

## **THE KERALA FINANCE ACT, 1993**

**(Act 13 of 1993)**

### **CONTENTS**

*Preamble:*

*Sections:*

1. Short title and commencement.
2. Amendment of Act 11 of 1957.
3. Amendment of Act 35 of 1958.
4. Amendment of Act 13 of 1961.
5. Amendment of Act 15 of 1963.
6. Amendment of Act 7 of 1975.
7. Amendment of Act 19 of 1976.
8. Amendment of Act 15 of 1991.

## THE KERALA FINANCE ACT, 1993\*

(Act 13 of 1993)

*An Act to give effect to certain financial proposals of the Government of Kerala for the financial year 1993-94*

*Preamble*—WHEREAS it is expedient to give effect to certain financial proposals of the Government of Kerala for the financial year 1993-94.

BE it enacted in the Forty-fourth Year of the Republic of India as follows:—

1 *Short title and commencement.*—(1) This Act may be called in Kerala Finance Act, 1993.

(2) Save as otherwise provided in this Act, sub-clauses (ii) and (iii) of clause (6), sub-clause (ii) of clause (17) and clauses (18) and (19) of section 5 shall come into force at once and the remaining provisions shall be deemed to have come into force on the 1st day of April, 1993.

2. *Amendment of Act 11 of 1957.*—In the Kerala Surcharge on Taxes Act, 1957 (11 of 1957),—

(1) in section 2, for the words and figures ‘The Agricultural Income Tax Act, 1950’, wherever they occur, the words and figures “The Kerala Agricultural Income Tax Act, 1991” shall be substituted;

(2) in clause (b) of sub-section (1) of section 3, for the word “eight”, the word “ten” shall be substituted.

3 *Amendment of Act 35 of 1958*—In the Kerala Money Lenders Act, 1958 (35 of 1958), in item (1) of sub-section (2) of section 4, for the words “one thousand rupees”, the words “two thousand rupees” shall be substituted.

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

(1) for sub-section (1), the following sub-section shall be substituted, namely.—

“(1) Subject to the provisions of sub-section (2) and Section 7, the basic tax charged and levied under section 5 shall be at the rate of fifty paise in Panchayat area, one rupee in Township or Municipal area and two rupees in Corporation area per acre per annum”.

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\*Received the assent of the Governor on the 29th day of July, 1993 and published in the Kerala Gazette Extraordinary No. 787 dated the 29th July, 1993.

(ii) in sub-section (2),—

(a) in the opening paragraph, for the words “per hect are” the words “per are” shall be substituted;

(b) in the first proviso, the words “per hectare per annum”, shall be omitted;

(c) in the second proviso,—

(i) the words “per hectare per annum” shall be omitted;

(ii) for the words “basic tax per hectare” the words “basic tax per are” shall be substituted.

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

(1) in section 5,—

(i) in sub-section (1), after clause (v), the following clause shall be inserted, namely:—

“(vi) in the case of goods specified in the Sixth Schedule, at the rate specified in the said Schedule at all points of sale in the State:

Provided that no tax shall be payable on that part of the turnover on which tax has already been levied on the preceding sales in the State.”;

(ii) in sub-section (2A), in clause (i), sub-clauses (c) to (g) shall be omitted;

(iii) sub-section (3) shall be numbered as clauses (i) thereof and after clause (i) as so renumbered, the following clause shall be inserted, namely:—

“(ii) Where any dealer, after purchasing any goods by furnishing a declaration as mentioned in the second proviso to clause (i), fails to make use of the same for the purpose for which the declaration was furnished, he shall be liable to pay the tax that would have been payable by him had, the declaration not been furnished, less the tax, if any, paid by him and the same shall be levied and collected as if it is a tax due from him.”;

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

“5B. *Levy of licence fee on cooked food.*—Any dealer in cooked food, including beverages sold or served not falling under the entries against serial numbers 40, 53 and 54 of the First Schedule, whose turnover in a year exceeds five lakh rupees, shall pay annual licence fee at the rate of two hundred and fifty rupees for every one lakh rupees or part thereof in excess of five lakh rupees, in such manner as may be prescribed:

Provided that such dealer shall not be liable to pay tax under sub-sections (1) and (2) of section 5 and under section 5A.”;

(3) in section 7,—

(i) in sub-section (14), for the words “the rental amount”, the words “twice the rental amount” shall be substituted;

(ii) in sub-section (17), for the words “the rental amount”, the words “twice the rental amount” shall be substituted;

(4) in Section 13,—

(i) sub-section (2) shall be omitted;

(ii) in sub-section (3), the words brackets and figure “or sub-section (2)” shall be omitted

(5) in section 14, in sub-section (1), for items (c) and (d), the following items shall be substituted, namely:—

“(c) where the total turnover is ten lakh rupees and above but less than fifty lakh rupees	Seven hundred and fifty rupees plus twenty five rupees for each lakh or part thereof above ten lakh rupees.
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(d) Where the total turn over is fifty lakh rupees and above	One thousand seven hundred and fifty rupees plus fifty rupees for each lakh or part thereof above fifty lakh rupees subject to a maximum of ten thousand rupees.”;
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(6) in section 15,—

(i) in sub-section (1), for the words “as the case may be”, the words “permitting him to authorise” shall be substituted,

(ii) in sub-section (4),—

(a) for the words “such fee not exceeding ten rupees as may be prescribed”, the words “a fee of fifty rupees” shall be substituted;

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

“*Explanation*—A dealer may make a single application for all the permits required by him together with the fee for each permit applied for.”;

(iii) in sub-section (6), for the words “such fee not exceeding ten rupees as may be prescribed”, the words “a fee of fifty rupees” shall be substituted;

(7) in section 17,—

(i) in sub-section (4), for the words “the assessing authority shall accept the return”, the words “the assessing authority shall accept the return for any year, the assessment relating to which has not been completed” shall be substituted,

(ii) after sub-section (5), the following sub-sections shall be inserted, namely.—

“(6) Any assessment under this section shall be completed within a period of four years from the expiry of the year to which the assessment relates:

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

Provided further that all assessments pending as on the 1st day of April, 1993 shall be completed within a period of four years from the date of publication of the Kerala Finance Act, 1993

(7) Notwithstanding anything contained in sub-section (6), in cases where any investigation or enquiry is pending under this Act or any other law, the assessing authority may, with the previous permission of the Deputy Commissioner, keep the assessment pending beyond the period of four years mentioned under the said sub-section

(8) Any assessment or reassessment in pursuance of an order of an appellate or revisional authority shall, unless a period has been specified in the order, be completed within a period of four years from the date of receipt of that order:

Provided that all such assessments or reassessments pending as on the 1st day of April, 1993, shall be completed within a period of four years from the date of publication of the Kerala Finance Act, 1993.

(9) In computing the period for the completion of an assessment under this section, the time during which the proceedings for assessment remained stayed under the orders of a court or other competent authority shall be excluded”,

(8) in section 23,—

(a) in sub-sections (3), (4), (5) and (6), the word, ‘penal’ wherever it occurs, shall be omitted;

(b) after sub-section (3), the following Explanation shall be inserted, namely.—

“*Explanation* —Where the period of default is less than one month, interest shall be calculated for the actual number of days of default.”

(9) after section 26, the following section shall be inserted, namely:—

“26A. *Certain transfers to be void*—(1) Where, during the pendency of any proceedings under this Act or after the completion thereof, any assessee creates a charge on, or parts with the possession (by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever) of any of his assets in favour of any person, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee under this Act”;

(10) to sub-section (2) of section 28, the following proviso shall be added, namely:—

“Provided that where the tax paid by a dealer registers an increase of 25% over the tax paid during the immediate preceding year, entry and inspection referred to in this sub-section shall be made only with the previous permission in writing of the Deputy Commissioner.”,

(11) in sub-section (2B) of section 29A, after the words, ‘has at any time defaulted payment of any tax for any period’, the words “or the documents produced in support of the transport of the goods evidence defects of minor or technical nature only” shall be inserted.

(12) in sub-section (2) of section 34, the words “and be accompanied by a fee of rupees one hundred” shall be inserted at the end;

(13) in sub-section (1) of section 35, in between the words “an Appellate Assistant Commissioner” and “and may make such enquiry”, the words “which in his opinion is prejudicial to revenue” shall be inserted;

(14) in sub-section (2) of section, 36, the words “and be accompanied by a fee of rupees one hundred” shall be inserted at the end,

(15) in sub-section (1) of section 37, in between the words “an Appellate Assistant Commissioner” and “and may make such enquiry” the words “which in its opinion is prejudicial to revenue” shall be inserted;

(16) in sub-section (2) of section 38, the words “and be accompanied by a fee of rupees two hundred and fifty” shall be inserted at the end;

(17) in section 39,—

(i) in sub-section (3), for the words, “such fee not exceeding one hundred rupees as may be prescribed”, the words “a fee of rupees two hundred and fifty” shall be substituted;

(ii) in clause (b) of sub-section (7), for the words "such fee not exceeding one hundred rupees as may be prescribed", the words "a fee of rupees two hundred and fifty" shall be substituted;

(18) in section 40,—

(i) in sub-section (2), for the words "one hundred rupees", the words "two hundred and fifty rupees" shall be substituted;

(ii) in clause (b) of sub-section (7), for the words "one hundred rupees", the words "two hundred and fifty rupees" shall be substituted;

(19) in section 41,—

(i) in sub-section (2), for the words "one hundred rupees", the words "two hundred and fifty rupees" shall be substituted;

(ii) in clause (b) of sub-section (7), for the words "one hundred rupees" the words "two hundred and fifty rupees" shall be substituted,

(20) in section 45A, after sub-section (5), the following sub-section shall be inserted, namely:—

"(5A) An application under sub-section (3) shall be accompanied by a fee of rupees one hundred and that under sub-section (5) by a fee of rupees two hundred and fifty.";

(21) in the First Schedule,—

(a) against serial number 34, in column (4), for the figures "2.5", the figure "3" shall be substituted,

(b) against serial number 35, in column (4), for the figures "2.5", the figure "3" shall be substituted;

(c) against serial number 65,—

(i) in column (2), for the words "Dried ginger", the words "Ginger, whether green or dried" shall be substituted;

(ii) in column (4), for the figure "5", the figure "4" shall be substituted;

(d) against serial number 70, in column (4), for the figure "1", the figure "4" shall be substituted;

(c) against serial number 75,—

(i) in column (2), for the entry “Linoleum”, the entry “Linoleum and flexible flooring materials” shall be substituted;

(ii) in column (4), for the figures “20”, the figures “15” shall be substituted,

(f) against serial number 117, in column (4), for the figures “12.5”, the figures “15” shall be substituted;

(g) for serial number 119 and the entries relating thereto against it, the following serial numbers and entries shall be substituted, namely:—

“119 Soap—hand made	do.	6
119A Soaps other than hand made	do.	8”;

(h) after serial number 127 and the entries relating thereto against it, the following serial number and entries shall be inserted, namely:—

“127A Surgical equipments and instruments, medical implants and injection needles	do.	8”,
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(i) after serial number 148 and the entries relating thereto against it, the following serial number and entries shall be inserted, namely:—

“148A Water storage tanks made of fibre glass, plastic or other synthetic material	do.	10”;
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(j) against serial number 151, in column (2), the words “wheat products and” and *Explanation* thereunder shall be omitted,

(22) In the Second Schedule,—

(a) against serial number 9, in column (2), the word “wheat” shall be omitted;

(b) after serial number 9 and the entries relating thereto against it, the following serial number and entries shall be inserted, namely:—

“9A Wheat and wheat products	do.	4
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*Explanation.*—Wheat products means maida, atta, suji, rava, resultant atta and bran. Wheat and wheat products shall be treated as single commodity or levy of tax.”,



(23) in the Third Schedule,—

(a) in the existing entry against serial number 35, the words “whether used for human beings or animals” shall be inserted at the end;

(b) in the entry against serial number 59, the words “green ginger” shall be omitted

(24) in the Fifth Schedule —

(a) for serial number 8 and the entries relating thereto against it the following serial number and entries shall be substituted, namely:—

“8 Timber do 4 do 4 do 8

*Explanation* —“Timber” includes all kinds of wood, standing trees, logs, planks, rafters of any size or variety”,

(b) serial numbers 9 and 11 and the entries relating thereto against them shall be omitted,

(25) after the Fifth Schedule, the following Schedule shall be inserted, namely:—

#### “SIXTH SCHEDULE”

*Goods in respect of which tax is leviable under clause (VI) of sub-section (1) of section 5.*

<i>Sl. No.</i>	<i>Description of goods</i>	<i>Rate of tax (Per cent)</i>
(1)	(2)	(3)
1.	Microwave oven	12
2.	Refrigerators, water coolers, air conditioning plants, air coolers, room coolers and machines and components thereof	12
3.	Washing machines, dish washers	12
4.	Vacuum Cleaners	12.”.

6. *Amendment of Act 7 of 1975.*—In the Kerala Building Tax Act, 1975 (7 of 1975),—

(1) sub-section (1) of section 3A shall be and shall be deemed to have been omitted with effect from the 1st day of March, 1993.

(2) in section 5,—

(i) for sub-section (2), the following sub-section shall be substituted, namely —

“(2) In the case of any building, the construction of which is completed prior to the appointed day but the assessment of which has not been initiated or completed or against which appeal or revision has been filed, building tax shall be assessed on the basis of the plinth area at the rate specified in the Schedule.”,

(ii) to sub-section (5), the following proviso shall be added, namely:—

“Provided that the plinth area of a garage or any other erection or structure appurtenant to a residential building used for the purpose of storage of firewood or for any non-residential purpose shall not be added on the plinth area of that building.”;

(3) to section 6, the following proviso shall be added, namely,—

“Provided that the plinth area of a garage or any other erection or structure appurtenant to a residential building used for storage of firewood or for any non-residential purpose shall not be taken into account for determining the plinth area of that building”;

(4) in section 13,—

(i) to sub-section (1), the following proviso shall be added, namely:—

“Provided that where the Government consider it necessary so to do for the promotion of tourism they may, by notification in the Gazette, provide for such additional number of instalments as may be specified in the notification for the payment of building tax in respect of the building the construction of which is completed on or after the 1st day of March, 1993, and in such areas as may be specified and having such specifications as may be prescribed in this behalf.”;

(ii) sub-section (2) shall be omitted;

(5) in the Schedule,—

(i) under the heading “*Residential Buildings*”,—

(a) for the entry “On the first 75 square metres” in column (1), the entry, “Not exceeding 100 square metres” shall be substituted;

' Above 75 square metres but not exceeding 100 square metres—

(ii) in other cases", in column (1) and the entries relating thereto in columns (2), (3) and (4) shall be omitted;

“Not exceeding 50 square metres Nil Nil Nil”  
shall, respectively, be substituted

(1) in section 25, after clause (b), the following clause shall be inserted namely.—

“(c) in the case of any transport vehicle fitted with diesel engine, be increased by an additional surcharge at the rate of ten per cent of the tax so leviable”;

(2) in the Schedule,—

(1) after item 3, the following item shall be inserted, namely.- -

“3A. Private service vehicles, for every seated passenger (other than the driver) 100.00”,

(ii) in item 4,—

(a) in sub-item (i), for clauses (d) and (e), the following clauses shall be substituted, namely:—

“(d) More than 6 passengers, but not more than 12 passengers, for every passenger	200.00
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(c)	More than 12 passengers, but not more than 20 passengers, for every passenger	250.00
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(f) More than 20 passengers, for every passenger 370.00";

(b) for sub-item (iii), the following sub-item shall be substituted, namely:—

“(iii) Vehicles permitted to ply as stage carriages (Ordinary, Fast Passenger and Express Services)

- |  |        |
|--|--------|
| (a) <i>Ordinary Services</i> —For every seated passenger (other than the driver and the conductor) which the vehicle is permitted to carry                   | 250 00 |
| (b) <i>Fast Passenger and Express Services</i> —For every seated passenger (other than the driver and the conductor) which the vehicle is permitted to carry | 300 00 |
| (c) For every standing passenger the vehicle (whether Ordinary, Fast Passenger or Express Service) is permitted to carry                                     | 50.00” |

3 *Amendment of Act 15 of 1991.*—In the Kerala Agricultural Income Tax Act, 1991 (15 of 1991),—

(1) in section 3, in the proviso to sub-section (1), for the words “a Company”, the words, “a company or a firm” shall be substituted;’

(2) in section 4, in sub-section (1), after clause (b), the following clause shall be inserted, namely.—

“(c) share income received by a partner from any firm on which tax has been paid by the firm ”;

(3) in section 5,—

(a) for clause (m), the following clause shall be substituted, namely.—

“(m) such other deductions including replantation allowance subject to such limits, conditions or restrictions as may be prescribed generally or in particular cases,”

(b) in the *Explanation II*, the following shall be inserted at the end, namely:—

“Gratuity and bonus paid before the due date for the submission of return will be allowed as deduction in the previous year to which the return relates.”,

(4) for section 8, the following section shall be substituted, namely ---

“8. *Income forming part of the total agricultural income on which no tax is payable.*—Tax shall not be payable by an assessee who is a member of an association of persons or a body of individuals on that portion of the amount which he is entitled to receive from the association or body of individuals on which tax has already been paid by the association or body of individuals”,

(5) section 11 shall be omitted.

(6) in section 13,—

(i) in sub-section (9), the words “partner of any firm or” shall be omitted;

(ii) after sub-section (9), the following sub-section shall be inserted, namely,—

“(9A) In the case of a firm which applies for composition of tax under sub-section (1), the maximum limit of twenty hectares specified therein shall be one hundred hectares and the rates specified in column (5) of the Table to that sub-section shall apply to it for the whole extent on which compounded tax is leviable and the provisions contained in the first proviso to that sub-section shall not apply to such firm”,

(7) for section 15, the following section shall be substituted, namely —

“15. *Relief from double taxation* —(1) Any person who is a member of an association of persons or body of individuals is not liable to pay tax on the share of agricultural income which he received as a member of such association of persons or body of individuals on which tax was levied and paid by such association of persons or body of individuals

(2) If any person is a member of more than one association of persons or body of individuals having landed property or is deriving agricultural income, all such income received by any such person shall be included in his total agricultural income and the tax payable on such total agricultural income shall be calculated in accordance with the provision of this Act after deducting the share of tax payable by him, as member, out of the tax levied on the agricultural income of such association of persons or body of individuals and the balance tax, alone, if any, shall be levied from such person”,

(8) in section 39, to sub-section (6), the following provisos shall be added, namely —

“Provided that in the case of assessment of agricultural income derived from manufactured tea, if the assessment under the Income Tax Act, 1961 (Central Act 43 of 1961), is not completed when the Agricultural Income

Tax Officer proceeds to complete the assessment, he may provisionally accept the agricultural income as per the return filed by him and revise such assessment in accordance with the order of the Income Tax Authority and the limitation fixed under any of the provisions of this Act shall not apply to such revision of assessment

Provided further that a person who is in receipt of agricultural income from manufactured tea, fails to submit copy of the assessment order or appellate or revisional order under the Income Tax Act, 1961 (Central Act 43 of 1961), within thirty days of its receipt by him, he shall be liable to pay interest as provided under sub-section (4) and penalty as provided under sub-section (5) of section 37 on the balance of tax payable in accordance with the order of the Income Tax Authority on the expiry of ninety days from the date on which he received such order.”,

(9) in section 72, in sub-section (3), the words “and shall be accompanied by a fee of one hundred rupees” shall be inserted at the end,

(10) in section 74, in sub-section (6), for the words “one hundred rupees”, the words “two hundred and fifty rupees” shall be substituted,

(11) in section 77, in sub-section (2), the words “and shall be accompanied by a fee of two hundred and fifty rupees” shall be inserted at the end;

(12) In the Schedule,—

(i) in the entry against serial number 1, for the words “a company”, the words “a firm or a company” shall be substituted;

(ii) after serial number 1 and the entries relating thereto, the following serial number and entries shall be inserted, namely—

“1A In the case of a firm, 40% of the total agricultural income.”.