THE KARNATAKA LUXURY TAX ACT, 1979

BY :

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Purpose

To increase income used to fund government projects, the government of Karnataka introduced the Karnataka Tax On Luxuries Act in 1979.

The tax on luxuries applied to hotels and lodging houses, and other places of recreation, including health clubs and marriage halls where hotels provide these facilities for guests.

Definitions

- **<u>Sec 2(1) Charges for Lodging :</u>**

  include charges for air conditioning, telephone, television, radio, music, extra beds and the like but do not include any charges for food, drink.

- **<u>Sec 2(1A) Charges for marriage hall:</u>**

  include charges for air conditioning, chairs, utensils and vessels, shamiana, electricity, water, fuel, interior or exterior decoration but do not include any charges for food and drinks

- **<u>Sec 2(1C) Charges for hospital:</u>**

  means charges for accommodation provided in a hospital for any patient or inmate or resident, by whatever name called and his attendant including charges for air-conditioning, telephone, telephone calls, television, radio, music, extra beds and the like but does not include any charges for food, drink, laundry or other amenities, medicines, medical including consultation, testing, diagnostic and nursing services, therapeutic services or other similar services

Definitions

- **Sec 2(3) Hospital**

  includes a nursing home, therapy center, rejuvenation or recuperation center, nature care or cure center, ayurvedic cure or care or any treatment center, personal care center and beauty treatment center, by whatever name called.

- **Sec 2(4) Hotel**

  means a building or part of a building where lodging accommodation, with or without board is by way of business provided for a monetary consideration, and includes a lodging house, club and holiday resorts

Definitions

- **<u>Sec 2(4B) Luxuries</u>**

  means commodities or services specified in the Schedule ministering to enjoyment, comfort or pleasure extraordinary to necessities of life.

- **<u>Sec 2(6) Proprietor</u>**

  in relation to a hotel or a marriage hall means any person who is owning or holding a hotel or a marriage hall in any capacity recognized by law, and includes, the person who for the time being is in charge of the management of the hotel or marriage hall.

- **<u>Sec 2(6A) Schedule</u>**

  means the Schedule appended to this Act.

Schedule [U/s 2(6A)]

Sl. No.	Description of Luxuries	Rate of Tax
1	Cigarettes	4%
2	Tobacco products other than cigarettes, including cigars, churuts, zarda, quimam etc., but excluding beedies and snuff.	4%
3	Silk Fabrics	2%
4	Electronic goods imported from outside the country, namely a. Television sets b. Telephones of every description including cellular phones c. Audio and Video cassette/discs/players and recorders d. Photographic and Video cameras e. Music and Home Theatre systems; speakers f. Electronic toys and games g. Electronic clocks, time pieces and watches h. Electronic Calculators i. Digital Diaries j. Musical instruments	12% (*)

(*) **Explanation**: *Where the rate of tax payable on any electronic goods by a stockist, under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) is lower than the rate of tax payable on the said goods under this Act, then the rate of tax payable under this Act shall be at such lower rate.*

Stock of luxuries [U/s 2(6B)]

- means the quantity of luxuries being the own stock of the stockist or stocks entered in the records or accounts of the stockist or the quantity of luxuries the stockist receives or procures, during any year, for stocking, vending or distributing or supplying to a wholesaler, intermediary, retailer or any person.

Exception *- A handloom or power loom weaver (other than one whose establishment falls within the definition of a "Factory" under the Factories Act, 1948 (Central Act 63 of 1948)) who is in possession of stock of silk fabrics manufactured by him in Karnataka shall not be deemed to be a stockist for the purpose of this Act.*

Value of stock of luxuries

- In respect of a stockist being a manufacturer of any of the luxuries, the value of such luxuries calculated at the ex-factory price ;
- In respect of any other stockist, the value of such luxuries calculated at the price thereto as per the bill, invoice or consignment note or other document of like nature, of any person within the State or outside the State, from whom such luxuries are received ;
- In respect of any stockist mentioned in sub-clauses (i) and (ii), the value of stock of luxuries shall include,-
  - excise duty, countervailing duty paid or payable on such luxuries by a manufacturer or importer thereof, as the case may be, and
  - transport charges, insurance charges, packing charges, forwarding and handling charges, if any, for carrying such luxuries to any premises, godown, warehouse or any other place of the stockist in the State;

Tax on Hotels [Sec 3]

- Chapter II of the act governs the tax applied to *hotels and lodging houses*, and also includes tax charged against *health clubs*. Hotels are charged a levy on each room available for guest occupation.
- Hotel rooms which cost;

  > ₹ 150 but < ₹ 400 per day are taxed @ **4%** of the room rate for each room.

  >₹ 400 but < ₹ 1,000 per day are taxed @ **8%** of the room rate for each room.

  > ₹ 1,000 per day are taxed @ **12%** of the room rate for each room.

Health Clubs and Marriage Halls [Sec 3B & 3C]

If a hotel includes a health club facility, available to guests, then this is taxed according to Chapter II, Sec 3 of the act. This tax applies to other facilities, including beauty parlors, conference halls and swimming pool. The tax only applies if the hotel charges guests for the use of these facilities. The tax is set @ **20%** of the cost of using the facilities.

If it costs ₹100 to use a health club facility, ₹20 is added to the cost, so that the guest pays ₹120.

Where the charge to use a marriage hall is greater than ₹ 2,000 per day, the hotel must include tax @ **15%** to the fee paid for using the hall.

Levy and collection of tax on luxury provided in a club [Sec 3D]

There shall be levied and collected a tax on luxuries provided in a club to the members who are required to pay any amount as fee, deposit, donation or any other such charges by whatever name called, at the rate as specified in column (3)of the table below.

Sl. No.	Location of club	Rate of tax
(1)	*(2)*	*(3)*
1.	Corporation area	600/- per member pa
2.	Other areas	300/- per member pa

Provided that no tax shall be payable in respect of a member who has attained 65 years of age and who is not a corporate member subject to such conditions as may be prescribed.

Provided further that no tax shall be payable in respect of a member of a Youth club registered/recognised as such by the Department of Youth Services.

Levy and collection of tax on luxury provided in a hospital [Sec 3E]

- Where charges for luxury provided in a hospital are more than ₹ 1,000/- per day, there shall be levied and collected a tax @ **8%** of such charges.

- *Where, in addition to the charges for luxury provided in a hotel, service charges are levied and appropriated to the proprietor and not paid to the staff, then, such charges shall be deemed to be part of the charges for luxury provided in the hotel.*

Registration of proprietors and stockists [Sec 4A]

- Every proprietor/a stockist liable to pay tax under this Act shall get himself registered under this Act in such manner and within such period as may be prescribed and shall pay a registration fee of **₹ 250/**-.
- The registration granted shall be valid for **1 year** and shall be renewed from year to year on payment of the fee specified in sub-section (1).
- Where, however, the proprietor/a stockist is already registered under the Karnataka Sales Tax Act, 1957, then, he shall not be liable to pay the registration or renewal fee prescribed under this section.
- The Luxury Tax Officer [LTO] may for good and sufficient reasons, demand from a proprietor/a stockist liable to pay tax under this Act, security for due payment of tax and on such demand the proprietor/a stockist shall furnish security within **8 days** from the date of receipt of the order demanding security.

Registration of proprietors and stockists [Sec 4A]

- The amount of security payable under sub-section (4) shall not exceed an amount equivalent to **one fourth** of tax anticipated for the year form the proprietor/stockists. The LTO may demand an additional security, if he has reason to believe that the security furnished already is inadequate.
- Where a proprietor/a stockist has more than one place of business, the registration certificate shall cover all such places of business. The LTO shall issue copies of the registration certificates to the proprietor/the stockist for exhibition at each of his places of business.
- A certificate of registration shall be personal to the proprietor/the stockist to whom it is granted and shall not be transferable.

Returns [Sec 5]

Notwithstanding anything contained in section 5A, every proprietor/stockist liable to pay tax under this Act shall furnish to the assessing authority within **60 days** of the expiry of the year, a return in the prescribed from.

Payment of tax in advance [Sec 5A]

- Every proprietor/stockist liable to pay tax under this Act shall furnish to the assessing authority within **20 days** of the expiry of a month, a statement in the prescribed form, showing therein the whole amount of tax due from him according to such statement.
- Every statement under sub-section (1) shall be accompanied by a treasury challan in proof of payment of the full amount of tax due according to the statement, and a statement without such proof of payment shall not be deemed to have been duly filed and the amount so payable shall for the purpose of Sec 7 *[Imposition of penalty in certain cases]* and Sec 8 *[Payment of tax and penalty]* be deemed to be tax due under this Act from such proprietor/stockist.

Payment of tax in advance [Sec 5A] (Contd..)

- If default is committed in the payment of tax for any month beyond **10 days** whether or not a statement as required under sub-section (1) is filed; or if the amount of tax paid is less than the amount of tax payable for any month, the dealer defaulting payment of tax or making short-payment of tax shall, in addition to the tax, pay interest calculated at the rate of **2% pm** from the date of such default or short-payment to the date of payment of such tax or up to the date specified for payment of tax assessed under section 6, as the case may be

Imposition of penalty in certain cases [Sec 7]

- Where any proprietor/stockist liable to pay tax under this Act,-
  - fails without sufficient cause or neglects to furnish a return as required by sub-section (1) of section 5 *[Returns]*, or
  - while furnishing a return under sub-section (1) of section 5 fails, without sufficient cause or neglects, to pay into government treasury the whole amount of tax due firm him according to such return as required by sub-section (2) of section 5, or
  - fails without sufficient cause, to comply with the terms of notice issued to him under clause (a) of sub-section (2) of section 6 *[Assessment and collection of tax]*, or
  - conceals the particulars of any transaction or deliberately furnishes inaccurate particulars of any transaction liable to tax,

Imposition of penalty in certain cases [Sec 7]

- the LTO may impose upon such proprietor or stockist by way of penalty, in addition to any tax assessed under section 6, a sum not exceeding ***one and a half times*** the amount of the tax.

- Provided that no penalty shall be imposed for failure to furnish a return or pay tax on turnover of stock of luxury as required relating to ***Gutkha*** if such return is furnished or tax is paid within ***30 days*** from the date of commencement of the Karnataka Tax on Luxuries (Amendment) Act, 2001.

Appeals [Sec 9]

If a business liable to pay the luxury tax fails to do so, or underpays the amount due, according to an assessment by the state tax office, the tax commissioner can impose a penalty, along with the tax that the tax office believes it should pay. According to Chapter V of the act, a business proprietor can appeal against a tax assessment or a penalty, but must make the appeal to the appellate authority within **30 days** of receiving notice of the assessment or penalty. The appellate authority hearing the case can confirm the assessment or penalty, set aside the assessment or penalty, or it can enhance the assessment or penalty.

Thank You

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