

THE KERALA FINANCE BILL, 2012

(As passed by the Assembly)

A

BILL

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

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

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

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

(2) Save as otherwise provided in this Act, sub-section (2) of section 8 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of April, 2012.

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

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

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

(2) in serial number 42,—

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

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

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

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

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

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

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

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

(1) in sub-section (1),—

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

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

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

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

(1) in section 17,—

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

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

(b) in sub-section (8),—

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

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

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

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

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

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

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

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

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

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

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

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

(1) in section 2,—

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

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

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

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

(2) in section 6,—

(a) in sub-section (1),—

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

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

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

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

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

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

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

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

(vi) for the fourth proviso, the following proviso shall be substituted, namely:—

“Provided also that in respect of works contracts executed,—

(i) 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 or Funds of Local Authorities or Command Area Development Authority and OFD Works through Beneficiary Farmers’ Associations or Karshaka Samithy where the total amount in respect of individual contract does not exceed ten lakhs rupees, the tax payable under clause (f) above shall be five per cent ;

(ii) under the Jananidhi Project (KRWSA), the tax payable under clause (f) above shall be four per cent irrespective of the total amount in respect of the individual contract ;

and the Beneficiary Committees shall be entitled to receive payment even without taking registration under the Act.”;

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

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

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

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

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

(3) in section 8,—

(a) in clause (b),—

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

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

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

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

(b) in clause (e),—

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

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

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

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

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

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

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

(5) in section 12,—

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

(b) to sub-section (2), the following proviso shall be added, namely:—

“Provided that notwithstanding anything contained in this Act, a manufacturer of medicines who have opted for payment of compounded tax under clause (e) of section 8 shall be eligible for special rebate of the tax paid under sub-section (2) of section 6 of this Act on the purchase of raw materials with effect on and from the 1st day of April, 2005.”;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) in the SCHEDULES,—

(a) in the First Schedule,—

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

“(9) Intra Ocular Lens 9002.19.00”;

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

“8A. Carry bags made of cloth *****”;

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

“24B Honey, honey-bee box and accessories

(1) Honey 0409.00.00

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

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

“30C. Life Saving Devices

(1) Pace makers for stimulating hearts
muscles including parts and
accessories 9021.50.00

(2) Heart valve *****

(3) Cardiac stents *****”;

(v) after serial number 49 and the entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be inserted, namely:—

“49A Tamarind seed and powder *****”;

(b) in the Second Schedule,—

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

“2 Chillies dried 0904.20.10

2A Coriander Seeds 0909.20.00

2B Edible Oils

(1) Soyabean oil 1507.90.10

(2) Groundnut oil 1508.90.91

(3)	Olive oil	1509.90.10
(4)	Palm oil	
	(a) Refined bleached deodorised palm oil	1511.90.10
	(b) Refined bleached deodorised palmolein	1511.90.20
(5)	Sunflower oil	1512.19.10
(6)	Saffola oil	1512.19.30
(7)	Cottonseed oil	1512.29.10
(8)	Babassu oil	1513.29.20
(9)	Refined colza oil	1514.19.10
(10)	Refined rapeseed oil	1514.19.20
(11)	Refined mustard oil	1514.99.20
(12)	Linseed oil	1515.19.10
(13)	Maize (corn) oil	1515.29.10
(14)	Castor oil	1515.30.10
(15)	Seasam oil	1515.50.91
(16)	Fixed vegetable oils of edible grade namely: mango kernal oil, mahua oil, rice bran oil	1515.90.40
(17)	Other edible oils	1515.90.91
(18)	Other partly or wholly hydrogenated vegetable oils	
	(a) Cottonseed oil	1516.20.11
	(b) Groundnut oil	1516.20.21
	(c) Castor oil	1516.20.31
	(d) Other including Vanaspati	1516.20.91
(19)	Vegetable edible oils excluding HSN heading No. 1516	
	(a) Linseed oil	1518.00.11
	(b) Castor oil dehydrated	1518.00.21
	(c) Other vegetable oils edible grade	1518.00.31

(20) Palm Kernal oil	1513.21.10
2C Flour, Atta, Maida, Sooji,—	
(1) Wheat or Meslin flour	1101.00.00
(2) Rye flour	1102.10.10
(3) Maize (corn flour)	1102.20.20
(4) Rice flour (Puttu podi and the like)	1102.30.00
(5) Other cereal flour	1102.90.00”;

(ii) after serial number 5 and the entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be inserted, namely:—

“5A Pulses 0713”;

(c) in the Third Schedule,—

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

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

“30B. Cradles ****”;

(iii) in serial number 36,—

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

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

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

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

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

“40. Electronic Toilets ****”;

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

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

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

(2) Wet mix ****”;

(vii) in serial number 49A, to the entries in column (2), the words “chukku kappi powder, fried chips made from banana, cassava and jack fruit” shall be added at the end;

(viii) serial number 58 and the entries against it in columns (2) and (3) shall be omitted;

(ix) serial number 79 and the entries against it in columns (2) and (3) shall be omitted;

(x) in serial number 83, after item 59 in column (1) and the entries against it in columns (2) and (3), the following item entry and Note shall, respectively, be inserted, namely:—

“60. Machinery for Photography ***

Note:—This entry shall be deemed to have come into force on the 1st day of July, 2006 and ceased to operate on the 23rd day of October 2006.”;

(xi) in serial number 95, item (7) and the entries against it in columns (2) and (3) shall be omitted;

(xii) after serial number 95A and the entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be inserted, namely:—

“95B. Packaged tender coconut water ****”;

(xiii) serial number 102 and the entries against it in columns (2) and (3) shall be omitted;

(xiv) in serial number 120,—

(a) sub-item (b) of item (2) and the entries against it in columns (2) and (3) shall be omitted;

(b) sub-item (b) of item (7) and the entries against it in columns (2) and (3) shall be omitted;

(xv) in serial number 126, in the entries in column (2), the words “tamarind seed and powder” shall be omitted;

(d) in LIST A, in serial number 174, in the heading, the words, figures, letter and brackets “other than those specifically mentioned in serial number (3) of clause (a) of sub-section (1) of section (6)” shall be added at the end.

8. *Amendment of Act 21 of 2008.*—In the Kerala Finance Act, 2008 (21 of 2008), in section 6,—

(1) in sub-section (1),—

(a) the words, figures and bracket “sections 6 and 8 of the Kerala Value Added Tax Act, 2003 (30 of 2004) and” shall be omitted;

(b) in the proviso, for the words “six per cent”, the words “ten per cent” shall be substituted;

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

“(2A) There shall be levied and collected from the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited, a cess at the rate of one per cent on the tax payable by them under clause (b) of sub-section (1) of section 5 of the Kerala General Sales Tax Act, 1963 (15 of 1963) to be called a *Medical Cess* to fulfil the commitment of the Government to provide generic medicine free of cost to the patients of the Government Hospitals, who are not income tax payers. The cess so collected shall be in addition to the cess collected under sub-section (1).”;

(3) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The Government may after due appropriation made by the Legislature by law in this behalf utilise such sum of money of *Social Security Cess* and the *Medical Cess* for the purposes specified in sub-section (1) or in sub-section (2A), as the case may be.”;

(4) in sub-section (4),—

(i) the words, figures and brackets “section 30 of the Kerala Value Added Tax Act, 2003 (30 of 2004) and” shall be omitted ;

(ii) for the words, figure and bracket “sub-section (1)”, the words, figures, letter and brackets “sub-sections (1) and (2A)” shall be substituted;

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