

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2016-2019)**

TENTH REPORT
(Presented on 7th February, 2018)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2018**

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2016-2019)**

TENTH REPORT

on

**Paragraphs relating to Revenue Department contained in the Report of the
Comptroller and Auditor General of India for the financial year
ended 31st March 2011 (Revenue Receipts)**

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Shri P. P. Shahnawas, Deputy Secretary

Shri D. Krishnan Kutty, Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the Tenth Report on paragraphs relating to Revenue Department contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts).

The Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts) was laid on the Table of the House on 6th March 2012.

The Committee considered and finalised this Report at the meeting held on 30th January, 2018.

The Committee place on records their appreciation of the assistance rendered to them by the Accountant General in the examination of the Audit Report.

Thiruvananthapuram,
30th January, 2018.

V. D. SATHEESAN,
Chairman,
Committee on Public Accounts.

REPORT

REVENUE DEPARTMENT

AUDIT PARAGRAPH

TAX ADMINISTRATION

The Revenue Department is under the control of the Additional Chief Secretary at the Government level and the Land Revenue Commissioner is the head of the Department. The revenue collection of the Department includes collection of basic tax, plantation tax, lease rent and building tax. The Department realises arrears of public revenue under the Kerala Revenue Recovery Act with interest and cost of process prescribed.

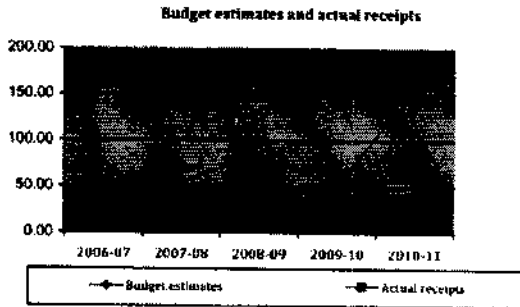
Trend of receipts

Actual receipts from the land revenue and building tax during the last five years (2006-07 to 2010-11) along with the budget estimates during the same period is exhibited in the following table and graph:

(₹ in crore)

Year	Budget Estimates	Actual receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts	Percentage of growth
2006-07	55.72	47.00	(-) 8.72	(-) 15.65	11,941.82	0.39	7.11
2007-08	55.69	47.21	(-) 8.48	(-) 15.23	13,668.95	0.35	*-
2008-09	84.13	47.56	(-) 36.57	(-) 43.47	15,990.18	0.30	*-
2009-10	52.50	53.93	(+) 1.43	(+) 2.72	17,625.02	0.31	13.39
2010-11	155.13	55.97	(-) 99.16	(-) 63.92	21,721.69	0.26	3.78

*Not appreciable



We noticed that the actual receipts fell short of the budget estimates during 2006-07 to 2010-11, except during 2009-10. The shortfall was particularly high during 2010-11 at 63.92 per cent below budget estimates. We are of the view that revenue collection has remained almost static during 2006-07 to 2010-11 and the Department may identify ways to augment revenue. The budget estimate for 2010-11 was raised to ₹155.13 crore anticipating additional revenue of ₹ 100 crore from receipts under the Kerala Conservation of Paddy Land and Wet Land Act, 2008, but practically nothing was realised from this source. The Government may examine the reason for non-receipt of revenue from this head.

Impact of Audit

Revenue impact

During the last four years, we pointed out underassessment of building tax, short levy of lease rent, short realisation of collection charges, non-levy of luxury tax etc., with revenue implication of ₹ 349.37 crore in 399 paragraphs. Of these, the Department/Government accepted audit observations involving ₹9.63 crore and had since recovered ₹ 2.32 crore. The details are shown in the following table:

(₹ in lakh)

Year of Audit Report	Paragraphs included		Paragraph accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2006-07	91	323.00	28	47.58	28	35.91

2007-08	113	330.00	83	607.05	50	102.00
2008-09 Vol I (Review)	91	32,562.00	16	222.05	16	35.04
2009-10	104	1,722.00	34	86.55	33	59.34
Total	399	34,937.00	161	963.23	127	232.29

Thus, against the accepted cases involving ₹ 963.23 lakh, the Department had recovered ₹232.29 lakh which was 24.11 per cent. However, out of the accepted cases involving ₹ 222.05 lakh relating to 2008-09, the Department could recover only ₹ 35.04 lakh which was 15.98 per cent.

Working of Internal Audit Wing

The Internal Audit Wing (IAW) of the Land Revenue Commissionerate is supervised by the Senior Finance Officer under the control of the Commissioner of Land Revenue. The audit of Taluk offices, Revenue Divisional Offices and Revenue Recovery Offices are conducted in a period of two to three years. The IAW is manned by one senior superintendent, three junior superintendent and six clerks. Every year about 22 units were taken up for audit which is not sufficient to cover 120 units even in five years. The Department stated that shortage of staff and ceiling on TA restricted the selection of units. During 2010-11 the Department had cleared only 405 paragraphs out of 20,143 paragraphs which is only 2.01 per cent of the outstanding objections. During the previous years also the clearance was marginal. Thus, the functioning of IAW was not effective.

We recommend that the functioning of the IAW may be strengthened by deploying more staff if necessary so that all units could be audited over a reasonable period and targets fixed for timely clearance of outstanding paras.

Results of audit

We test checked the records of 61 units relating to land revenue and building tax. We detected underassessment of tax and other irregularities involving ₹19.34 crore in 38 cases which fall under the following categories:

Sl No.	Categories	No. of cases	Amount
1	Under assessment and loss under building tax	30	1.74
2	Under assessment and loss under other items	8	17.60
	Total	38	19.34

The Department accepted under assessment and other deficiencies of ₹ 5.62 crore in 110 cases during the year 2010-11. The Department realised an amount of ₹84.27 lakh in 62 cases during the year 2010-11.

A few illustrative audit observations involving ₹ 3.72 crore are mentioned in the following paragraphs.

Audit Observations

We scrutinised the records of various Taluk Offices and found several cases of non-compliance of the provisions of the Rules for Assignment of Land within Municipal and Corporation Areas 1995 (RALMCO) and Kerala Revenue Recovery Rules 1968, (KRR Rules), Kerala Building Tax Rules (KBT) and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Tahasildars are pointed out in audit each year, but not only do the irregularities persist these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit.

Non-compliance of provisions of Act/Rules

The provisions of the KBT Act/Rules, RALMCO and KRR Rules require:-

- (i) levy of lease rent on land assigned to various persons at the prescribed rates;

- (ii) levy of collection charges on the amount recovered under RR Act; and
- (iii) assessment of building tax and luxury tax at prescribed rates.

We noticed that the Tahasildars did not observe some of the above provisions at the time of levying tax. This resulted in short levy of lease rent/building tax/collection charges of ₹ 3.72 crore as mentioned in the paragraphs 6.7.1 to 6.7.6.

Non-levy luxury tax

(18 Taluk offices¹ between April 2010 and February 2011)

The Kerala Building Tax Act, 1975 as amended by the Finance Act, 1999 prescribes that luxury tax at the rate of ₹ 2000 is leviable each year on all residential buildings having a plinth area of 278.7 square metres or more and completed on or after April 1999. The Act further stipulates that luxury tax is to be paid in advance on or before 31 March every year.

We noticed from the building assessment register that luxury tax was not demanded/realised on 2,975 residential buildings having plinth area exceeding 278.7 square metres which were completed after April 1999. This resulted in short collection of luxury tax amounting to ₹1.69 crore.

After we pointed out the matter to the Department between April 2010 and February 2011, in five² cases Tahsildars stated that action would be taken to realise the luxury tax and in eight³ cases Tahsildars stated that directions would be given to the village officers to realise the luxury tax due. In five⁴ cases Tahasildars replied that the matter would be examined. Further developments on the recovery have not been received (December 2011).

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- 1 Taluk offices: Alathur, Aluva, Chavakkad, Chirayinkeezhu, Devikulam, Eranad, Kanayannur, Kottarakkara, Kozhenchery, Nedumangad, Ottappalam, Palakkad, Perinthalmanna, Thalappilly, Thalassery, Thiruvalla, Thiruvananthapuram and Thrissur.
 - 2 Taluk offices: Alathur, Aluva, Chirayinkeezhu, Perinthalmanna and Thiruvalla
 - 3 Taluk offices: Devikulam, Eranad, Kanayannur, Kottarakkara, Kozhenchery, Nedumangad, Thalassery and Thiruvananthapuram
 - 4 Taluk offices: Chavakkad, Ottappalam, Palakkad, Thalappilly and Thrissur.

Non-assessment of building tax

(Five Taluk offices⁵; between March 2010 and January 2011)

Under the Kerala Building Tax Act and the Kerala Building Tax (Plinth Area) Rules, 1992 made thereunder, every village officer shall transmit to the assessing authority, within 5 days of the expiry of each month, a monthly list of buildings liable to assessment, together with extracts from the building application register of the local authority within whose area the buildings included in the list are situated.

We cross verified the building tax assessment records of five taluk offices with the registers containing building numbers maintained by the local authority for property tax and found that 295 buildings completed between April 2006 and March 2010 were not assessed to building tax. This resulted in non assessment of building tax of ₹93.88 lakh.

After we pointed out the matter to the Department between March 2010 and January 2011 the Department stated that the cases would be examined.

We reported the matter to the Government in March 2011; we have not received any further information (December 2011).

Non-collection of security deposit from the assignee

(Taluk office, Udumbanchola; February 2010)

Rule 18(2) of the Kerala Land Assignment Rules, 1964 provides that the assignee shall, in addition to the rent payable under Rule 18(1) deposit with the Government in advance an amount equal to one year's rent as security deposit.

We scrutinised the records of Taluk office, Udumbanchola and found that lease rent of 149.1053 ha. of land amounting to ₹1.66 crore demanded from Agency for Non-Conventional Energy and Rural Technology (ANERT) for the period 2005-06

5 Taluk offices: Aluva, Ernad, Ottapalam, Thalassery and Thiruvananthapuram.

to 2007-08 was not paid. We noticed that the land was leased out despite the fact that the security deposit of ₹ 55.24 lakh was not paid. Further, the lessee had not paid lease rent of ₹1.66 crore for the period 2005-06 to 2007-08 and demand for 2008-09 and 2009-10 for lease rent has not been raised. This resulted in non-deposit of security deposit of ₹ 55.24 lakh and non-recovery of lease rent of ₹ 1.66 crore.

We pointed out the case to the Department (April 2010) and to the Government in May 2011. We have not received further information (December 2011).

Non-levy of building tax

(Taluk office, Kannur; March 2011)

Section 5(6) of the Kerala Building Tax Act, 1975 stipulates that the assessee or the owner of the building shall pay the building tax assessed. Owner includes a person entitled to receive the rent of the building.

We noticed from the building tax assessment register that the Tahasildar, Kannur assessed the building tax assessment of a building having plinth area of 23492 m² for ₹42.01 lakh. The assessment was in the name of the Secretary of the Kannur Municipality. The Municipality was exempted from levy of tax under Section 3(1) (a) of the Act. The building was in the possession of the contractor who constructed the building under Build, Operate and Transfer (BOT) basis. He was entitled to receive rent of the building for 29 years and 3 months and hence was the owner of the building as per the definition of 'owner' and was liable to pay building tax. The municipality failed to bring these facts to the notice of the Tahasildar for assessing building tax. The Taluk office also did not take efforts to identify the correct owner of the building for levying tax. The irregular assessment of building tax on the Municipality instead of on the owner resulted in non levy of tax ₹42.01 lakh.

After we pointed out (March 2011) the omission, the Tahasildar Kannur stated that the matter would be examined. We reported (April 2011) the case to the Government. We have not received reply from them (December 2011).

We recommend that the Government may modify the KBT Act to ensure that the buildings constructed on BOT basis by the municipalities are not eligible for exemption under section 3(1).

Short-assessment of building tax

(Four Taluk offices⁶; between August 2010 and February 2011)

The Kerala Building Tax Act, 1975 provides for levy of building tax at the rate specified in the Schedule to the Act on every building, constructed on or after 10 February 1992 and plinth area of which exceeds 100 sq.m. in the case of residential buildings and 50 sq.m. in the case of other buildings. As per Circular⁷ instruction given by secretary, Local Self Government (N) Department in April 2002 Plinth area of structures appurtenant to the building for more beneficial enjoyment of the main building should be added to the plinth area for assessment.

We noticed from the building tax assessment register that in taluk office Nedumangad and Kozhencheri, while finalising the assessments of three commercial buildings and a hospital complex, the buildings appurtenant to the main buildings were assessed as separate units. In taluk offices Palakkad and Kottayam, tax was assessed for an area less than the actual plinth area of the completed portion of seven buildings. Further, in taluk office Palakkad, a building used for non-residential purpose was assessed to tax at the rate applicable to buildings used for residential purpose. These lapses in assessments resulted in short levy of tax ₹ 8.90 lakh.

After we pointed out the matter to the Department between August 2010 and February 2011, the Department stated that steps would be taken to realise the amount. We have not received further information (December 2011).

We reported the matter to the Government in March 2011. We have not received further information (December 2011).

6 Taluk offices: Kottayam, Kozhencheri, Nedumangad and Palakkad.

7 No. 21B4/N3/2002 LSG dated 5 April 2002 from LSG (N) Department

Non-levy of interest

(Five Taluk offices⁸; between June 2010 and February 2011)

The Kerala Building Tax Act 1975 as amended by the Finance Act, 1999, stipulates that luxury tax at the rate of 2,000 is leviable each year on all residential buildings having a plinth area of 278.7 square metres or more and completed on or after 1 April 1999. The Act further stipulates that the luxury tax is to be collected in advance on or before 31 March every year. Section 19 of the Act provides that when luxury tax is not paid on the due date, the arrear of tax shall bear interest at the rate of six per cent per annum from the date of default.

We noticed from the luxury tax register that the Department did not levy interest on belated payment of luxury tax in 942 cases in five taluk offices. This resulted in non-levy of interest of ₹ 3.45 lakh.

After we pointed out the matter to the Department between June 2010 and February 2011, the Department stated that directions were issued to the Village Officers concerned to collect the interest from the concerned assesseees.

We reported the matter to the Government in March 2011. We have not received further information from them (December 2011).

[Audit paragraph 6.1 to 6.7.6 contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts). Notes furnished by Government on the above audit paragraphs are included as appendix II.]

The Committee enquired about the current status of the preparation of land bank and land tax collection and the Principal Secretary, Revenue Department replied that 95 per cent of the said work has been completed but the responsibility of notification was vested with the Local Self Government Institutions. Details regarding till 2012 was published in website. Later work had become slower. He also informed that rules has been framed and would be notified regarding the 2013 amendment in the Kerala Conservation of Paddy Land and Wet Land Act 2008.

8 Taluk offices: Emad, Kasargod, Kottarakara, Kottayam and Thiruvananthapuram.

2. Regarding the revenue collection of the department the Principal Secretary, Revenue Department replied that land tax collection had been lowered since ten years. Collectors has been concentrating on Revenue Recovery collection recently.

3. Regarding query about Tax collection, the Principal Secretary, Revenue Department replied that during 2009-10, ₹ 6,38,00,000 was collected. Cases related to ₹ 44,78,418 have been pending disposal in court. The budget estimate during 2012-13, 2013-14 and 2014-15 were ₹ 127 crore, ₹ 223 crore and ₹ 260 crore respectively. Accordingly ₹ 121 crore, ₹ 165 crore, and ₹ 252 crore had been collected.

4. Regarding the paragraph on functioning of the IAW, the Senior Finance Officer, Commissionerate of Land Revenue explained that out of 3502 paragraphs 857 paragraphs were cleared during 2014-15 and out of 4578 paragraphs, 1549 paragraphs were disposed during 2013-14; and out of 17,868 paragraphs, 7093 paragraphs were cleared till March 31st 2015 and the remaining 10,775 cases have been pending.

5. The Committee expressed its dissatisfaction over the ineffective functioning of the IAW and directs the department to clear the outstanding paragraphs in a time bound manner.

6. Regarding Revenue Recovery the Principal Secretary, Revenue Department informed that amount to be recovered mentioned in the audit report had almost been collected.

7. The Principal Secretary, Revenue department deposed that the figures show a good progress in tax collection. Out of 2976 cases tax had been collected from 2433 cases, 252 cases were pending and 68 cases pending due to court stay. At present one time building tax was imposed and collected by the revenue officials after checking local body records. To case this process the Principal Secretary suggested that Building Number would only be given after one time building tax remittance. He informed that the department had issued an order in 2015 July which stipulates that the local body should provide the building number only after the remittance of one time building tax to the Revenue department and requested the Committee to recommend to implement the order.

8. The Principal Secretary, Revenue department explained that tax was assessed after checking plan and estimate and field visit by concerned Village Officer. The Committee suggested that time limit must be fixed for site inspection by revenue officials to avoid unnecessary delay. If the site inspection was not completed within the time limit the local body officials could issue building numbers to the applicants. The Committee suggested that local body might go ahead to give building number in cases where revenue department failed to do so.

9. Regarding the audit para 'Non-assessment of building tax,' the Principal Secretary, Revenue department replied that ₹29 crore was realised in the cases of 141 buildings out of 295 cases. Exemption was given to 16 buildings and there were 7 cases pending before the court Realisation has been pending in the remaining 131 pending cases.

10. The Principal Secretary, Revenue Department also informed that strict instructions were given regarding collection of Taxes but timely follow up action hadn't been taken place.

11. Regarding query that tax hadn't collected from ANERT and RMT hadn't furnished yet, the Principal Secretary, Revenue Department replied that report be placed before the cabinet and the department would act according to the cabinet decision to settle the problem.

12. Regarding audit Paragraphs 'Non-levy of building tax' the Principal Secretary, Revenue department deposed that the Hon. High Court stayed the revised assessment and the case has been pending. The Senior Audit Officer has been informed that municipalities were exempted from levying tax on BOT cases but under this pretext contractors were availing the benefit. The Committee directed the department to explore the possibilities of amending KBT Act to exclude the buildings constructed on BOT basis by the municipalities from availing tax exemption.

13. Audit paragraphs regarding 'under assessment of building tax' and 'short assessment of building tax' the Principal Secretary, Revenue Department submitted that tax was fully recovered.

14. Audit Paragraph regarding 'non levy of interest' the Principal Secretary, Revenue department informed that out of 940 cases tax has been collected in 850 cases. Four cases were exempted and one case has been pending before the court. Realisation of amount has been pending in 85 cases.

Conclusion/Recommendation

15. The Committee expresses its displeasure over the ineffective functioning of the internal audit wing. And also notices the inordinate delay in submitting replies to the audit paras, which resulted in huge pendency since 2013-14. So the Committee strongly recommends the department to clear the outstanding paragraphs in a time bound manner.

16. The Committee observed that unnecessary delay occurs from revenue officials in conducting site inspection for assessment of building and luxury taxes. The Committee suggests that the department must prescribe a time limit for site inspection and if it is not completed within the time limit, local body could issue building number to the applicant.

17. The Committee directs the department to explore the possibilities of amending the Kerala Building Tax Act, 1975, to ensure the buildings constructed on BOT basis by the municipalities are not eligible for tax exemption.

Thiruvananthapuram,
30th January 2018.

V. D. SATHEESAN
Chairman,
Committee on Public Accounts.

APPENDIX I

SUMMARY OF MAIN CONCLUSION/RECOMMENDATION

SI No.	Para No.	Department concerned	Conclusion/Recommendation
1	2	3	4
1	15	Revenue	The Committee expresses its displeasure over the ineffective functioning of the internal audit wing. And also notices the inordinate delay in submitting replies to the audit paras, which resulted in huge pendency since 2013-14. So the Committee strongly recommends the department to clear the outstanding paragraphs in a time bound manner.
2	16	Revenue	The Committee observed that unnecessary delay occurs from revenue officials in conducting site inspection for assessment of building and luxury taxes. The Committee suggests that the department must prescribe a time limit for site inspection and if it is not completed with in the time limit, local body could issue building number to the applicant.
3	17	Revenue	The Committee directs the department to explore the possibilities of amending the Kerala Building Tax Act, 1975, to ensure the buildings constructed on BOT basis by the municipalities are not eligible for tax exemption.

APPENDIX II

NOTES FURNISHED BY GOVERNMENT

**Action Taken Report in Respect of paras 6.1 to 6.7.6 in the C&AG Report (RR)
for the year ended 31-3-2011 Chapter VI— Land Revenue and Building Tax**

<p>6.1 Tax administration</p> <p>The Revenue Department is under the control of the Additional Chief Secretary at the Government level and the Land Revenue Commissioner is the head of the Department. The revenue Collection of the Department includes collection of basic tax, plantation tax, lease rent and building tax. The Department realises arrears of public revenue under the Kerala Revenue Recovery Act with interest and cost of process prescribed.</p>	No Remarks
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6.3 Impact of audit

Revenue impact

During the last four years, we pointed out underassessment of building tax, short levy of lease rent, short realization of collection charges, non-levy of luxury tax etc., with revenue implication of Rs.349.37 crore in 399 paragraphs. Of these, the Department/Govt. accepted audit observations involving Rs.9.63 crore and had since recovered Rs.2.32 crore. The details are shown in the following table.

Year of audit report	Paragraph included		Paragraph accepted		amount recovered	
	No.	Amount	NO.	Amount	No.	Amount
2006-07	91	323.00	28	47.58	28	35.91
2007-08	113	330.00	83	607.05	50	102.00
2008-09 Vol.1, (review)	91	32,562.00	16	222.05	16	35.04
2009-10	104	1,722.00	34	86.55	33	59.34
Total	399	34,937.00	161	963.23	127	232.29

The latest position of the collection of the building tax levied, Lease rent, Luxury Tax and Collection Charges is watched through the monthly review meeting at District level and through quarterly review meeting at the Commissionerate level.

Out of 963.23 lakh mentioned in the audit para Rs. 6,38,64,198/- has since been recovered. Rs.2,70,07,827/- has been exempted. For Rs.44,78,418/- court cases are pending disposal. Earnest efforts are being made to realize the balance amount of Rs. 9,72,557/-

Total	399	34,937.00	161	963.23	127	232.29
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Thus against the accepted cases involving Rs.963.23 lakh, the Department had recovered Rs.232.29 lakh which was 24.11 per cent. However, out of the accepted cases involving Rs.222.05 lakh relating to 2008-09, the Department could recover only Rs.35.04 lakh which was 15.98 per cent.

6.4 Working of internal audit wing

The Internal audit Wing (IAW) of the Land Revenue Commissionerate is supervised by the Senior Finance Officer under the control of the Commissioner of Land Revenue. The audit of Taluk offices, Revenue Divisional Offices and Revenue Recovery offices are conducted in a period of two or three years. The IAW is manned by one Senior Superintendent three Junior Superintendent and six clerks. Every year about 22 units were taken up for audit which is not sufficient to cover 120 units even in five years. The Department stated that shortage of staff and ceiling on TA restricted the selection of units. During 2010-11 the Department had cleared only 405 paragraphs out of 20,143 paragraphs which is only 2.01 percent of the outstanding objections. During the previous years also the clearance was marginal. Thus, the functioning of IAW was not effective.

We recommend that the functioning of the IAW may be strengthened by deploying more staff if necessary so that all units could be audited over a reasonable period and targets fixed for timely clearance of outstanding paras.

The Internal Audit Wing is not in a position to audit all sub offices in a year or two due to the insufficient number of staff in the Internal Audit Wing.

In this connection, it is informed that three general inspection units headed by Senior Superintendents under the control of Asst. Commissioner (DM) are also functioning in the CLR. These General Inspection units had inspected forty five sub offices such as Collectorate, Taluk offices, RDO offices, LA offices, etc. during the financial year 2011-12. Thus altogether 68 offices had been audited/inspected by the internal audit/inspection wing in the CLR during 2011-12. As per GO(Ms)No.413/12/ Fin. dt.: 24.7.12, Government have enhanced the TA ceiling limit and fixed revised ceiling upto 40% over and above the existing TA ceiling in order to strengthen the Internal audit wing. Hence, it is possible to cover more offices to audit in the ensuing years.

Regarding the disposal of audit observation, periodical internal audit committee meetings are being conducted for the speedy settlement of Audit objections, and thereby, considerable progress could be achieved in the settlement of the audit observations raised by the Internal Audit Wing in the coming year.

Result of audit

We test checked the records of 61 units relating to land revenue and building tax. We detected underassessment of tax and other irregularities involving Rs.19.34 crore in 38 cases which fall under the following categories.

(Rs.in crore)

Sl. No.	categories	No.of cases	Amount
1	Underassessment and loss under building tax	30	1.74
2	Under assessment and loss under other items	8	17.60
	Total	38	19.34

The Department accepted underassessment and other deficiencies of Rs.5.62 crore in 110 cases during the year 2010-11. The department realized an amount of Rs.84.27 lakh in 62 cases during the year 2010-11. A few illustrative audit observations involving Rs.3.72 crore are mentioned in the following paragraph.

Para 6.5 relates to the results of Audit conducted by the A.G during the year 2010-11 in various Revenue offices in the state.

The under assessment and loss under building tax and the under assessment and loss under other items amounting to Rs.19.34 crore mentioned in this para were included in the Inspection Report relating to the revenue offices in the state issued by the AG earlier. On the basis of the observation in the Inspection Report, efforts have been made by the concerned authority to make good the short levy/loss. The Department is furnishing reply to the AG in respect of the cases which are being pursued by the AG through the concerned local audit reports. The present position of the items included in the para is furnished below.

The present position of under assessment and loss under building tax (Rs.1.74 crore) and under assessment and loss under other items (Rs.17.60 crore) is furnished in the statement below:

Building Tax

Short levy pointed out in the audit	Amount realized	Amount exempted	Court case/appeal pending disposal	Balance
1.74 crore	98,36,544	8,73,175	42,21,400	24,68,881

6.6 Audit observations

We scrutinised the records of various Taluk offices and found several cases of non-compliance of the provisions of the Rules for Assignment of Land within Municipal and Corporation areas, 1995 (RALMCO) and Kerala Revenue Recovery Rules 1968, (KRR Rules) Kerala Building Tax Rules (KBT) and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Tahsildars are pointed out in audit year, but not only do the irregularities persist these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit.

Other items

Short levy pointed out in the audit	Amount realised	Amount exempted	Court case/ appeal pending disposal	Balance
17.60 crore	15,29,044	48,77,791	17,360	16,95,75,805

Non-compliance of provisions of Acts/Rules

provisions of the KBT Act/Rules, RALMCO and KRR Rules

are

- i) levy of lease rent on land assigned to various persons at the prescribed rates
- ii) levy of collection charges on the amount recovered under RR Act:and
- iii) assessment of building tax and luxury tax at prescribed rates

We noticed that the Tahsildar did not observe some of the above provisions at the time of levying tax. This resulted in short levy of lease rent/building tax/collection of Rs.3.72 crore as mentioned in the paragraph 6.7.1 to 6.7.6

6.7.1 Non levy of luxury tax

(18 Taluk offices, between April 2010 and February 2011)

The Kerala Building Tax Act 1975 as amended by the Finance Act, 1999 prescribes that luxury tax at the rate of Rs.2000 is leviable each year on all residential buildings having a plinth area of 278.7sq. metres or more and completed on or after April 1999. The Act further stipulates that luxury tax is to be paid in advance on or before 31 March every year.

We noticed from the building assessment register that luxury tax was not demanded/realized on 2,975 residential buildings having plinth area exceeding 278.7 sqmetres which were completed after April 1999. This resulted in short collection of luxury tax amounting to Rs.1.69 crore.

Strict directions have been issued to all Tahsildars to observe the provisions of Act/Rules at the time of levying tax.

AG has pointed out in the audit para that short collection of Luxury tax is Rs.1.69 crore on 2,975 residential buildings. But it was reported by the Tahsildars the actual amount came to Rs.1,72,13,000/- in 2976 cases.

Out of the above mentioned amount, Rs.1,37,33,000/- has since been realized in 2433 cases. 223 cases involving Rs.17,04,000/- have been exempted from LT since the building were either completed prior to 1.4.99 or the plinth area of the buildings came to below 278.7 M² in re-assessment . In 68 cases involving Rs.6,34,000/- court cases are pending disposal. The balance amount of Rs.11,42,000/- in 252 cases is yet to be realized. Tahsildars concerned have been given strict directions to realize the balance amount urgently

As we pointed out the matter to the Department between April 2010 and February 2011, in five cases Tahsildars stated that action would be taken to realize the luxury tax and in eight cases Tahsildars stated that directions would be given to the village officers to realize the luxury tax due. In five cases Tahsildars replied that the matter would be examined. Further developments on the recovery have not been received (December 2011) We reported the matter to the Government in March 2011. We have not received any further information from them (December 2011)

6.7.2 Non assessment of building tax

(Five Taluk offices between March 2010 and January 2011)

<p>Under the Kerala Building Tax Act and the Kerala Building tax (plinth area) Rules 1992 made under, every village officer shall transmit to the assessing authority within 5 days of the expiry of each month, a monthly list of buildings liable to assessment, together with extracts from the building application register of the local authority within whose area the buildings included in the list are situated.</p>	<p>We cross verified the building tax assessment records of five taluk offices with the registers containing building numbers maintained by the local authority for property tax and found that 295 buildings completed between April 2006 and March 2010 were not assessed to building tax. This resulted in non assessment of building tax of Rs.93.88 lakh.</p>
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In the audit para AG has pointed out that there is non-assessment of BT of Rs.93.88 lakh on 295 buildings. Now all the buildings have been assessed and out of which Rs.29,38,750/- in 141 buildings has since been realized. 16 buildings involving Rs.4,79,025/- have been exempted due to less area found out in the assessment. In 7 cases involving Rs 1,12,250/- court cases are pending disposal. An amount of Rs.58,57,975/- in 131 cases remains to be realized. Directions have been given to Tahsildars concerned to realize the balance amount immediately.

Non-levy of building tax

(Taluk office, Kannur March 2011)

Section 5(6) of the Kerala Building Tax 1975 stipulates that the assessee or the owner of the building tax assessed. Owner includes a person entitled to receive the rent of the building	We noticed from the building tax assessment register that the Tahsildar, Kannur assessed the building tax assessment of a building having plinth area of 23492 M ² for Rs.42.01 lakh. The assessment was in the name
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of the Secretary of the Kannur Municipality. The Municipality was exempted from levy of tax under section 3(1) (a) of the Act. The building was in the possession of the contractor who constructed the building under Build, operate and transfer (BOT) basis. He was entitled to receive rent of the building for 29 years and 3 months and hence was the owner of the building as per the definition of 'owner' and was liable to pay building tax. The municipality failed to bring these facts to the notice of the Tahsildar for assessing building tax. The Taluk office also did not take efforts to identify the correct owner of the building for levying tax. The irregular assessment of building tax on the Municipality instead of on the owner resulted in non levy tax of Rs., 42.01 lakh.

After we pointed out (March 2011) the omission, the Tahsildar, Kannur stated that the matter would be examined. We reported (April 2011) the case to the Government. We have not received reply from them (December 2011)

We recommend that the Government may modify the KBT Act to ensure that the buildings constructed on BOT basis by the municipalities are not eligible for exemption under section 3(1)

Stay by the Hon. High Court against the revised assessment order issued for Rs.54,41,400/- as per WP(C).26207/12 and the case is still pending disposal.

Short assessment of building tax

Taluk offices between August 2010 and February 2011

The Kerala building Tax Act 1975, provides for levy of building tax at the rate specified in the Schedule to the Act on every building, constructed on or after 10 February 1992 and plinth area of which exceeds 100sq.m in the case of residential buildings and 50sq.m in the case of other building. As per Circular instruction given by Secretary, Local Self Government(N) Department in April 2002 Plinth area of structures appurtenant to the building for more beneficial enjoyment of the main building should be added to the plinth area for assessment.

We noticed from the building tax assessment register that in Taluk office Nedumangad and Kozhenchery, while finalizing the assessments of three commercial buildings and a hospital complex the buildings appurtenant to the

Total amounted of Rs.8,91,900/- as pointed out by the C&AG has been fully recovered.

main buildings were assessed as separate units. In taluk offices Palakkad and Kottayam, tax was assessed for an area less than the actual plinth area of the completed portion of seven buildings. Further, in taluk office, Palakkad, a building used for non-residential purpose was assessed to tax at the rate applicable to buildings used for residential purpose. These lapses in assessments resulted in short levy of tax of Rs.8.90 lakh. After we pointed out the matter to the Department between August 2010 and February 2011, the Department stated that steps would be taken to realize the amount. We have not received further information (December 2011)
We reported the matter to the Government in March 2011. We have not received further information (December 2011)

6.7.6 Non levy of interest

(five Taluk offices; between June 2010 and February 2011)

The Kerala Building Tax Act 1975 as amended by the Finance Act, 1999, stipulates that luxury tax at the rate of Rs.2,000/- is leviable each year on all residential buildings having a plinth area of 278.7 sq. me or more and completed on or after 1 April 1999. The Act further stipulates that the luxury tax is to be collected in advance on or before 31 March every year. Section 19 of the Act provides that when luxury tax is not paid on the due date, the arrear of tax shall bear interest at the rate of six per cent annum from the date of default.

We noticed from the luxury tax register that the Department did not levy interest on belated payment of luxury tax in 942 cases in five taluk offices. This resulted in non-levy of interest of Rs.3.45 lakh.

After we pointed out the matter to the Department between June 2010 and February 2011, the Department stated that direction were issued to the Village Officers concerned to collect the interest from the concerned assesses.

AG has pointed out that the Department did not levy interest on belated payment of luxury tax in 942 cases and this resulted in non-levy of interest of Rs.3.45 lakh. But District Collectors concerned have reported that the non-levy of interest is of Rs.3,44,774/- in 940 cases. Out of the amount reported by the Tahsildars, an amount of Rs.2,86,914/- in 850 cases has since been realized. 4 cases amounting to Rs.1,600/- have been exempted. One case amounting to Rs.3,047/- is still pending with the court. An amount of Rs.53,213/- in 85 cases remains to be realized. District Collectors concerned have been instructed to collect the balance amount immediately.

We reported the matter to the Government in March 2011. We have not received further information from them (December 2011)

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