

CIRCULARS ISSUED
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Sub: Salient features of the modifications and changes under different tax enactments effective from 1.4.2011 – reg.

In the Budget 2011-12, certain changes and modifications in the rates of tax and the provisions in the laws administered by the Department have been announced. To give effect to the same and also other rationalization measures, the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976, the Karnataka Tax on Luxuries Act, 1979, the Karnataka Tax on Entry of Goods Tax Act, 1979 and the Karnataka Value added Tax Act, 2003 have been amended by the Karnataka Taxation Laws (Amendment) Act, 2011 (Karnataka Act of 2011) and the Karnataka Value Added Tax (Amendment) Act, 2008 (Karnataka Act of 2011). Notifications have also been issued under the KST Act, the KTL Act and KVAT Act. The copies of the amendment Acts and the notifications issued have already been forwarded through intranet to the departmental officers who should carefully peruse the same and note the various changes and modifications effective from 1.4.2011. However, the more important ones are explained here for ready reference.

A. Karnataka Value Added Tax Act, 2003:

I. Amendments to the Act:

1. Amendment of Section 4: (1) By substitution of sub-clause (ii) of clause (a) of sub-section (1), the rate of tax of 5% has been made applicable on all goods specified in the Third Schedule and the exception made in respect of declared goods specified in entry 30, the rate of tax of which was specified to be 4% has been omitted.

(2) By substitution to clause (b) of sub-section (1),

(i) under the new sub-clause (i), the rate of tax in respect of declared goods that are specified in Section 14 of the Central Sales Tax Act, 1956 has been fixed at the maximum rate specified for such goods under Section 15 of the said Act [it may be noted that such maximum rate which was at 4% has been increased to 5% pursuant to the amendment made to Section 15 by the Finance Act, 2011(Central Act 8 of 2011) and that such increase is effective from 12.4.2011];

(ii) under the new sub-clause (ii), the rate of tax on cigarettes, cigars, gutkha and other manufactured tobacco has been fixed at the earlier rate of 15%; and

(iii) in respect of all other goods (not specified in First, Second, Third or Fourth Schedule) the rate of tax has been increased from 13.5% to 14%. It may be noted that the benefit of exemption and reduction of rate of tax in respect of some of the non-schedule goods extended by notifications already issued under Section 5(2) and Section 4(3) continues.

2. Substitution of Section 21: By substitution of Section 21, the benefit of reimbursement of tax paid on their purchase of goods has been extended to Multilateral Financial Institutions and Organisations which are treated on par with UN agencies by the Government of India, in addition to the benefit of reimbursement currently available to UN agencies and Consulates/Embassies of other countries. It may be noted that Asian Development Bank would henceforth be eligible for the benefit of reimbursement of VAT paid on its purchases under this newly substituted provision.

3. Amendment of Section 25: By insertion of a new proviso to sub-section (1), the Commissioner of Commercial Taxes is now empowered to notify the website in which an application for registration may be made electronically by a dealer. A notification in this regard would be issued shortly.

4. Amendment of Section 31: (1) By amendment of sub-section (4), the minimum limit of annual turnover for a registered dealer to get his accounts audited has been increased from Rs.60 lakhs to Rs.1 crore. It may be noted that this increase would be applicable even to the year 2010-11, for which the dealers concerned are required to file audited statement of account by December, 2011.

(2) By omission of sub-section (6), the current requirement of dealers executing civil works contracts for having to submit copies of the relevant agreements to the VAT offices every month is deleted.

5. Amendment of Section 37: By amendment of sub-section (1), the rate of interest payable for delay in payment of tax or other amounts within the due date has been increased from 1.25% per month to 1.5% per month.

6. Amendment of Section 40: (1) By amendment of clause (a), the time limit for assessment or re-assessment has been reduced from 5 years to 4 years from the end of relevant tax period. However, with the insertion of a new proviso, the current limit of 5 years has been continued in respect of assessment or re-assessment relating to any tax period in the year ending 31st March, 2007. Therefore, it may be noted that the assessment or re-assessment relating to any tax period beginning from April, 2007 would have to be made within a period of 4 years from the end of the relevant tax period. All the officers concerned shall immediately take up steps necessary to make assessments/re-assessments for the tax periods of the years 2006-07 and 2007-08 within the limitation period.

(2) By amendment of sub-section (2), the time limit for assessment or re-assessment in the case of dealers who have failed to get registered though liable and dealers who have fraudulently evaded taxes, has been reduced from 10 years to 8 years. It may be noted that this reduction in time limit would apply even to the assessments/re-assessments of tax periods relating to the years 2005-06 to 2010-11.

7. Amendment of Section 53: By insertion of a new proviso to clause (a) of sub-section (12), the penalty payable in respect of goods which are being transported in contravention of the provisions of sub-section (2) or (2-A) and the rate of tax on which is less than 4%, has been fixed at 5 times the amount of tax leviable on such goods. It may be noted that in respect of such goods there is no minimum or maximum amounts of penalties and it is a fixed penalty of 5 times the amount of tax payable. It may be noted that transporters of tamarind, seegekai (soapnut), copra, desiccated coconut powder, arecanut, jewellery and articles of gold,

silver and other noble metals whether or not studded with precious or semi-precious stones; precious and semi-precious stones, in contravention of the provisions would now attract penalty at 5 times the amount of tax leviable on such goods (as the rate of tax on these goods is at 2%).

8. Amendment of Section 54: By insertion of a new proviso to sub-section (1), the Commissioner of Commercial Taxes is now empowered to notify the website in which the necessary information for issue of a transit pass should be entered by the driver or person-in-charge of a goods vehicle transporting goods, from any place outside the State to any other place outside the State through the State or imported from the outside the country to any place outside the State. A notification in this regard would be issued shortly. It may be noted that after issue of such a notification the checkpost officers or other authorised officers should not accept paper application or hard copies of the relevant documents for issue of transit pass.

9. Amendment of Section 62: By amendment of clause (d) of sub-section (4), the period of validity of any order issued by the first appellate authority staying recovery of fifty per cent of the disputed tax from 120 days to 240 days. Thus, it may be noted that if the appeal filed in any case is not disposed within a period of 240 days from the date of issue of an order staying recovery of disputed tax in such case would automatically get vacated.

10. Amendment of the Second Schedule: By omission of serial numbers 2 and 3 from the Second Schedule, jewellery and articles of gold, silver and other noble metals whether or not studded with precious or semi-precious stones; precious and semi-precious stones are excluded from the benefit of the tax rate of one per cent. It may be noted that the tax rate on these goods which are now non-schedule goods has been reduced from fourteen per cent to two per cent in terms of the Notification-V No.FD 35 CSL 11, dated 29.3.2011.

11. Amendment of the Third Schedule: (1) By amendment to entry serial number 5, even those utensils used for purposes other than cooking food are included under the said entry and thereby they are now liable to tax at 5%.

(2) By omission of the entry serial number 30, declared goods are now made liable to tax at the rate specified under the newly inserted sub-clause (i) of clause (b) of sub-section (1) of Section 4. It may be noted that as already pointed out earlier, such rate has been revised to 5% from 12.4.2011 because of the amendment made to Section 15 of the CST Act, 1956.

12. Amendment of the Sixth Schedule: (1) By omission of entry serial number 7, the works contract of manufacturing or processing and supplying of jewellery and articles of gold, silver and other noble metals whether or not studded with precious or semi-precious stones, is excluded from the benefit of the tax rate of one per cent. It may be noted that the tax rate on this works contract which now falls under entry serial number 23 of the Sixth Schedule has been reduced from fourteen per cent to two per cent in terms of the Notification-V No.FD 35 CSL 11, dated 29.3.2011.

(2) By amendment of the entry serial number 12, the rate of tax on works contract of 'providing and laying of steel pipes for purposes other than for plumbing, drainage and the like' has been fixed at the maximum rate specified for such goods under Section 15 of the CST Act, 1956 [it may be noted that such maximum rate which was at 4% has been increased to 5% pursuant to the amendment made to Section 15 by the Finance Act, 2011(Central Act 8 of 2011) and that such increase is effective from 12.4.2011].

(3) By amendment of the entry serial number 23, the rate of tax on works contract not specified in any of the serial numbers 1 to 22, has been increased from 13.5% to 14%.

II. Tax concessions extended by notifications:

1. Tax exemption on food grains, etc.: By Notification-II No. FD 35 CSL 11, dated 29.3.2011, tax exemption has been extended on paddy, rice, wheat, pulses, flour and soji of rice and wheat and maida of wheat from 1.4.2011 to 31.3.2012.

2. Tax exemption on certain other goods: By Notification-III No. FD 35 CSL 11, dated 29.3.2011, tax exemption has been extended on the following goods:

- (1) De-oiled rice bran.
- (2) Coconut, but excluding copra and desiccated coconut powder.

3. Tax exemption on feature films, etc.: By Notification-IV No. FD 35 CSL 11, dated 29.3.2011, tax exemption has been extended on the following:

- (1) Transfer of right to use 'feature films'.
- (2) Sale or transfer of right to use copy rights relating to 'feature films'.

4. Tax reduction on jewellery, etc.: By Notification-V No. FD 35 CSL 11, dated 29.3.2011, the rate of tax on the following has been reduced to 2% (which were excluded from the benefit of the rate of tax at 1% available under Second Schedule and Sixth Schedule and thereby became taxable at 14%):

- (1) Sale of,
 - (i) jewellery and articles of gold, silver and other noble metals whether or not studded with precious or semi-precious stones; and
 - (ii) precious and semi-precious stones.
- (2) Transfer of property in goods involved in the execution of works contract of manufacturing or processing and supplying of jewellery and articles of gold, silver and other noble metals whether or not studded with precious or semi-precious stones.

5. Tax reduction on certain goods: By Notification-VI No. FD 35 CSL 11, dated 29.3.2011, the rate of tax on the following goods has been reduced to 5%:

- (1) School bags costing upto five hundred rupees each.
- (2) Caps.
- (3) Barbed wire.

B. Karnataka Sales Tax Act, 1957:

Tax concession extended by notification:

Exemption of sales tax on Diesel sold to fishermen: By Notification-I No. FD 35 CSL 11, dated 29.3.2011, tax exemption has been extended on 1,00,000 kilo litres of diesel sold to fishermen for use in fishing activities as per the indents issued on a monthly basis by the Director of Fisheries, Government of Karnataka for the year 2011-12.

C. Betting Tax Act, 1932:

Amendments to the Act.

1. Amendment of Section 1: By substitution of sub-section (2), the Act has been extended to the whole of the State of Karnataka.

2. Substitution of Section 3-A: By substitution of Section 3-A relating to payment of totalisator tax by way of composition, the amount payable by Bangalore Turf Club has been increased from 4% to 8% of their total totalisator receipts. It may be noted that the amount payable by Mysore Race Club is continued at 4%.

3. Omission of old sections 12, 13 and 14: These sections as they existed before the Mysore Betting Tax (Karnataka Amendment) Act, 1980 have been omitted as they are redundant. It may be noted that however, the existing sections 12, 13 and 14 continue to be in the statute.

D. Karnataka Entertainments Tax Act, 1958:

Amendments to the Act.

1. Amendment of Section 2: (1) By insertion of a new clause (aa), a definition of 'Additional Commissioner' has been inserted. This is for the purpose of giving revision powers to the Additional Commissioners under the Act.

(2) Clause (da) relating to definition of 'distributor' has been omitted in view of the omission of Section 10-A which required distributors to get registered.

2. Amendment of Section 5: By amendment of Section 5, in addition to the State Government, the Commissioner of Commercial Taxes has been empowered to approve admission to an entertainment and further, the State Government and the Commissioner of Commercial Taxes have been empowered to authorise any other officer in this behalf.

3. Amendment of Section 6-A: (1) The title of the provision has been amended to change it as 'Submission of returns and furnishing of information'.

(2) By insertion of a new sub-section (1-B), the Commissioner of Commercial Taxes is empowered to notify the website in which particulars of each cinematograph show is entered by the specified class of proprietors of cinema theatres. The KET Rules, 1958 are being amended to prescribe the particulars that is required to be furnished and after that a suitable notification will be issued to notify the website in which they need to be entered.

4. Insertion of a new Section 8-CC: By insertion of a new Section 8-CC, the Additional Commissioners of Commercial Taxes are empowered to take up revision of orders/ proceedings of officers upto the rank of Joint Commissioner wherever they are found to be prejudicial to the interest of revenue.

**E. Karnataka tax on Professions, Trades, Callings and Employments Act, 1976:
Amendments to the Act.**

Amendment of Section 5: (1) By insertion of a new proviso to sub-section (1), the Commissioner is empowered to notify the website in which an application for registration can be made by the employers liable to get registered under the Act. A notification in this regard would be issued shortly.

(2) By insertion of a new proviso to sub-section (2), the Commissioner is empowered to notify the website in which an application for registration can be made by the persons liable to get enrolled under the Act. A notification in this regard would be issued shortly.

**F. Karnataka Tax on Luxuries Act, 1979:
Amendments to the Act.**

1. Amendment of Section 2: By insertion of a new clause (1-c), a definition of 'Additional Commissioner' has been inserted. This is for the purpose of giving revision powers to the Additional Commissioners under the Act.

2. Amendment of Section 4-A: By insertion of a new proviso to sub-section (1), the Commissioner is empowered to notify the website in which an application for registration can be made by the proprietors liable to get registered under the Act. A notification in this regard would be issued shortly.

3. Amendment of Section 10: (1) By amendment of title to the Section 10, it is specified that the Additional Commissioners also have revisional powers.

(2) By insertion of a new sub-section (1-A), the Additional Commissioners of Commercial Taxes are empowered to take up revision of orders/ proceedings of officers upto the rank of Joint Commissioner wherever they are found to be prejudicial to the interest of revenue.

(3) By amendment of sub-section (2), the Commissioner is now empowered to take up in revision, any order passed or proceedings recorded by an Additional Commissioner.

(4) Consequential amendments have been made to sub-sections (3) and (4), (6) and the Explanation I to make them applicable to the revision proceedings of the Additional Commissioners.

4. Substitution of Section 12-A: By substitution of Section 12-A, the State Government is empowered to issue notifications permitting payment of tax by way of composition by specified class of hotels. Notification would be issued under this provision in due course.

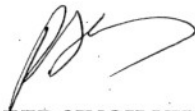
G. Karnataka Tax on Entry of Goods Act, 1979:

Amendments to the Act:

1. Amendment of Section 4: By insertion of a new proviso to sub-section (1), the Commissioner is empowered to notify the website in which an application for registration can be made by the employers liable to get registered under the Act. A notification in this regard would be issued shortly.

2. Amendment of Section 18-B: By amendment of Section 18-B, the officers authorised under the KST Act, 1957 or the KVAT Act, 2003 have been authorized to issue transit passes to the driver or person-in-charge of a goods vehicle transporting goods, from any place outside the State to any other place outside the State through the State or imported from the outside the country to any place outside the State. Further, the Explanation to Section 18-B has been substituted so as to fix individual and joint responsibility on the owner of the vehicle and the hirer of the vehicle to pay tax and penalty where the transit pass is issued has not been surrendered while exiting the State as required.

It may also be noted that the KTEG Rules, 1979 are being amended to adopt the manner prescribed for issue of transit passes under the KVAT Rules, 2005 for the purpose of issue of transit pass under the KTEG Act also.



(PRADEEP SINGH KHAROLA)
Commissioner of Commercial Taxes.

To:

All the department officers in the State for information and necessary action.