisions regarding assessment and recovery in the Kerala Building Tax Act, 1975 (7 of 1975) shall *mutatis mutandis* apply to the cess under this section.

(4) The provisions of sections 18 and 19 of the Kerala Building Tax Act, 1975 (Act 7 of 1975) shall *mutatis mutandis* apply for the collection of cess under sub-section (1).

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 date of introduction of the Bill in the Kerala Legislative Assembly, 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 355 to 363 and 370 to 374 of the Revised Budget Speech 2011-2012, namely:—

1. The Kerala Surcharge on Taxes Act, 1957 (11 of 1957) ;
2. The Kerala Money Lenders Act, 1958 (35 of 1958) ;
3. The Kerala Stamp Act, 1959 (17 of 1959) ;
4. The Kerala General Sales Tax Act, 1963 (15 of 1963) ;
5. The Kerala Tax on Luxuries Act, 1976 (32 of 1976) ;
6. Kerala Agricultural Income Tax Act, 1991 (15 of 1991) ;
7. The Kerala Value Added Tax Act, 2003 (30 of 2004) ;
8. The Kerala Finance Act, 2008 (21 of 2008).

The Bill proposes to impose a cess on the sale of luxury cars, the sale price of which exceeds rupees 20 lakh, at the rate of two per cent on the tax amount and also to impose a cess at the rate of two per cent on the building tax for residential buildings having a plinth area of 4000 sq.ft. and above.

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

Clause 3 of the Bill, which proposes to insert a new section 11 A in the Kerala Money Lenders Act, 1958 (35 of 1958), seeks to empower the Government to prescribe the manner in which the payment of fee or other amounts due under the said Act may be made electronically through the official website of the Commercial Taxes Department.

2. Sub-clause (5) of clause 6 of the Bill, which proposes to insert a new section 5B in the Kerala Tax on Luxuries Act, 1976 (32 of 1976), seeks to empower the Government to prescribe the manner in which the payment of tax, fee or other amounts due under the said Act may be made electronically through the official website of the Commercial Taxes Department.

3. Clause 7 of the Bill, which proposes to insert a new section 35A in the Kerala Agricultural Income Tax Act, 1991 (15 of 1991), seeks to empower the Government to prescribe the manner in which the payment of tax, fee or other amounts due under the said Act may be made electronically through the official website of the Commercial Taxes Department.

4. Sub-clause (1) of clause 8 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.

5. Sub-clause (4) of clause 8 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 tax payable in respect of the transfer of the right to use any goods may be remitted and also to prescribe the returns to be filed.

6. Item (ii) of sub-clause (12) of clause 8 of the Bill, which proposes to amend section 94 of the Kerala Value Added Tax Act, 2003, seeks to empower the Government to prescribe the conditions and restrictions for the payment of tax by the manufacturer or the first seller who pays tax on the turnover of goods at the Maximum Retail Price.

7. 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.

K. M. MANI.

EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
SURCHARGE ON TAXES ACT, 1957 (11 OF 1957)

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3A. *Reduction of arrears in certain cases.*—(1) Notwithstanding anything contained in this Act, or in any Judgment, decree or order of any court, tribunal or appellate authority, an assessee who is in arrears of surcharge or any other amount due under the Act relating to the period ending on 31st March, 2005, may opt for settling the arrears by availing reduction at the following rates :

(a) in the case of demands relating to the periods up to and including 31st March, 1991, a reduction of twenty-five per cent for the principal surcharge amount, and complete reduction of the interest on the surcharge amount and for the amount of penalty and interest thereon ;

(b) in the case of demands relating to the period from 1st April, 1991 to 31st March, 1996, a complete reduction of the interest on the surcharge amount, and for the amount of penalty and interest thereon;

(c) in the case of demands relating to the period from 1st April, 1996 to 31st March, 2000, a reduction of ninety-five per cent of the interest on the surcharge amount, and for the amount of penalty and interest thereon ;

(d) in the case of demands relating to the period from 1st April 2000 to 31st March, 2005, a reduction of ninety per cent of the interest on the surcharge amount, and the amount of penalty and interest thereon ;

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(3) An assessee who wishes to opt for payment of arrears under the section shall make an application to the assessing authority in the prescribed form before 31st December, 2010.

(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 lump sum or in three equal instalments, on or before 31st December, 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.

3B. *Reduction of arrears in case of Public Sector Undertakings and Co-operative Societies.*—(1) Notwithstanding anything contained in this Act, or in any judgment, decree or order of any court, tribunal or appellate authority, an assessee which is a Public Sector Undertaking or a Co-operative Society and which is in arrears of tax or any other amount due under this Act relating to the period ending on 31st March, 2005, may opt for settling the arrears by availing reduction at the following rates :—

(a) a complete reduction of the interest on the tax amount and for the amount of penalty and interest thereon; and

(b) in the case of Public Sector Undertakings and Co-operative Societies which are running in profit, reduction in fifty per cent of the principal amount ; and

(c) in the case of Public Sector Undertakings and Co-operative Societies which are running at loss, a reduction in seventy-five per cent of the principal amount :

Provided that Public Sector Undertakings or Co-operative Societies, the landed property of which are likely to be sold in execution of any judgment, decree or order of any court, tribunal or other authority shall not be eligible to opt under this scheme.

(2) A Public Sector Undertaking or a Co-operative Society, which wishes to opt for payment of arrears under sub-section (1) shall make an application to the assessing authority in the prescribed form before 31st December, 2010.

(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 lump sum or in three equal instalments on or before 31st December, 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.

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EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
MONEY-LENDERS ACT, 1958 (ACT 35 OF 1958)

** ** **

11A. *Power to demand additional security.*—(1) Notwithstanding anything contained in section 4, the Licensing Authority may demand from the money-lender additional security at any time, if in the option of such authority there is excess of liabilities over the assets of the money-lender at that time :

Provided that while determining the excess of liabilities over assets the Security furnished by the money-lender under sub-section (2A) of section 4 of this Act shall be treated as assets of the money-lender.

Provided further that in respect of the loans advanced by the money-lender against security in any form, the Licensing Authority shall have power to revalue or determine the adequacy of the security of securities or revalued any assets for the purpose of determination of excess of liabilities over the assets.

** ** **

(6) Any money-lender from whom additional security is demanded under this section and who carries on business without furnishing such security within thirty days of such demand, shall be punishable with imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

** ** **

(1)	(2)	(3)
48.	Partition —Instrument of [(as defined by setion 2(k)]	
	(i) where the partition is among all or some of the family members.	One rupee for every rupees 100 or part therefore of the amount of the value on fair value of the separated share or shares of the property, whichever is higher ;
	(ii) any other case	Six rupees for every rupees 100 or part thereof of the amount of the value on fair value of the separated share on shares of the property, whichever is higher ;

Explanation :—Family means father, mother, husband, wife, son, daughter, brother, sister and legal heirs of the deceased children if any as the case may be.

N.B.—The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares; then one of such equal shares) shall be deemed to be that from which the other shares are separated :

Provided always that—

(a) when an instrument of partition containing an agreement to divide property in severality is executed and partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument but shall not be less than two rupees thirty paise ;

(b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at twenty five times the annual revenue ;

(1)

(2)

(3)

(c) where a final order for effecting a partition passed by any Revenue Authority or any Civil Court or an award by an arbitrator directing a partition is stamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed two rupees thirty paise.

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48. Release, that is to say, any instrument (not being such a release as is provided for by Section 24), whereby a person renounces a claim upon another person or against any specified property—

(a) When such release operates in favour of father, mother, husband, wife, son, daughter, brother or sister of a person

One rupee for every rupees 100 or part thereof of the amount or value of the property or claim or fair value of the land of which the right is relinquished in proportion to the right relinquished or consideration for the release, whichever is higher.

(b) in any other case

The same duty as conveyance (No. 21 or 22, as the case may be) for such amount or value of the property or claim or fair value of the land of which the right is relinquished in proportion to the right relinquished or consideration for the release whichever is higher.

**

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(1)	(2)	(3)
51. Settlement		
(a) instrument of (including a deed of dower)		
(i) where the settlement is in favour of father, mother, husband, wife, son, daughter, brother or sister of a person		Rupees two for every rupees 100 on part thereof of the fairvalue of the land or the value set forth in such instrument, whichever is higher.
(ii) if 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
Exemption :		
Deed of dower executed on the occassion of a marriage between Muhammadans :		Where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument in pursuance of such agreement is subsequently executed the duty on such instrument shall not exceed five rupees.
(b) Revocation of		The same duty as a Bottomry Bond (No. 14) for a sum equal to the amount or value of the property concerned as set forth in the instrument of revocation but not exceeding one hundred rupees.
**	**	**

EXTRACT FROM THE RELEVANT PORTIONS OF THE
KERALA GENERAL SALES TAX ACT, 1963

(15 OF 1963)

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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 per cent 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 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 seventy per cent 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.

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17. *Procedure to be followed by the assessing authority.*—(1) Every registered dealer and every dealer liable to take out registration under this Act shall submit such return or returns relating to his turnover in such manner and within such period as may be prescribed.

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6. Any assessment under this Section shall be completed within a period of four years from the expiry of the year to which the assessment relates :

Provided that this time limit shall not apply in the case of dealers who, being liable to get themselves registered as provided for under the Act and the Rules made thereunder have failed to do so or have done business as benamidars or through benamies.

Provided further that the assesment relating to the year 1994-1995 shall be completed on or before 31st March 2000.

Provided also that any assessment other than an assessment falling under sub-section (4) or sub-section (4A), shall be completed within four months from the last date of checking of the books of accounts for the purpose of assessment for the year or within six months from such date with the permission of the next higher authority :

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.

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(8) Any assessment or re-assessment in pursuance of an order appellate or revisional authority shall be completed within a period of four years from the expiry of the year in which the order was received :

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

Provided further that any modified assessment or modified re-assessment in pursuance of an order of the appellate or the revisional authority shall be completed within a period of one year from the expiry of the year in which the order was received.

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

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23B. *Reduction of arrears in certain cases.*—(1) Notwithstanding anything contained in this Act, or in any Judgment, decree or order of any court, tribunal or appellate authority, an assessee who is in arrears of tax or any other amount due under this Act or the Central Sales Tax Act, 1956 (Central Act 74 of

1956) relating to the period ending on 31st March, 2005, may opt for settling the arrears by availing reduction at the following rates:

(a) in the case of demands relating to the periods up to and including 31st March, 1991, a reduction of twenty-five per cent for the tax amount, and complete reduction of the interest on the tax amount and for the amount of penalty and interest thereon;

(b) in the case of demands relating to the period from 1st April, 1991 to 31st March, 1996, a complete reduction of the interest on the tax amount, and for the amount of penalty and interest thereon;

(c) in the case of demands relating to the period from 1st April, 1996 to 31st March, 2000, a reduction of ninety-five per cent of the interest on the tax amount, and for the amount of penalty and interest thereon;

(d) in the case of demands relating to the period from 1st April, 2000 to 31st March, 2005, a reduction of ninety per cent of the interest on the tax amount, and for the amount of penalty and interest thereon; and

(e) in cases where principal amount has already been remitted prior to coming into force of section 55C of the Act, a reduction of ninety per cent of the interest amount.

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(3) A Dealer who wishes to opt for payment of arrears under sub-section (1) shall make an application to the assessing authority in the prescribed form before 31st December, 2010.

(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 lump sum or in three equal instalments on or before 31st December, 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.

23BA. *Reduction of arrears in respect of Public Sector Undertakings and Co-operative Societies.*—(1) Notwithstanding anything contained in this Act, or in any judgment, decree or order of any court, tribunal or appellate authority, an assessee which is a Public Sector Undertaking or a Co-operative Society and which is in arrears of tax or any other amount due under this Act or the Central Sales Tax Act, 1956 (Central Act 74 of 1956) relating to the period ending on 31st March, 2005, may opt for settling the arrears by availing reduction at the following rates:—

(a) a complete reduction of the interest on the tax amount and for the amount of penalty and interest thereon; and

(b) in the case of Public Sector Undertakings or Co-operative Societies which are running in profit, reduction in fifty per cent of the principal amount; and

(c) in the case of Public Sector Undertakings or Co-operative Societies which are running at loss, reduction in seventy-five per cent of the principal amount :

Provided that Public Sector Undertakings or Co-operative Societies, the landed properties of which are likely to be sold in execution of any judgment, decree or order of any court, tribunal or other authority shall not be eligible to opt under this scheme.

(2) A Public Sector Undertaking or a Co-operative Society which wishes to opt for payment of arrears under sub-section (1) shall make an application to the assessing authority in the prescribed form before 31st December, 2010.

(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 lump sum or in three equal instalments on or before 31st December, 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 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.

EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
TAX ON LUXURIES ACT, 1976
(32 OF 1976)

** ** *

2. *Definitions.*—(1) In this Act, unless the context otherwise requires,—

(a) “appellate authority” means an appellate authority appointed under sub-section (2) of Section 3;

** ** *

(ca) “cable operator”, means a person engaged in the business of receiving and distributing satellite television signals, communication network including production and transmission of programmes and packages for a monetary consideration.

** ** *

(fa) “Luxury provided by a cable operator” means any service by means of transmission of television signals by wire, where subscriber’s television set is linked by metallic co-axial cable or optic fibre cable to a central system called the ‘headend’ and by using a video cassette or disc or both, recorder or player or similar such apparatus on which pre-recorded video cassettes or disc or both are played or replayed and the films or moving pictures or series of pictures which are viewed and heard on Television receiving set at a residential or a nonresidential place of a connection holder;

** ** *

4. *Levy and collection of luxury tax.*—(1) Subject to the provisions of this Act, there shall be levied and collected a tax, hereinafter called, ‘luxury tax’ the in respect of any luxury provided,—

(i) in a hotel, house-boat, hall, auditorium or kalyanamandapam or including those attached to hotels, clubs, kalyanamandapam and place of the like nature which are rented for accommodation for residence or used for conducting functions, whether public or private, exhibition;

(ii) by cable operators and by Direct-To-Home (DTH) Service Providers ;

(iii) in a hospital; and

(iv) in home stay :

Provided that the 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 ;

(iii) to dormitories ; and

(iv) to cable operators whose total number of connections, including those given through franchisees, is seven thousand and five hundred or less:

Provided further that the cable operators with seven thousand and five hundred or less connections shall not be liable to tax from 1st July, 2006.

(2) Luxury tax shall be levied and collected,—

(a) in respect of the hotel for charges of accommodation for residence and other amenities and services provided in the hotel including food and liquor,—

(i) in the rate of seven and half per cent per room for hotels, in respect of rooms where the gross charges of accommodation for residence and other amenities and services provided is above rupees two hundred upto five hundred per day.

(ii) at the rate of twelve and a half per cent for hotels in respect of rooms where the gross charges of accommodation for residence and other amenities and services provided is above rupees five hundred per day :

Provided that no luxury tax shall be payable, for such charges received in respect of service rendered outside the hotel premises, such as vehicle hire, boat hire and trekking :

Provided further that the hire charges received in respect of house-boats owned or possessed with right to use it by the hotels shall be liable to tax under the Act.

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(d) in respect of a cable TV operator at the rate of rupees five per connection per month ;

(e) in respect of a hospital, for charges of accommodation for residence for use of amenities and services, at the rate of ten per cent per room where the gross charges, excluding charges of food, medicine and professional services, is one thousand rupees per day or more ;

(f) in respect of a home stay, for charges of accommodation including use of amenities and services provided at the rate of half per cent where the daily rate of gross charges is rupees one thousand or more ;

and shall be collectable from the person enjoying the luxury :

Provided that no luxury tax shall be payable in respect of a connection provided by a cable operator engaged in the distribution of programmes of Doordharshan channels only :

Provided further that luxury tax, if any, collected shall be paid over to the Government :

Provided also that a proprietor of a hotel who had claimed exemption under sub-clause (1) of clause 4 of the Kerala Finance Bill, 2006 (Bill No. 355 of the XI Kerala Legislative Assembly) from the 1st day of April 2006 being the charges of accommodation below rupees two hundred per room per day, shall be permitted to avail such exemption till 30th June, 2006.

** ** *

4D. *Registration of cable operators and Direct-To-Home (DTH) Broadcasting Service Provider.*—Every cable operator and Direct-To-Home (DTH) Broadcasting Service Provider shall get himself registered with such authority and in such manner, as may be prescribed and the application for registration shall be accompanied by a registration fee of Rupees one thousand. The registration shall be for a period of one year and shall be renewed annually.

** ** *

5A. *Compounding of tax.*—(1) Notwithstanding anything contained in section 4 or section 5 any proprietor of a house-boat may apply to the assessing authority for permission to compound the tax at the following rates per annum, namely:—

(i)	non air-conditioned house-boat with one bed room	Ten thousand rupees
(ii)	non air-conditioned house-boat with two bed rooms or more	Fifteen thousand rupees
(iii)	air-conditioned house-boat with one bed room	Seventeen thousand and five hundred rupees
(iv)	air-conditioned house-boat with two bed rooms or more	Twenty-five thousand rupees

** ** *

(8) If any person fails to file a revised return in accordance with the provisions of sub-section (7) he shall be liable to pay penalty not exceeding twice the amount of tax leviable on such revision of rate or addition to the hotel subject to a minimum of rupees thousand and the tax shall be assessed and collected in accordance with the provisions of this Act.

6. *Assessment and collection of tax.*—(1) On receipt of a return under section 5, if the assessing authority is satisfied that the return is correct and complete it shall assess the proprietor on the basis there of.

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(4) Any final assessment under this Section shall be completed within a period of four years from the expiry of the year to which the assessment relates.

Provided that all assessments relating to the years, upto and including the year 2001-2002, pending as on 31st day of March, 2006, shall be completed on or before the 31st day of March, 2007.

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EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
AGRICULTURAL INCOME TAX ACT, 1991 (ACT 15 OF 1991)

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35. *Return of Agricultural Income.*—(1) Every person, other than a Company or a person who has to get his accounts audited in accordance with section 34 who is liable to pay tax under this Act and every person to whom a permanent account number is allotted under section 36, till his permanent account number is withdrawn, shall furnish to the Agricultural Income Tax Officer so as to reach him before the 1st July, in the case of a person who has to get his accounts audited in accordance with section 34 on or before 31st October and in the case of a company on or before 31st December of the assessment year, a return in the prescribed form and verified in the prescribed manner, setting forth his total agricultural income or the total agricultural income of any other person or total extent of the landed properties in his name or in the name of such other persons, in respect of which he is assessable to tax under this Act during the previous year.

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(4) The Agricultural Income Tax Officer may serve on any person who has made a return under sub-section (1) or upon, whom a notice has been served under sub-section (2), a notice requiring him, on a date to be specified therein, to produce or cause to be produced, such accounts or documents as the officer may require :

Provided that the officer shall not require the production of any accounts relating to a period more than five years prior to the previous year in the case of an assessee who has furnished a return in accordance with sub-section (1).

36. *Permanent Account Numbers* :—(1) ** ** *

EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
VALUE ADDED TAX ACT, 2003 (30 OF 2004)

** ** **

4. *Appellate Tribunal.*—(1) The Government shall appoint an Appellate Tribunal consisting of a Chairman and as many other members as they think fit and such additional Appellate Tribunals, as they think fit, with such members to perform the functions assigned to the Appellate Tribunal by or under this Act.

** ** **

(6) The Bench or Benches of the Appellate Tribunal shall be constituted by the Chairman in accordance with the provisions of this Act and the rules made there under.

** ** **

6. *Levy of tax on sale or purchase of goods.*— (1) Every dealer whose total turnover for a year is not less than ten lakh rupees and every importer or casual trader or agent of a non-resident dealer, or dealer in jewellery of gold, silver and platinum group metals or silver articles or contractor or any State Government, Central Government or Government of any Union Territory or any department thereof or any local authority or any autonomous body whatever be his total turnover for the year, shall be liable to pay tax on his sales or purchases of goods as provided in this Act. The liability to pay tax shall be on the taxable turnover,—

(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 aerated branded soft drinks excluding soda at the rate of twenty per cent at all points of sale within the State.

** ** **

(f) If the case of transfer of goods involved in execution of works contract, where the transfer is not in the form of goods, but in some other form, at the rate of 12.5 per cent and when the transfer is in the form of goods at the rates prescribed under the respective Schedules :

Provided that where the sale is to the Administrator, Union Territory of Lakshadweep, Laccadive Co-operative Marketing Federation, Kozhikode or the Lakshadweep Harbour Works and registered dealers certified by the Administrator, Union Territory of Lakshadweep, the tax payable under clause (d) shall be at the rate of four per cent, subject to such conditions as may be prescribed :

** ** **

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 the Canteen Stores Department ;

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

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Provided also that, in respect of cinematographic films, turnover relating to sale of “copyright” under clause (a) and transfer of right to use under clause (c) shall be exempted.

(1A) Notwithstanding anything contained in sub-section (1),—

(a) where a dealer whose total turnover for a year is below the limit specified in sub-section (1) collects tax under section 30 on his sales, he shall, whatever be his total turnover for the year, be liable to pay tax under sub-section (1) on the taxable turnover for the year.

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(5) Notwithstanding anything contained in sub-section (1), but subject to sub-section (2) any registered dealer not being,—

- (a) an importer, or
- (b) a dealer making an sale in the course of interstate trade or commerce or export ; or
- (c) a dealer registered under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) ; or
- (d) a dealer effecting first taxable sale of goods with in the State ; or
- (e) a dealer covered by sub-section (1A) or
- (f) a contractor,

whose total turnover for a year is below fifty lakh rupees, may at his option, pay tax at the rate of half per cent of the turnover of sale of taxable goods as presumptive tax instead of paying tax under sub-section (1) :

Provided that a dealer holding stock of goods purchased in the course of interstate trade on the date of coming into force of the Act, will have the option to pay tax under this sub-section from the beginning of the quarter following the quarter in which he has sold such goods in the state and paid tax under sub-section (1) of section 6 and his registration under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) is cancelled :

Provided further that any dealer covered by sub-section (1A) may, at his option pay tax under this sub-section from such period as may be prescribed :

Provided also that a dealer shall not be eligible to opt for payment of tax under this sub-section if his total turnover in respect of goods to which this Act applies whether under this Act or under the Kerala General Sales Tax Act 1963 (15 of 1963) had exceeded fifty lakh rupees during the year preceding the year to which such option relates.

Provided also that a dealer shall not be liable to pay presumptive tax under this sub-section, if his total turnover is less than ten lakh rupees.

Provided also that dealers covered under this sub-section whose total turnover for a year is below rupees twenty lakhs, may pay a lump sum amount of rupees three thousand annually as presumptive tax, and the payment shall be at the rate of rupees seven hundred and fifty per quarter along with a statement as may be prescribed. Such dealers shall also file an annual declaration as may be prescribed.

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(8) The Rules of Interpretation of the Schedules of this Act shall be as set out in the Appendix.

7. *Trade discount etc. deemed to be sale in certain cases:—*

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8. *Payment of tax at compounded rates.*—Notwithstanding anything contained in section 6,—

(a) (i) any works contractor not being a dealer registered under the provisions of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), and who

is not an importer may, at his option, instead of paying tax in accordance with the provisions of the said section, pay tax at three per cent of the whole contract amount ;

(ii) any works contractor not falling under clause (i) above may, at his option, instead of paying tax in accordance with the provisions of the said section, shall pay tax at three per cent of the contract amount after deducting the purchase value of goods excluding freight and gross profit element consigned into the State on stock transfer or purchased from outside the State and for the purchase value of goods so deducted shall pay tax at the scheduled rate applicable to such goods :

Provided that notwithstanding anything contained in sub-clause (ii) above, the compounded tax payable by any works contractor under this clause in respect of works contracts awarded by Government of Kerala, Kerala Water Authority or Local Authorities shall be four per cent of the whole contract amount :

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Provided also that notwithstanding anything contained in this Act, contractors who have opted for payment of tax under sub-clause (ii) of clause (a) of section 8 during the previous years shall continue to pay tax on that portion of the works remaining unexecuted as on 1st April, 2009, at the rates applicable as on 1st April, 2009.

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- (e) Any dealer, who is an importer or a manufacturer who is not entitled to any deferment of tax under section 32, of medicines and drugs falling under the Third schedule may, at his option, pay, in such manner and subject to such conditions and restrictions as may be prescribed, in lieu of the tax payable by him on such goods under sub-section (1) of section 6, tax at the rate of 4 per cent of the maximum retail price of such goods.

Explanation :—For the purpose of this clause, maximum retail price in respect of the goods mentioned means the maximum price printed on the package of any goods at which such goods may be sold to the ultimate consumer and in respect of supplies to Government of Kerala, where such price is not so printed on the package, the price charged on the sales to Government:

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(f) (i) any dealer in ornaments or wares or articles of gold, silver or platinum group metals including diamond may at his option, instead of paying tax in respect of such goods in accordance with the provisions of section 6, pay tax at,—

(a) one hundred and fifteen per cent, in case their annual turnover for the above goods for the preceding year was rupees ten lakhs or below ;

** ** **

Explanation 1 :—Where a dealer had not transacted any business for the last three years consecutively, the highest tax paid or payable for the year, during the year or years he transacted business shall be considered for the above purpose.

** ** **

Explanation 6 :—Where a dealer has opted for payment of tax under this clause for the first time in 2010-11 and has commenced business only in 2009-10 and the tax payable as per return or account during 2009-10 is less than the output tax payable, then the tax payable for 2009-10 shall be notionally re-determined on the basis of output tax for determining the tax liability for 2010-11.

** ** **

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 2009-2010, for the purpose of determining the compounded tax payable for 2010-11, the tax paid in respect of that branch shall not be reckoned.

** ** **

Provided that a dealer who opts for payment of tax under this clause may collect tax on the sales at the rate not exceeding the rate prescribed for the commodity under this Act, but where the tax so collected during the year is in excess of the tax payable for the year under this clause, the tax collected in excess shall be paid over to Government in addition to the tax payable under this clause

(ii) The assessing authority, for valid and sufficient reasons, such as shifting of place of business, holding of stock exceeding double the quantity

held in the previous year, furnishing of false information, suppression of relevant information, failure to furnish such information demanded, may refuse permission to pay tax under this section and cancel the permission if any granted :

Provided that no orders under this sub-clause shall be issued without giving the dealer an opportunity of being heard and without prior approval of the District Deputy Commissioner.

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(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 per cent 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 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 ten lakhs and up to 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 the tax payable under this sub-clause by the dealers covered under Explanation 6 of this clause shall be at the appropriate percentage of tax mentioned in (a), (b), (c) or (d) above, of the tax re-determined under the said Explanation.

(vi) Where a dealer who opts for compounding under this clause has been transacting business under a brand name, the compounded tax payable under this clause shall not be less than the compounded tax payable had the business been run as a branch of the franchisee or of other franchisees.

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10. *Deduction of tax at source.*—(1) Every awarder shall deduct from every payment, including advance payment, made by him to any works contractor liable to pay tax under section 6, in relation to any works contract

awarded, the tax payable by the contractor in respect of such contract under that section, whether the transfer of goods involved in the execution of works contract is in the form of goods or not, 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 from the date of such deduction. Every such awardee shall also file such return as may be prescribed :

Provided that in respect of works contract executed under the Sampurna Gramin Rosghar Yojana or the beneficiary committees using the Member of Parliament/Member of Legislative Assembly Funds or Natural Calamity Relief Funds or Sarva Siksha Abhiyan Funds, where the total amount in respect of individual contract does not exceed ten lakhs rupees, the maximum amount deductible under this section shall not exceed four per cent of the whole contract amount.

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(3) If any awardee effects any payment without deduction of the taxes provided under sub-section (1) or after making such deductions, fails to remit the same to Government within the time limit specified under the said sub-section, the awardee and any person or persons responsible for such deduction on behalf of the awardee, including a Director, Manager, Secretary or other officer of a company, shall be jointly and severally liable for payment of such amounts to the Government forthwith as if it were a tax due from him.

Explanation:—For the purposes of this section :

- (1) “Company” means any body corporate and includes a firm or other association of individuals, or a Co-operative society ; and
- (2) “Director” in relation to a firm, means partner in the firm.

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24. *Audit assessment.*—Notwithstanding anything contained in any other provision of this Act, if any dealer,

- (a) is found on audit of his books of accounts other records or otherwise, to have submitted incorrect or incomplete return for any return period ; or

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(c) fails to prove the claim of input tax credit, special rebate or refund claimed, the audit officer may, at any time within three years from the last date

of the year to which the return relates, after conducting such enquiry as he may deem necessary, reject the returns of such return periods and complete the assessments to the best of judgment :

Provided that no assessment under this section shall be completed without affording the dealer an opportunity of being heard.

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

** ** **

25. *Assessment of escaped turnover.*—(1) Where for any reason the whole or any part of the turnover of business of a dealer has escaped assessment to tax in any year or return period or has been under-assessed or has been assessed at a rate lower than the rate at which it is assessable or any deduction has been wrongly made there from, or where any input tax or special rebate credit has been wrongly availed of, the assessing authority may, at any time within five years from the last date of the year to which the return relates, proceed to determine, to the best of its judgment, the turnover which has escaped assessment to tax or has been under assessed or has been assessed at a rate lower than the rate at which it is assessable or the deduction in respect of which has been wrongly made or input tax or special rebate credit that has been wrongly availed of and assess the tax payable on such turnover or disallow the input tax or special rebate credit wrongly availed of, after issuing a notice on the dealer and after making such enquiry as it may consider necessary :

Provided that before making an assessment under this sub-section the dealer shall be given a reasonable opportunity of being heard.

** ** **

Provided also that the time limit for the completion of assessments for the year 2005-06, under this section shall be extended up to 31st March.

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30. *Collection of tax by dealers.*—(1) A registered dealer may, subject to the provisions of sub-sections (2) and (3), collect tax at the rates specified under section 6 on the sale of any goods, from the person to whom he sells the goods and pay it over to Government in such manner as may be prescribed.

(2) Dealers registered under this Act, except those dealers paying presumptive tax under sub-section (5) of section 6 and those paying tax under clause (a) of section 8 by those undertaking works of Government of Kerala Kerala Water Authority and Local Authorities, and under clause (b), clause (c) (ii) and clause (d) of section 8 alone shall be eligible to collect any sum by way of, or purporting to be by way of tax under this Act:

Provided that the dealers who are paying tax under sub-section (5) of section 6 are entitled to recover from the buyers the amount of tax paid by him on the purchase value of such goods at the time of purchase.

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40A. *Issuance of sale bill by dealers.*—(1) Every dealer registered or liable to get himself registered under this Act shall compulsorily issue a bill or an invoice or cash memorandum in respect of every sale of goods liable to tax under this Act involving transaction amounting to not less than one hundred rupees.

(2) Where a dealer effects taxable sale, he shall furnish the name and address of the purchaser in the sale bill/invoices, and where the sale is to a dealer, the address shall include TIN or PIN, as the case may be.

(3) Where the TIN or PIN details are not furnished as specified in sub-section (2), such dealer shall be liable for payment of the tax on the Maximum Retail Price (MRP) of such goods, where it is ascertainable.

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52. *Forwarding agency, etc., to submit returns.*—Every clearing or forwarding house or agency, transporting agency, shipping agency shipping out agency, railway authorities, air cargo authorities or steamer agency in the State shall submit to the assessing authority of the area such returns and information as may be prescribed of all goods cleared, forwarded, transported, or shipped by it. The assessing authority concerned shall have the power to call for and examine the books of account or other documents in the possession of such agency with a view to verify the correctness of the returns submitted and the agency shall be bound to furnish the books of account or other documents when so called for.

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74. *Composition of offences.*—(1) The assessing authority or other officer or authority authorized by the Government in this behalf may accept from any person who has committed or is reasonably suspected of having committed an

offence against this Act, other than those specified under clause (e) of sub-section (1) or clauses (b), (c) or (d) of sub-section (2) of section 71, by way of compounding of such offence,—

(a) where the offence consists of the evasion of any tax payable under this Act, in addition to the tax so payable a sum of money equal to the amount of tax so payable subject to a minimum of rupees five hundred and maximum of rupees four lakhs: and

Provided that the maximum compounding fee collectable against a single offence spread over several return periods in a financial year shall be two lakh rupees.

(b) in other cases, a sum of money not exceeding ten thousand rupees:

Provided that the Commissioner may by order authorize any officer to compound the offence under this section on payment of a reduced amount.

(2) On payment of such amount under sub-section (1), no further penal or prosecution proceedings shall be taken against such person, in respect of that offence.

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86. *Persons entitled to appear before authority.*—(1) Any person who is entitled or required to appear before any authority other than the High Court in connection with any proceedings under this Act may be represented before such authority,—

(a) by his relative or a person employed by him, if such relative or person is duly authorized by him in writing in this behalf ; or

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(e) a member of the Institute of Company Secretaries of India within the meaning of section 2 (2) of the Company Secretaries Act, 1980 (Central Act 56 of 1980).

Explanation:—For the purpose of this sub-section the expression “a person employed by him” shall mean a person who is a full time employee under the person on whose behalf he is appearing or part-time employee holding Diploma in Sales Taxation issued by the Centre for Taxation Studies.

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94. *Power of Authority to issue clarification.*—(1) If any dispute arises, otherwise than in a proceedings before any appellate or revisional authority or in any court or tribunal, as to whether, for the purpose of this Act,—

(a) any person is a dealer; or

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(e) any activity carried out in any goods amounts to or results in the manufacture of goods ;

such dispute shall be decided by an authority consisting of three officers in the rank of Joint Commissioner or Deputy Commissioner nominated by the Commissioner on application by a dealer or any other person.

(2) The Authority shall decide the question after giving the parties to the dispute a reasonable opportunity to put forward their case and produce evidence and after considering such evidence and hearing the parties. Commissioner may considering the fact in issue decide whether such orders have prospective operation only.

(3) Every application by a dealer or any other person other than an officer acting on behalf of the Government under sub-section (1) shall be in such form as may be prescribed and shall be accompanied by a fee of five hundred rupees.

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SCHEDULES

FIRST SCHEDULE (Exempted goods)

[See Section 6 (4)]

<i>Sl. No.</i>	<i>Description of Goods</i>	<i>HSN Code</i>
(1)	(2)	(3)
1.	Agricultural implements manually operated or animal driven	
	(1) Spades and shovels	8201.10.00
	**	**

(1)	(2)	(3)
4A.	1 Beedi, Beedi Tobacco	2403.10.31
	**	**
18.	Fishnet, Fishnet fabrics and accessories	
	(1) Made up fishing nets of nylon	5608.11.10
	(2) Fish nets of other materials	5608.11.90
	(3) Nylon fish net twine	5607.50.10
	**	**
28.	Kumkum, Bindi, Alta & Sindur	3304.99.40
	**	**
30.	Life Saving Drugs	
	Dineal Solution required for continuous Ambulatory Peritoneal Dialysis treatment of Kindney patients and accessories required for the treatment	
	**	**
34.	Organic manure	
	(1) Animal or vegetable fertiliser	
	(a) Guano	3101.00.10
	**	**
	(g) Fish manure, poultry manure	*****
	**	**
60.	Prasadam and sale of goods received as offerings from devotees by the Devaswom Boards	****
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THIRD SCHEDULE (4%)

[See Section 6 (1) (a)]

<i>Sl. No.</i>	<i>Description of Goods</i>	<i>HSN Code</i>
(1)	(2)	(3)
1.	Agricultural and Horticultural implements not operated manually or not driven by animal and parts thereof:	
(1)	Agricultural, horticultural or forestry machinery for soil preparations or cultivation, lawn or sports-ground rollers	8432
**	**	**
17.	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
44.	Fertilizers, pesticides, weedicides, insecticides, fungicides, herbicides, rodenticides, anti-sprouting products and plant growth regulators, bio-fertilisers, micronutrients and similar products	
(1)	Animal or vegetable fertilisers whether or not mixed together or chemically treated; Fertilisers produced by the mixing or chemical treatment of animal or vegetable products other than those specified under First Schedule	3101
**	**	**
82.	Locks, padlocks and keys (all kinds)	
(1)	Padlocks	8301.10.00
(2)	Locks of a kind used for motor vehicles	8301.20.00

(1)	(2)	(3)
	(3) Locks of a kind used for furniture	8301.30.00
	(4) Combination locks	8301.40.10
	(5) Clasp and frames with clasps incorporating locks	8301.50.00
	(6) Parts	8301.60.00
	(7) Keys	8301.70.00
	(8) Locks (other)	8301.40.90
**	**	**
	90. Natural sands of all kinds, whether or not coloured	
	(1) Silica sands, processed (white)	2505.10.11
	(2) Silica sands, processed (brown)	2505.10.12
	(3) Quartz sands (including moulding sands)	2505.10.20
	(4) River sand and grit	..
	(5) Other	2505.90.00
**	**	**
	92A. Nylon Rope	5607.50.40
**	**	**
	99A. Polyster Rope, Polyester twine	5607.50.90
**	**	**
	137. Utensils made of Aluminium, Brass, Bronze Iron, Steel, Copper, other alloys and plastic	
	(1) Aluminium utensils	7615.19
**	**	**
	(13) Choodarapetti	*****
**	**	**

EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
FINANCE ACT, 2008 (21 OF 2008)

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6. *Levy and Collection of Cess.*—(1) There shall be levied and collected from dealers a cess at the rate of one per cent on the tax payable by them under sections 6 and 8 of the Kerala Value Added Tax Act, 2003 (30 of 2004) and section 5 and section 7 of the Kerala General Sales Tax Act, 1963 (15 of 1963), to be called the Social Security Cess, to fulfill the commitment of the Government to provide and finance a comprehensive social security scheme.

(2) Notwithstanding anything contained in sub-section (1) no Cess shall be levied in respect of declared goods as defined in section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956).

(3) The Government may, after due appropriation made by the Legislature by law in this behalf, utilise such sums of money of the Social Security Cess for the purposes specified in sub-section (1)

(4) The provisions of section 30 of the Kerala Value Added Tax Act, 2003 (30 of 2004) and section 22 of the Kerala General Sales Tax Act, 1963 (15 of 1963) shall be applicable for the collection of Cess as per sub-section (1).

(5) The provisions regarding the assessment, input tax credit, special rebate and recovery in the Kerala Value Added Tax, 2003 and assessment and recovery in the Kerala General Sales Tax Act, 1963 shall *mutatis mutandis* apply to Cess under this section.

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