

**Office of the Pr Accountant General(E&RSA)**

**Karnataka, Bangalore**

# **Manual on Minor Taxes**

**Entry Tax**

**Entertainments Tax**

**Professions Tax**

**Agricultural Income Tax**

**Luxury Tax**

**Betting Tax**

## **PREFACE**

I have great pleasure in bringing out this Volume II of COMMERCIAL TAX MANUAL duly updated/revised, keeping in view the changes brought out thereafter and also incorporating the INTOSAI/ASOSAI Standards, which is intended for the guidance of the members of the Receipt Audit Head-quarters Sections and the Local Audit Parties. This Volume covers the following disciplines of commercial taxes, as under:

- Part I General Chapters
- Part II Entry Tax
- Part III Entertainments Tax
- Part IV Professions Tax
- Part V Agricultural Income Tax
- Part VI Luxury Tax
- Part VII Betting Tax

This manual contains directions and instructions for the efficient performance of Local Audit. The instructions in the manual are to be treated as supplementary to the codes and manuals issued by the Comptroller and Auditor General of India.

Those engaged in audit of these revenue receipts, should acquaint themselves with the provisions of the various Acts and Rules and other procedural instructions issued by the State Government. This manual is not a substitute for the Acts and Rules and should not be quoted as an authority in any correspondence with persons and authorities outside this office.

RA-IV Section is responsible for keeping the Manual up-to-date.

Suggestions for the improvement of this Manual would always be appreciated.

**Sd/-**  
**(ANITA PATTANAYAK)**  
**PRINCIPAL ACCOUNTANT GENERAL**  
**(ECONOMIC & REVENUE SECTOR AUDIT)**

**BANGALORE**  
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## GENERAL CHAPTERS

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# **CHAPTER I**

## **AUDIT OF STATE RECEIPTS**

### **1.1 MANDATE FOR AUDIT**

AQMF: III – Audit Management

QME : 5- Conducting of Audit

KIE : (i) Section 16 of C&AG's (DPC) Act, 1971

(ii) Para 2.3.1 to 2.3.15 of Chapter 3, Section II of MSO (Audit)

(iii) Guidelines issued by INTOSAI & ASSOSAI

(iv) Chapter 4 of Regulations on Audit and Accounts, 2007.

The Comptroller and Auditor General of India has the mandate to audit the receipts flowing into the Consolidated Fund of Union, State and Union Territories under Articles 149 to 151 of the Constitution of India read with the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. The role of the Comptroller and Auditor General of India with regard to the audit of receipts is specified in Section 16 of the CAG's (DPC) Act, 1971.

In pursuance of the provisions of the Constitution and C&AG's (DPC) Act, 1971, the C&AG has promulgated Auditing Standards that prescribe the norms of principles and practices which the auditors are expected to follow in the conduct of audit. These are also consistent with the contemporary global best practices including those of International Organisation of Supreme Audit Institution (INTOSAI) and Asian Organisation of Supreme Audit Institution (ASOSAI).

### **1.2 GENERAL PRINCIPLES OF STATE RECEIPT AUDIT:**

Audit of State Receipts will be regulated by the general principles governing the audit of receipts as laid down in Chapter III of C&AG's Manual of Standing Orders (Audit), C&AG's Auditing Standards, guidelines of INTOSAI, ASOSAI and the provisions of this manual.

It is primarily the responsibility of the departmental authorities to see that all receipts due to Government are correctly and properly assessed, realised and credited to Government account. Audit should, however, see that

(a) Any payment for which a party may be liable is actually demanded, received and brought to account and the receipts are correctly calculated and credited to Government account in time.

(b) The Executive have not granted any unjustified remission to tax payers.

(c) The departmental machinery is sufficiently safeguarded against error and fraud and that, so far as can be judged, the procedure is calculated to give effect to the requirements of law.

(d) Such examinations are carried out as it thinks fit with respect to the correctness of the sums brought to account in respect of revenue receipts.

(e) It will not in any way substitute itself for the Revenue authorities in the performance of the statutory duties.

(f) Where the information available on an individual case is insufficient to enable the audit to ascertain how the requirements of the law have been complied with, audit may consider as its duty to ask for any further information to enable it to form the judgement required of it as to the effectiveness of the system.

(g) Audit of receipts will be regulated mainly with reference to the statutory provision and as judicially interpreted or financial rules or orders which may be applicable to the particular receipts involved.

(h) Adequate regulation exists for proper account of Government Revenue:

(i) In the case of a department which is a receiver of public money, that proper checks are imposed to ensure prompt detection and investigation of irregularities, double refunds, fraudulent or forged refund vouchers or other loss of revenue through fraud, error or willful omission or negligence to levy or collect taxes or to make refunds and suggest such appropriate improvements in procedures. For instance, the department could be requested to undertake a comparison of a sample test of counterfoils of receipts with those available with the tax payers or other debtors, the results of such investigation being made available to audit.

(j) It is to satisfy itself by such test-checks, as it may consider necessary that the internal procedure adequately provides for and actually secures against all types of irregularities in the functioning of the department which is detailed in the KE Act and Rules there under.

(k) Deviation from prescribed norms is examined.

Further, audit shall not review judicial pronouncements:

Under Section 18(2) of the DPC Act, 1971, it is the statutory obligation of the officer-in-charge of the office/department being audited, to afford all facilities for the inspection/audit and comply with the requests for information in as complete form as possible and with all reasonable expedition.

## **CHAPTER II**

### **AUDITING STANDARDS**

AQMF: I- Leadership and Direction

QME: 2 Vision, Mission, Core values and Auditing Standards

KIE: (i) Para 2.1.2 of Chapter I, Section II of MSO (Audit)

(ii) Constitution of India

(iii) Guidelines issued by INTOSAI & ASSOSAI

(iv) Chapter 4, 12 & 15 of Regulations on Audit and Accounts, 2007.

Auditing Standards prescribe the norms of principles and practices, which the Auditors are expected to follow in the conduct of Audit. They provide minimum guidance to the Auditor that helps to determine the extent of auditing steps and procedures that should be applied in the audit and constitute the criteria or yardstick against which the quality of audit results are evaluated.

The auditing standards of the INTOSAI have been suitably adapted with due consideration of the Constitution of India, relevant Statutes and rules for the auditing standards for the SAI.

#### **2.1 INTOSAI's AUDITING STANDARDS**

The general framework of the auditing standards of INTOSAI has been deduced from the Lima, Tokyo and Seoul declarations, the statements and reports adopted by INTOSAI in various congresses, and the report of the United Nations Expert Group Meeting in Public Accounting and Auditing in Developing countries.

The auditing standards consist of four parts:

(a) Basic postulates

(b) General Standards in Government Auditing

(c) Field Standards

(d) Reporting Standards

#### **2.2 BASIC POSTULATES**

The basic postulates for auditing standards are basic assumptions, consistent premises, logical principles and requirements which help in developing auditing standards and serve the auditors in forming their opinions and reports, particularly in cases where no specific standards apply.



### **2.3 GENERAL STANDARDS IN GOVERNMENT AUDITING:**

This section deals with general standards. The general standards in government auditing describe the qualifications of the auditor and the auditing institution so that they may carry out the tasks related to field and reporting standards in a competent and effective manner.

### **2.4 FIELD STANDARDS IN GOVERNMENT AUDITING**

The field standards establish the framework for conducting and managing audit work. They are related to the general auditing standards, which set out the basic requirements for undertaking the tasks covered by the field standards. They are also related to the reporting standards, which cover the communication aspect of auditing, as the results from carrying out the field standards constitute the main source for the contents of the opinion or report.

The field standards applicable to all types of audit are:

**(a) Planning:** The auditor should plan the audit in a manner, which ensures that an audit of high quality is carried out in an economic, efficient and effective way and in a timely manner.

**(b) Supervision and Review:** The work of the audit staff at each level and audit phase should be properly supervised during the audit; and a senior member of the audit staff should review documented work.

**(c) Study and Evaluation of Internal Control:** The auditor, in determining the extent and scope of the audit, should study and evaluate the reliability of internal control.

**(d) Compliance With Applicable Laws and Regulations:** In conducting regularity (financial) audits, a test should be made of compliance with applicable laws and regulations. Any indication that an irregularity, illegal act, fraud or error may have occurred which could have a material effect on the audit should cause the auditor to extend procedures to confirm or dispel such suspicions.

**(e) Audit Evidence:** To confirm and support the auditor's judgement and conclusions, and to increase the efficiency and effectiveness of the audit; adequate, competent, relevant and reasonable evidence or documentation should be obtained. It will serve also as a source of information for preparing reports or answering any enquiries from the audited entity or from any other party;

The auditor should bear in mind that the content and arrangement of the working papers reflect the degree of the auditor's proficiency, experience and knowledge. Working papers should be sufficiently complete and detailed to enable an experienced auditor having no previous connection with the audit subsequently to ascertain from them as to what work was performed to support the conclusions.

**(f) Analysis of Financial Statements:** In regularity (financial) audit, and in other types of audit when applicable, auditors should analyse the financial statements to establish whether acceptable accounting standards for financial reporting and disclosure are complied with. Analysis of financial statements should be performed to such a degree that a rational basis is obtained to express an opinion on financial statements.

**(g) Examination of Fraud/Defalcation cases:** Weak and suspect areas vulnerable to risk of defalcation, fraud, etc are also to be highlighted in the Audit Reports. Important points dealing with fraud are listed below:

- Manipulation, falsification or alteration of records or documents
- Misappropriation/misapplication of assets
- Suppression or omission of the effect of transactions from records or documents.
- Recording of transactions without substances.
- Misapplication of accounting policies.

## 2.5 REPORTING STANDARDS:

The Reporting standards set down the framework for reporting the results of audit concisely, with accuracy, objectivity and clarity and in a constructive manner and for appropriate, conclusive and preventive follow up action.

### **(A) Local Audit Reports**

On the completion of each audit assignment, the audit reporting process begins with submission of an Inspection Report setting out the audit observations and conclusions in an appropriate form to the Head of any Office or Department which has been audited with a request to submit replies and clarifications/comments on the audit observations. Depending on the veracity and relevance of replies/clarifications received and the materiality of the observations in the Inspection Reports, these are further processed for reporting in the Audit Report submitted by the SAI for being placed in the concerned Legislature.

### **(B) The form and content of all audit opinions and reports are based on the following general principles:**

- (a)** Proper title, helping the reader to distinguish it from statements and information issued by others.
- (b)** The opinion or report should be properly dated and signed.
- (c)** The opinion or report should include reference to the objectives and scope of the audit and should be complete in relation to the material reported.
- (d)** The opinion or report should identify the financial statements (in the case of regularity (financial) audits) or area (in the case of performance audits) to which it relates.
- (e)** Audit opinions and reports should identify the legislation or other authority providing for the audit.

### **(C) The following standards apply equally to all these reports with variations in the scope of these reports.**

- The content of Inspection Reports should be easy to understand, free from ambiguity and supported by sufficient, competent and relevant audit evidence and be independent, objective, fair, complete, accurate, constructive and concise.
- The auditor should issue the reports in a timely manner for use by management, legislature and other interested users.

- With regard to fraudulent practice or serious financial irregularities detected by audit, a written report should be prepared. This report should indicate the scope of audit, main findings, total amount involved, modus operandi of the fraud or the irregularity, accountability for the same and recommendations for improvement of internal control system, fraud prevention and detection measures to safeguard against recurrence of fraud/ serious financial irregularity.
- In reporting on irregularities or instances of non compliance with laws or regulations, the auditors should be careful to place their findings in the proper perspective. The extent of non-compliance can be related to the number of cases examined or quantified monetarily.

**(D) Follow up of Audit Reports:**

Adequate, prompt and proper follow up action by the entity on and in the light of audit conclusions projected will enhance the effectiveness of audit and promote public accountability.

Systems and procedures should be in place and implemented for securing appropriate conclusions and preventive follow up action on audit reports. In subsequent audits and otherwise, the Auditor should examine and report whether satisfactory action was taken on the audit reports.

**(E) Report distribution**

Written audit reports are submitted by the audit Organisation to the appropriate officials of the Organisation audited. Copies are also sent to other officials who may be responsible for taking action on audit observations and conclusions. However, the report is not a public document till it is presented to the legislature.

## **CHAPTER III**

### **AUDIT PROCEDURE (PLANNING) AND AUDIT EXECUTION**

AQMF: III-Audit Management

QME: 5 Conducting of Audit

KIE : (i) Chapter 1 of Section VI of MSO (Audit)

(ii) Chapter 3 of Section II of MSO (Audit)

(iii) Chapter 4 of Regulations on Audit and Accounts, 2007

#### **3.1 NEED FOR AUDIT PLANNING**

The field standards forming part of auditing standards includes planning. There is a need for introduction of a strong, more professional and result oriented system of audit based on basic Accounting/Auditing principles with focus on the safeguarding of the Government Revenue. For this, various factors like total work load involved, optimum utilization of available manpower resources, revenue trends, sensitivity of the product to suppression or evasion of tax, duty etc., have to be taken into consideration for a comprehensive audit plan which should be prepared keeping in mind the auditing standards.

#### **3.2 BASIC REQUISITES.**

- 1) The audit work should be planned in a manner to ensure high quality audit in a timely and economic, efficient and effective way. The Auditor may re-align the plan in the course of audit in the light of developments and disclosures when such revisions become necessary.
- 2) The Auditor should plan for optimum utilisation of audit resources and also for specific audit assignments for their orderly conduct in an economical, efficient and effective manner.
- 3) The Auditor should prepare, plan and prioritize audit assignments with reference to outlays, contemporaneous relevance and administrative and socio economic importance as well as quality and quantity of available audit resources and skills.
- 4) Determine the most efficient and effective audit approach and specify the audit objectives and the tests necessary to meet them;
- 5) Review the internal audit of the audited entity and its work program; assess the extent of reliance that might be placed on internal audit;

6) Provide for a review to determine whether appropriate action has been taken on previously reported audit findings.

### **3.3 AUDIT EXECUTION**

#### **(A) Demarcation of Duties of the personnel in the audit parties.**

AQMF: III-Audit Management

QME: 5 Conducting of Audit

KIE: Annexure to Para 6.1.7 of MSO (Audit)

There should be clear demarcation of duties of the personnel in the audit parties. The Officer in charge of the Audit Party shall prepare distribution of work of audit, to be indicated by him in writing, keeping in view the suitability of the individual official for performing the duties proposed to be entrusted or other relevant factors such as the absence of any of the members of the Audit Party. The audit personnel should be involved in clearly defined areas of work so that their contribution in terms of quality and quantum of audit results can be identified and their accountability ensured.

#### **(B) Responsibilities of Inspecting Officers**

AQMF: III- Audit Management

QME: 5. Conducting of Audit

KIE: (i) Para 183,187,190, 191 of Regulations on Audit and Accounts.

(ii) Para 6.1.7, 6.1.8, 6.1.17, 6.1.22 & 6.1.25, Para I-A of

Annexure to Para 6.1.7 of MSO (Audit)

(iii) Para 75 to 81 of Memorandum of Subsidiary Instructions

The Inspecting Officer will remain responsible for the efficiency of the inspection/ Audit as a whole, though some items of work may, in accordance with the local instructions or local usage, be entrusted to the subordinate staff. He must guide the members of the party in their work and determine the extent of independent action to be allowed to each of its members with reference to their experience, qualities and capacity to act independently. Based on such judgement, the Inspecting Officer may permit individual members of the party to issue audit memos themselves and see them in due course after issue. In cases where it is considered appropriate, he should stipulate that the memos be issued only with his approval. The Inspecting Officer should also keep himself posted with the progress of audit and the observations that have been communicated to the office inspected.

**(C) Audit procedure and preliminary checks.**

The audit procedure and checks dealt with in this chapter have to be interpreted in the context of basis and purpose of audit. While the basic value of audit is to discover or bring to light what others know but do not reveal, the analytical content in the reports are no less important. Audit procedure and practices are, therefore, not invariable for all times, they are only means to end, hence, if an end is not served means must change. Therefore, audit procedure and checks mentioned below which are not exhaustive and are only indicative, need to be grounded in sound common sense and be supplemented by originality and imagination in their adoption.

**(D) Verification of credit and reconciliation of figures and miscellaneous items of check**

The responsibilities of Audit do not cease with the completion of the verification of the correctness of the assessment of the demand and its realisation, though these are important tasks in themselves. No less important are the verification of the facts of remittance of the sums realised as taxes, duties, fees, penalties, etc., into the treasury and the reconciliation of the treasury figures relating to such remittances with the departmental figures. This is the logical culmination of the duties connected with Receipts and which would otherwise remain incomplete and unsatisfactory.

It is the primary duty of the department of Government concerned to ensure that the figures of the remittances made as per treasury accounts are reconciled month after month, with its own figures as per books of account kept by it. Such a reconciliation will not only facilitate rectification of errors in accounting such as mis-classifications but will also serve to detect more serious errors due to fraud, defalcations and the like. Cases have not been rare where due to omission in this respect misappropriation of the tax and duty collections, presentation of bogus challans and drafts, fraudulent tampering with the records, etc., have occurred. This is however, a work which due to its laborious nature, is often neglected by the departments but Audit will be failing in its duty if it does not bring such serious lapses to the notice of the concerned Heads of Department/Government with a view to ensure that this important item of work is invariably done every month.

**a) Selection of months for verification of credits:**

AQMF: III- Audit Management

QME: 5. Conducting of Audit

KIE: (i) Note-I below Para 78 of Memorandum of Subsidiary Instructions regarding extent of audit

(ii) O.O. No. PAG (AU) I/28/A/2000-01 dt: 20.11.2000

Besides ensuring reconciliation of departmental figures of receipts with those figures appearing in treasury accounts month after month, *two months credits for each year of audit* as appearing in the departmental records may also be checked with the original records of the treasury, so as to ensure that the money received has actually been credited into treasury. The certificate of verification of credits for two months selected may be specifically recorded in the memorandum forwarding the local audit reports.

**b) Verification of remittances where the period of audit exceeds three years**

AQMF: III- Audit Management

QME: N. Conducting of Audit

KIE: (i) Note-I below Para 78 of Memorandum of Subsidiary Instructions regarding extent of audit

(ii) O.O. No. PAG (AU) I/28/A/2000-01 dt: 20.11.2000

(iii) CAG's instructions dated 28-02-1984, communicated vide RAPC(S) Circular dated 28-02-2003.

When the period of audit to be covered exceeds three years, the audit may be restricted to the last three years immediately preceding the year of audit and verification of remittances to be done for two months for each year of audit.

**(E) Assurance Certificates**

These Certificates are to be given the Sr.AO/AO/AAOs/Sr. Ar/Ar of audit team in the prescribed format.

**(F) Non-production of files**

All the field parties are instructed to include a para at the end of the Report under the heading "Records not produced and records not maintained", showing both the categories separately, as two sub-paras. in the last paragraph of the local audit report. The particulars of records seen in local audit may be indicated in a separate list to be forwarded to the Receipt Audit Head Quarters section for use.



**(G) Maintenance of Audit Note Book by field parties**

All field parties should maintain an Audit note book. This may be utilized to record the list of important circulars issued by C.&.A.G and S.R.A. Headquarters and also important and interesting points noticed during local inspection. This book should be handed over along with the circular files, codes, etc., to the successor Section Officers for their guidance and continuity. The Receipt Audit Officers are requested to see that Audit note books are maintained by the field parties.

**(H) Communication of Results of Audit**

AQMF: III- Audit Management

QME: N. Conducting of Audit

KIE: (i) Para 6.1.20 to 6.1.22 of MSO (Audit)

(ii) Orders of Hqrs: C & AG's letter No. 2374-Tech /Admn-I/367-65  
dt. 7.8.1965

(iii) Chapter 14 of Regulations on Audit and Accounts, 2007

**The results of local audit and inspections should be set forth in an inspection report consisting of the following parts.**

**Part I**

- a) Introductory.
- b) Outstanding objections in brief from previous reports.
- c) Schedule of persistent irregularities.

**Part II**

**Section A:** Major Irregularities that is likely to materialize into draft paragraphs of the Audit Report and cases of system failure.

**Section B:** Irregularities, which, though not major, are required to be brought to the notice of higher authorities and followed up by the Accountant General, and instances of recoveries to be effected or regularised.

**Part –III**

**Test Audit Note** Contain minor irregularities, to which a schedule of items settled on the spot should be attached. The procedural irregularities in respect of which the head of the office has held out assurances about following correct procedure in future should be noted in this Schedule.

As a rule, trivial matters, which can be and have been set right on the spot or are of no consequence to the finances of the Government, need not be mentioned. However, if a number of similar errors or irregularities are noticed, it may be desirable to mention their type, citing one or more instances, so that proper instructions may be issued for future guidance of the Government servants concerned. The Inspection Report should be completed before the Inspecting Officer leaves the office inspected and it should not be signed until the officer in charge of the office (or any other office acting on his behalf) has been given the opportunity of reading and discussing it and suggesting any omissions or modifications. Proper reference to section, rule or order quoted in the para and cross reference to paras and audit enquiries should be made by the field parties. Annexures should be serially numbered giving reference in each annexure to the relevant para. Reasons for dropping any objections during discussion, etc., should invariably be recorded for information of the main office. The Test Audit Note does not require a reply in detail, but it should be verified at a subsequent inspection that adequate notice was taken of it.

Some of the important matters to which attention should generally be paid by the Local Audit staff and Officer-in-charge are mentioned in the Secret Memorandum of Instructions regarding the Extent of Audit.

## **CHAPTER – IV**

### **e-GOVERNANCE**

The Commercial Taxes Department has adopted in the financial year **2011-12** several innovative e-governance initiatives for providing convenience to tax payers and there by improve tax compliance. The prominent among them are as follows:

- (i) Facility for applying for Registration through Internet.
- (ii) Facility of filing return electronically through internet.
- (iii) Facility of making electronic payment (mandatory in case of payments of Rs.25,000 & above vide CCT Notification No. EG1.CR-4/2012-13 dated 27-04-2012) and compliance reconciliation of such payments.
- (iv) Facility of declaring electronically details of goods movement from and into the State through internet.
- (v) Facility of declaring electronically details of transit of goods through the state through internet.
- (vi) Facility of filing of Profession Tax returns through internet.

In addition to the above, during this financial year the following initiatives have been put in place to further strengthen internal control mechanism to ensure effective and transparent tax administration.

**i. e-CAS (Comprehensive Audit System):**

This provides for electronic trail of all the stages of audit of self assessments made by the dealer right from the stage of allotment of returns for scrutiny to assignment of cases for audit to passing of final assessment orders by the audit officers to the outcome of any appeal filed against such orders. The audit officers are required to keep log of each stage on the system, upload orders for which unique numbers are generated to bring total accountability and make the entire process tamper proof.

**ii. e-DCB (Demand, Collection and Balance) module:**

This facility ensures correct and prompt recording demands raised in each case, its collection and balance so that it could be monitored for prompt revenue realization.

**iii. e-Enforcement module:**

This enables correct recording of the functions carried by the enforcement officers and monitor the outcome to bring in accountability of the process.

**iv. e-Grievance Redressal system:**

This enables registered dealer to raise grievances electronically and track the status of their redressal.

**v. e-GRAHAK:**

This enables a citizen to complain or provide information to the Commercial Taxes Department about tax evasion by a dealer through SMS and track the status of action taken on this online.

**vi. Facility for electronic Payment of other taxes :**

Tax payers under Luxury Tax, Entertainment Tax and Betting Tax Acts are also now given the facility of electronic payment of taxes so as to reduce their cost of compliance and reduce mistakes in reconciliation of payments made through other modes.

**vii. Facility of electronic Returns and other taxes:**

Luxury Tax and Entertainment Tax payers are now provided facility of filing the returns electronically.

## **CHAPTER V**

### **HEAD QUARTERS SECTION**

AQMF: III- Audit Management

QME:10 Reporting and Follow up

KIE: (i) Para 6.1.21,6.1.22,6.1.23 of MSO (Audit)

(ii) HQ's letter No. 117 (Aud.Plg)/59-96 dated 26.2.1998

#### **5.1 WORKING OF HEADQUARTERS SECTIONS**

1. The Headquarters Revenue Audit Section, should arrange to obtain Government Orders, Notifications, Departmental Circulars, Instructions, Clarifications and Judgement of Courts, etc., affecting the Commercial Tax Department and examine them. If it is found necessary to take up any issue with Government or the Commissioner of Commercial Taxes, it should be done promptly. Copies of important orders or circulars should be communicated to the Audit Parties for their guidance. Review of the Audit Reports of other States should also be undertaken and cases of important irregularities commented in these reports should be communicated to the audit parties for their guidance.

2. The programme of local audit offices should be drawn sufficiently in advance at least one month before the local audit. The Head-quarters sections should send the previous Local Audit Report with other connected records to the field party so as to reach the party at the time of commencement of next local audit. The Local Audit Reports of the audited institutions should be received in head-quarters sections concerned within one week from the last date of audit.

3. The vetting sections should watch the receipt of Local Audit Reports. Delays of more than one week in the receipt of the draft reports from the field parties should be examined and brought to the notice of the Group Officer for remedial action. The Local Audit Report should be edited at head-quarters and issued within a month of completion of the local audit, duly approved by the Group Officer.

4. While issuing the local audit report, it should be ensured that only serious objections having draft paragraph potential or their requiring recovery or regulation on the system failure, etc are only included in the report. At the time of vetting the local audit reports, the branch officer in-charge in head-quarters would satisfy himself

that paragraphs as aforesaid nature only have been included in the local audit report and record a certificate to the effect.

5. Major irregularities and audit observations should be brought to the notice of the Government and the Commissioner of Commercial Taxes by addressing special letters.

6. First replies to the local Audit Reports have to be furnished by the Head of Offices within a period of four weeks. Replies to Part – III, Test Audit Note, is not required to be watched in Central Audit. It is enough if the disposal is checked during next audit.

7. Reports section of head-quarters will be responsible for processing draft paragraphs to be included in the Report of Comptroller and Auditor General of India (Revenue Receipts), Government of Karnataka. It also fixes the following additional parameters for review of performance –

- Recoveries at the instance of audit.
- Amounts involved in the results of audit for the year
- Amendments to laws, rules, procedure etc., made consequent upon audit.

The section should suitably club audit observations to ensure that draft paragraph would involve a minimum financial impact in monetary terms. At present, the minimum limit fixed is Rs.5 lakh.

8. An objection book and adjustment register should be maintained for recording the money value objections included in the local audit reports. The items should be pursued vigorously by initiating correspondence with the departmental officers with a view to expediting their settlement. The above register should be closed every month.

9. A watch register is maintained separately for watching the receipt of draft local audit reports from the field parties, vetting in the headquarters section and issue to the departmental officers after approval by the Group Officer. The Register should be closed weekly and submitted to the Group Officer (RA State) during the first week of every month.

10. Similarly, another progress register (generally known as 5th Register) is maintained for watching the receipt of replies to the local audit reports from the departmental officers. The register should be closed and submitted to the Group Officer on the 5th of every month. This register should be examined periodically

with a view to see whether there are any delays of more than one month in the receipt of replies to the local audit reports and to bring such cases to the special notice of the Head of the Department for necessary action

11. Assurance Memo to be signed by the Head-quarters section as prescribed.

## **5.2 SETTLEMENT OF OBJECTIONS**

Head-quarters. Office Circular No. 25 of 1984 prescribes the procedure for settlement of objections in State Receipt Audit.

According to Para 4(1) of the circular, the objections may be treated as settled once the department accepts the objection and the demand are raised. Audit need not wait till the collections of amount, settlement need not be delayed on the ground that the appeal has been filed against the demand and the adjudication of the appeal is pending.

According to the delegation of powers by the Accountant General (E&RSA), the following officers are permitted to drop the objection as settled.

1. Where the objection has been accepted by the Department and taken to demand

All Part II A paras – By DAG/RSA

All Part II B Paras – By SR. AO/AO

2. When the objection has not been accepted by the department and it is not possible to sustain the objection and hence made proposal to drop the objection.

All Paras with money value of –

Above Rs.25, 000..... By the Accountant General

Above Rs.1, 000 but

Below Rs.25, 000..... By Deputy Accountant General/RSA

Below Rs.1, 000..... By Sr. Audit Officer/Audit Officer

**PART-II**  
**ENTRY TAX**



**THE KARNATAKA TAX ON ENTRY OF GOODS  
INTO LOCAL AREA ACT, 1979**

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# **THE KARNATAKA TAX ON ENTRY OF GOODS INTO LOCAL AREA ACT, 1979**

## **CHAPTER I INTRODUCTION**

### **MANDATE FOR AUDIT**

The Comptroller and Auditor General of India has the mandate to audit the receipts flowing into the Consolidated Fund of Union, State and Union Territories under Articles 149 to 151 of the Constitution of India read with the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. The role of the Comptroller and Auditor General of India with regard to the audit of receipts is specified in Section 16 of the CAG's (DPC) Act, 1971.

### **1.1 HISTORICAL AND LEGISLATIVE BACKGROUND**

In pursuance to the re-organisation of States in the year 1956, the municipal laws prevailing in the different integrated areas of the new State provided for the imposition of a tax called "Octroi". The levy of octroi was, however, abolished from 1.4.1979 as it was considered to be in the way of free flow of trade.

As octroi happened to be the main source of revenue for the local bodies, and the local bodies had to be compensated for the loss arising out of the abolition of levy of octroi, the State Government enacted a legislation called the Karnataka Tax on Entry of Goods into local Areas for Consumption, Use or Sale Therein Act, 1979 (hereinafter referred to as the KTEG Act).

This Act was enacted under the legislative powers derived from Article 246 of the Constitution of India, read with Entry No.52 of List II of the VII Schedule to the Constitution. The Act received the assent of the President on **27.5.1979** and was first published in the Karnataka Gazette on 1.6.1979.

The Act of 1979 amended by Act 12 of 1981 and Act 13 of 1982 with several subsequent amendments is the Act now in force. For carrying out the various provisions of the Act, the State Government has been empowered to frame the necessary rules. Under this provision, the State Government has made the Karnataka Tax on Entry of Goods Rules, 1979.

## 1.2 ORGANISATION AND FUNCTIONS OF THE DEPARTMENT

The Commercial Tax Department is empowered to administer the KTEG Act, 1979. At the State level, the Department is headed by the Commissioner of Entry Tax assisted by Additional Commissioners, Joint Commissioners, Deputy Commissioners, Assistant Commissioners and Entry Tax Officers.

The authorities mentioned below are authorised to exercise powers, discharge duties and perform functions under the KTEG Act 1979.

- (i) Commissioner of Entry Tax: He is the administrative head and shall perform functions under Section 12 of this Act.
- (ii) The jurisdictional Additional Commissioner can take up Suo Moto Revision proceedings in respect of any order passed by the subordinate officers working under him (**Section 15 of the Act**).
- (iii) The JCET (Admn) is empowered to supervise the administration of the Act and collection of taxes under his respective jurisdiction. He can take up SMR proceedings in respect of orders passed by the subordinate officers working under him, if such orders are prejudicial to Government revenue (**under Section 15**).
- (iv) The JCET (Appeals) of the concerned jurisdiction can admit, grant, stay and dispose off the appeals proposed before him (under Section 13).
- (v) Deputy Commissioner of entry tax/Assistant commissioner of entry tax/Entry Tax Officer is the administrative and assessing authority in respect of an assessee under his jurisdiction.

## CHAPTER II

### THE KARNATAKA TAX ON ENTRY OF GOODS ACT, 1979 AND THE RULES THEREUNDER

#### 2.1 BASIC FEATURES OF ENTRY TAX LAWS:

The following are the **basic features** of entry tax laws.

- The levy of entry tax is on the value of goods (as defined in Section 2A (8-a) of the Act), purchased by the dealer. The authority empowered to collect that tax is the State Government.
- The dealer by virtue of registration is empowered to collect that tax from the customer (Section 3-A).
- The dealer can collect only the lawfully leviable tax (Section 3-A).
- The dealer is liable for penalty in respect of the tax collected by him in contravention of the provisions of Section 3A of the Act (Section 3-B).

#### 2.2 IMPORTANT DEFINITIONS (Section 2):

**i) Agricultural produce or horticultural produce** shall not include tea, beedi leaves, coffee, rubber, cashew, cardamom, pepper and cotton and such produce as has been subjected to any physical, chemical or other process for being made fit for any consumption, save mere cleaning, grading, sorting or drying. **Section 2(1)**

**ii) Dealer** means any person who, in the course of business, whether on his own account or on account of a principal or any other person, brings or causes to be brought into a local area any goods or takes delivery or is entitled to take delivery of goods on its entry into a local area and includes an occasional dealer. **Section 2(4)**

**Note:** - An industrial, commercial or trading undertaking of the Government of Karnataka, the Central Government or any other State Government, a local authority, a company, a Hindu undivided family, an Aliyasanthana family, a firm, a society, a club or an association which carries on such business shall be deemed to be a dealer for purposes of this Act.

**iii) Goods** means all kinds of moveable property (other than newspapers, actionable claims, stocks and shares and securities) and includes livestock. **Section 2(4-a)**

**iv) GOODS VEHICLE** means any kind of vehicle used for carriage of goods either solely or in addition to passengers (other than aeroplanes and rail coaches) and includes push cart, animal drawn cart, tractor-trailer and the like.

v) **Local Area means** an area within the limits of a city under the Karnataka Municipal Corporations Act 1976, a Municipality under the Karnataka Municipalities Act 1964, a Notified Area Committee, A Town Board, a Sanitary Board or a Cantonment Board constituted or continued under any law for the time being in force and a Mandal under the Karnataka Zilla Parishads, Taluk Panchayat Samithis, Mandal Panchayats and Nyaya Panchayat area under the Karnataka Panchayat Raj Act, 1993. **Section 2(5).**

vi) **OCASSIONAL DEALER** means any person who, in the course of occasional transactions of business nature whether on his own account or an account of a principal, or any other person brings or causes to be brought into a local area any goods or takes delivery or is entitled to take delivery of goods on its entry into local area.

vii) **VALUE OF THE GOODS** shall mean the purchase value of such goods, that is to say, the purchase price at which a dealer has purchased the goods inclusive of all charges borne by him as cost of transportation, packing, forwarding and handling charges, commission, insurance, taxes, duties and the like, or if such goods have not been purchased by him, the prevailing market price of such goods in the local area.

**Section 2(8-a)**

### **2.3 LEVY OF TAX**

*Section 3* of the KTEG Act provides for the levy of tax, on entry of any goods specified in the first schedule, into a local area for consumption, use or sale therein, **at the rates not exceeding 5% of the value of the goods** as may be specified, retrospectively or prospectively, by the State Government by notifications issued from time to time.

The tax levied shall be paid by every registered dealer or a dealer liable to get himself registered under this Act, who brings or causes to be brought into local area, the goods whether on his own account or on account of his principal or any other person or who takes delivery or is entitled to take delivery of such goods on its entry into local area.

The explanation below Section 3 provides for levy of entry tax at the hands of the dealer who takes delivery of goods brought into a local area by a person other than the dealer.

## **2.4 EXEMPTIONS FROM LEVY OF ENTRY TAX**

- a) No tax shall be levied and collected from a dealer who brings or causes to be brought into a local area any *goods in respect of which tax has been paid or has become payable in any other local area.*
- b) *No tax shall be levied on any goods specified in Second Schedule to the Act* on its entry into a local area for consumption, use or sale therein (Section 3(6)).
- c) No tax shall be levied on a defense unit which causes entry of any goods for use by it in the manufacture, repair or research and development of defence and defense related goods (section 3(6-A))
- d) Every manufacturer who brings any goods into a local area or every dealer who brings any goods into the State, the aggregate value of which is less than one lakh rupees in a year and any other dealer who brings any goods into a local area, the aggregate value of **which is less than two lakh** rupees shall not be liable to pay tax for that year (section 3(7)).

## **2.5 COLLECTION OF TAXES (Sections 3A, 3AA, 3B, 3BB):**

- (a) No person other than a registered dealer (including Central/State Government which are registered dealers) shall collect any amount by way of tax or purporting to be by way of tax. The tax so collected shall not exceed the rate(s) prescribed.
- (b) No dealer shall collect any amount by way of tax or purporting to be by way of tax in respect of goods on which no tax is payable under this Act.
- (c) Any person contravenes any of the provisions of section 3A the assessing authority may, after giving such person a reasonable opportunity of being heard by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times of such amount
- (d) Where any amount is collected in contravention of the provisions, the entire amount so collected shall be paid to the assessing authority within the time prescribed.

## **2.6 REGISTRATION**

- (1) Section 4 provides for registration under this Act in the following cases:
- A dealer who buys or receives goods liable to tax under this Act and who is doing business in a local area and is registered or is liable for registration in the manner prescribed under the Karnataka Sales Tax Act, 1957 (KST Act) or the Karnataka Value Added Tax, 2003 (KVAT Act);

- Any dealer who causes entry of goods into local area or takes delivery or entitled to take delivery of such goods, the aggregate value of which is not less than two lakh rupees in a year;
- Every manufacturer who buys or causes to be brought any goods into a local area or every dealer who brings or causes to be brought any goods into the State shall get himself registered under this Act, if the aggregate value of such goods brought into a local area or into the State, as the case may be, is not less than one lakh rupees in a year;
- Every dealer undertaking works contract involving the use or consumption of goods entering into a local area; every non-resident dealer; every occasional dealer; every manager or agent of a non-resident dealer; other than a dealer dealing exclusively in the goods specified in the schedule, irrespective of the value of such goods.

(2) The registration under this Act shall be made in such manner on payment of such fee and within such period as may be prescribed. The registration shall be renewed from year to year on payment of the prescribed fee in the manner prescribed until it is cancelled.

(3) A dealer already registered under the KST Act or KVAT Act need not pay registration or renewal fee under this Act.

## **2.7 LEVY OF TAX ON MOTOR VEHICLES:**

1. Section 4-A deals with the definitions connected with levy of Entry Tax on Motor Vehicles. The important definitions are detailed below:

**a) Entry of Motor Vehicle into Local Area:** means entry of motor vehicle into a local area from any place outside the State for use or sale therein.

**b) Importer:** means a person who brings a motor vehicle into a local area from any place outside the State for use or sale therein and who owns the vehicle at the time of its entry into a local area.

**c) Purchase Value:** means the value of motor vehicle as ascertained from the invoice and includes the value of accessories fitted to the vehicle, insurance, excise duty, countervailing duties, sales tax, transport fee, freight charges and all other charges incidentally levied on the purchase of a motor vehicle.

2. Section 4-B of the Act provides for levy and collection of tax on the purchase value of a motor vehicle, entry of which is effected into a local area for use or sale

therein and which is liable for registration or assignment of a new registration mark in the State under the Motor Vehicle Act, 1988. at such rates as may be fixed retrospectively or prospectively by the State Government by notification but not exceeding the rates specified in respect of motor vehicles under the KST Act or KVAT Act. The importer is liable to pay tax under this section in such manner and within such time as may be prescribed. However, no tax shall be levied and collected in respect of a motor vehicle which is registered in any Union Territory or any other State under the Motor Vehicles Act 1988, fifteen months prior to the date on which a new registration mark is assigned in the State under the said Act.

3. **Reduction of tax liability:** Section 4BB provides for reduction of tax liability under the KST Act or the KVAT Act when a person liable to pay entry tax becomes liable to pay sales tax on the sale or purchase of Motor Vehicles.

Where the liability to pay tax under this Act is in respect of Motor Vehicles which are already subjected to tax under the KST Act or the KVAT Act, the tax payable under this Act shall be reduced to the extent of tax paid under these Acts. Similarly, tax leviable under this Act shall be reduced to the extent of tax paid, if any, under the law relating to General Sales Tax or CST in any other State or Union Territory.

**NOTE: - The Hon'ble High Court of Karnataka in the order dated 24-07-2009 in W.P No. 39540/2003 (T-YET) and connected with other writ petitions has quashed relevant sections 4B and 4BB of this Act as unconstitutional and also notification dated 27-08-2009 on the same grounds. In view of the orders of High Court, no entry tax can be levied on motor vehicles brought from outside the state. (Copy of the circular dated 27-08-2009 issued by the Commissioner of Commercial Taxes is enclosed)**

4. Section 4-D provides for exemption of tax where the entry of motor vehicles into the local area within 15 months from the date of registration of such vehicle, is occasioned as a result of shifting the place of residence from any Union Territory or other State into this State.

5. Under Section 4-E, no registering authority shall register any such motor vehicle unless payment of entry tax has been made by the person concerned in respect of such vehicle.



## **2.8 RETURNS, ASSESSMENT, PAYMENT, RECOVERY AND COLLECTION OF TAXES**

### **1. MONTHLY RETURNS AND PAYMENT OF TAX**

Every registered dealer and every dealer liable to get registered under this Act shall send every month to the assessing authority, a statement containing such particulars as may be prescribed in Form 3 and shall pay in advance, the full amount of tax payable by him on the basis of goods brought during the preceding month into the local area within 20 days of the close of the preceding month.

Provided that the specified class of dealers as may be notified by the Commissioner shall submit the return in the prescribed form, electronically through internet in the manner specified in the said notification. (w.e.f 01-04-2010)

In case of dealer whose total turnover in a year is not more than seven lakh fifty thousand rupees, such dealer shall pay the tax in advance once in a quarter.

If default is committed in the payment of tax for any month or quarter as the case may be, beyond ten days, if the amount of tax paid is less than the amount of tax payable for any month or quarter as the case may be, 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 two per cent per month from the date of such default or short payment to the date of payment of such tax. (**SECTION 7(2)**)

### **2. ANNUAL RETURNS AND FINAL ASSESSMENT (SECTION 8(2))**

**Under Section 5** of the Act, every registered dealer and every dealer who is liable to get himself registered under the Act is required to submit an annual return within thirty days after the close of the year to which the return relates showing the total and taxable turnovers for that year and amounts by way of tax or taxes payable / paid by him during that year.

On receipt of the return, the assessing authority shall, if he is satisfied after scrutiny of accounts and enquiry that the return is correct and complete, finally assess on the basis of the return, the tax payable under the Act for the preceding year to which the return relates.

If no return is submitted by the dealer or if the return submitted by him is incorrect or incomplete, the assessing authority shall assess the dealer according to the best of his judgment recording the reason for such assessment after issue of a proposition notice in Form 7 or Form 8 as the case may be. A notice in Form 9

demanding the tax due is served upon the dealer and he should pay the tax demanded within 21 days from the date of service of demand notice.

## **2.9 LEVY OF PENALTY**

**Sub-section 5 of Section 5 of the Act** provides that an assessing authority may levy penalty to the extent prescribed in cases of failure to submit a return or where some turnover is not disclosed in the return, while making an assessment.

The Act also provides for levy of penalty on dealers, at the rates prescribed from time to time, on the following occasions:

- (i) Collection of tax in contravention of the provisions of Section 3-A.
- (ii) Non-submission of return or submission of incorrect and incomplete return of turnover under Section 5.
- (iii) Non-payment of tax demanded within the due date under Section 8.
- (iv) Non-payment of tax in advance under Section 7.
- (v) Contravention of restriction/condition, etc of sub section (1) of Section 11-A by a dealer claiming exemption/reduction of tax.

The quantum of penalty leviable in the above cases is dealt in the Sections 3-B, 5(5), 7(2), 8(2) and 11A (3) of the Act.

While the levy of penalty on occasions at (i) and (ii) is discretionary on the assessing authority, in respect of items (iii) to (v), it is mandatory.

## **2.10 POWER TO EXEMPT OR REDUCE**

**Under Section 11-A of the Act**, the State Government may, if it is necessary in public interest, by notification and subject to such restrictions and for such period as may be specified in the notification, exempt or reduce either prospectively or retrospectively, the tax payable under this Act on the following:

- Any specified class of persons or
- Any class of dealers or
- Any goods or class of goods or
- On entry of all or any goods/class of goods into any specified local area.

## **2.11 CLARIFICATIONS AND ADVANCE RULINGS**

**Section 12-C of the Act** empowers the ‘Authority for Clarification and Advance Rulings’ to clarify the rate of tax applicable under the Act in respect of any goods liable to tax under the Act or the eligibility of any transaction to tax under the Act on an application by a dealer registered under the Act.

## **2.12 APPEALS (SECTION 13)**

Any person, aggrieved by an order of an assessing authority may appeal to the Appellate Authority of the area concerned within 30 days of receipt of the demand notice or the order against which the appeal is intended.

## **2.13 APPEAL TO THE APPELLATE TRIBUNAL (SECTION 14)**

Any person objecting to the Appellate Authority under Section 13 may appeal to the Tribunal within sixty days from the date on which the order was communicated to him.

## **2.14 REVISION (SECTION 15)**

The Deputy Commissioners, Joint Commissioners, Additional Commissioners and the Commissioner of Commercial Tax department have been empowered to call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by any assessing authority subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue he may, if necessary, stay the operation of such order for such period as he deems fit and after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling the assessment or directing a fresh assessment.

## **2.15 REVISION BY HIGH COURT IN CERTAIN CASES (SECTION 15A)**

Within 180 days from the date on which an order under section 14 of the Act was communicated to him, the appellant or the respondent may prefer a petition to the High Court against the order on the ground that the Appellate Tribunal has either failed to decide or decided erroneously any question of law.

## **2.16 APPEAL TO HIGH COURT (SECTION 16)**

Any assessee objecting to an order passed by the Commissioner/Additional Commissioner under Section 15 may appeal to the High Court within sixty days from the date on which the order was communicated to him.

## **2.17 CHECK POSTS OF COMMERCIAL TAX DEPARTMENT (SECTION 18-A, 18-B)**

Under the Karnataka Sales Tax Act, 1957 and Karnataka Value Added Tax, 2003 and rules made there under, a vehicle carrying goods under the said Acts from any place outside the state and bound for any place outside the State pass through the State, the driver or any other person incharge of such vehicle is required to furnish the necessary information and obtain a Transit Pass (TP) in duplicate from the officer incharge of the first Check Post (CP) after his entry into the State or after the movement has commenced in the State. The duplicate copy of TP shall be surrendered to the officer in charge of the last CP before his exit from the State. The surrendered TP's are sent back by the exit CPs with their seal and signature with the concerned entry CP. If the driver or any other person incharge of the vehicle does not surrender the TP at the exit CP within stipulated time, it shall be presumed that the goods carried thereby have been sold within the State by the owner of the vehicle and shall, irrespective of whether he is taxable person, be assessed to tax by the officer empowered in this behalf in the prescribed manner. If the owner of the vehicle having obtained the TP fails to deliver the same he shall be liable to pay by way of penalty a sum not exceeding the twice the amount of tax levied on the goods transported.

## **‘E-TRANSIT PASS’ OR ‘E-SIMPLY UPLOAD VEHICLE ON ENTRY AND GO ACROSS’ (E-SUVEGA)**

Upto 30<sup>th</sup> June 2011, transit passes were being issued manually. From 1<sup>st</sup> July 2011 onwards, ‘**e-Transit Pass**’ or ‘**e-Simply Upload Vehicle on Entry and Go Across**’ (**e-SUVEGA**) was introduced which is an internet based system and transporters/ traders can download the ‘Transit Pass application’ containing system generated unique number online by entering the required information. Upon verification of the contents of the ‘Transit Pass application’ with reference to the goods under transport, the Entry Check Post Officer (CPO) would approve the application electronically and issue Transit Pass (TP).

### **PRESCRIBED CHECKS:**

(i) The Entry Check Post officer (CPO) can verify the details of Transporter’s Vehicle, trader’s TIN, name and address with reference to the goods being transported in the vehicle. The CPO has the option to enter the details of consignments, alter or delete the details declared in the application form.

(ii) In case of transporters/traders carrying taxable goods from one State to another State through Karnataka State after getting Transit Passes and do not surrender the same at the exit Check Posts, the liability of tax and penalty rests jointly on the owner and hirer of the vehicle.

(iii) ‘**e-Transit Pass**’ or ‘**e-SUVEGA**’ provided for entry of all the particulars of transaction of goods being transported, the details of consignor and consignee with TIN etc. The same shall be verified by the Check Post officer with reference to the goods being transported in the vehicle.

(iv) In respect of movement of goods within the State, the transporter or in charge of the goods vehicle shall carry a goods vehicle record, tax invoice, bill of sale or *delivery note* or such other prescribed document stating whether transporting the goods in pursuance of sale for the purpose of delivery to the buyer or transporting the goods after purchasing them etc. The dealer shall obtain the delivery note in Form VAT-505 for such transportation of goods electronically from 1<sup>st</sup> January-2010.

### **REFUND OF TAX IN CERTAIN CASES (SECTION 28B)**

The tax paid by a registered dealer in respect of any goods shall be refunded to him, where such goods are sold by him in the course of export out of the territory of India.

## CHAPTER III

### KARNATAKA SPECIAL TAX ON ENTRY OF CERTAIN GOODS ACT, 2004

#### 3.1. INTRODUCTION

The Karnataka Special Tax on Entry of Certain Goods Act, 2004 (KSTEG Act) and the rules thereunder came into effect from the 20<sup>th</sup> day of September 2004, which extends to the whole of Karnataka State.

The main features of the Act and the Rules are:

- Levy of tax on entry of notified goods into local area from outside the State for consumption, use and sale by an importer at the rates specified under the Karnataka Sales Tax Act, 1957 (KST Act) or the Karnataka Value Added Tax, 2003 Act (KVAT Act)-**Section 3**.
- Credit for Sales Tax paid in other States/Union Territories including Central Sales Tax (CST) as a set off against special entry tax payable in case the importer is not a dealer (**Section 4**).
- Credit for special entry tax in the State of Karnataka as a set off against the KST payable by the dealer -**Section 4**.
- Deduction available from the value of notified goods liable to tax, in respect of goods returned within a period of six months from the date of delivery of the goods - **Rule 4(1)**.
- Deduction from the value of the notified goods liable to tax, in respect of goods bought and subsequently sent out of the State (Local Area) within a period of six months from the date of entry of such notified goods into local area – **Rule 4(2)**.

#### 3.2. IMPORTANT PROVISIONS UNDER THE KSTEG ACT, 2004 AND RULES THEREUNDER:

##### A IMPORTANT DEFINITIONS

- i) **Dealer:** means a dealer as defined under the Karnataka Sale Tax Act, 1957 (KST Act, 1957).
- ii) **Importer** means a person who brings or causes to be brought any notified goods whether on his own account or on account of a principal or any other person, into a local area, from any place outside the State for consumption, use or sale therein

or who owns the notified goods at the time of entry into the local area from any place outside the State.

iii) **Value of the notified goods** means the purchase value of the notified goods, as ascertained from original invoice and includes the value of accessories fitted to such goods, insurance, excise duties, countervailing duties and other duties, sales tax, transport fee, freight charges and all other charges incidentally levied on the purchase of such goods.

#### **B LEVY AND COLLECTION OF TAX:**

**Section 3 of the Act** provides for levy and collection of tax on an importer on the entry of any notified goods into any local area for consumption, use or sale therein, on the value of the notified goods at the rate specified in respect of such goods under the KST Act or KVAT Act.

#### **C REDUCTION IN TAX LIABILITY:**

**Section 4 of the Act** provides for reduction in an importer's tax liability as under:

- Where an importer of any notified goods liable to pay tax under the Act being a dealer in notified goods becomes liable to pay tax under the KST Act or KVAT Act, by virtue of sale of such notified goods, then his liability under the KST Act or KVAT Act shall be reduced to the extent of tax paid under this Act or if the tax paid under this Act is in excess of the amount paid under the KST Act or KVAT Act, such excess tax paid shall be refunded as may be prescribed.
- Where an importer, who not being a dealer in notified goods, causes entry of the notified goods for his own use or consumption from outside the State, then his liability under this Act shall be reduced to the extent of tax paid under the law relating to General Sales Tax or under the CST law, as may be, in force, in that Union Territory or State, subject to such conditions as may be prescribed.

#### **D EXEMPTION OF TAX:**

**Section 5 of the Act** empowers the State Government, if it is necessary in public interest, by notification, to exempt the tax payable under the Act by any specified class of importers or on any class of notified goods.

At present, the tax payable by an importer who is a registered dealer is exempt from payment of tax under KSTEG Act on the entry of notified goods into local area for

- Sale; and
- Use as raw materials and component parts in the manufacture of other goods for sale.

The Government has notified 26 goods (up to 2005-06) such as Petroleum Products, Electrical and Electronic goods, Paints, Cement, Sanitary Fittings, Flooring Stones, Timber, etc. which are liable to tax under the KSTEG Act.

### **E TAX AUTHORITIES, RETURNS, ASSESSMENTS, PAYMENTS, ETC:**

**a) Tax Authorities: Section 6 of the Act** empowers the authorities under the KST Act or any other authority authorised by Government/Commissioner of Commercial Taxes, by notification, to assess, re-assess, collect and enforce payment of tax, including any interest or penalty.

**b) Monthly returns:** Every importer, being a registered dealer under the KST Act shall file monthly returns in Form I on or before twentieth of every month alongwith the details of tax paid. When the importer fails to submit the return within the time prescribed or if the return submitted appears to be incorrect or incomplete, the assessing officer shall provisionally assess the tax payable for the month to the best of his judgement and serve a notice in Form II, demanding the tax payable.

An importer of the notified goods, not being a dealer, shall file returns in Form III along with proof of payment of tax due thereon within fifteen days from the date of entry of such notified goods into local area, when the notified goods are brought into the State other than through a check-post, and immediately, when the notified goods are brought through a check-post or the goods vehicle is intercepted by an Officer, including when the notified goods are brought into the State by air or rail and are in transit. If the return filed by such importer does not appear to be correct and complete, the authority concerned shall finally assess the tax to the best of his judgement and serve a notice in Form VI and the importer shall pay the sum demanded immediately.

**c) Assessment of tax:** After the close of the year for which returns have been submitted by an importer, registered as a dealer, during the course of the year or



where such importer has discontinued business, the Assessing Authority, shall after such scrutiny of the accounts and making such enquiry, finally assess on the basis of the return, the tax payable for the year or the period to which the returns relate.

If such importer is found to have failed to submit any return before the prescribed date, the Assessing Authority shall assess the tax payable thereon to the best of his judgement.

**d) Payment of tax:** The tax or any other amount payable under the Act shall be paid into the State Bank of India or any other Bank approved by the RBI, through a challan in Form X.

**e) Interest or Penalty:** Interest or Penalty payable by an importer under the Act is same as interest or penalty payable under the KST Act or KVAT Act.

## **F. OFFENCES AND PENALTIES**

A) **Section 10 of the Act** provides for levy of fine as prescribed, when any person:

- fails to pay, within the time allowed any tax assessed or any other penalty imposed on him under this Act,; or
- willfully acts in contravention of the provisions of this Act or the rules made thereunder;

B) Any person shall, on conviction be liable to be punished with fine as prescribed, when :

- willfully submits an untrue return or fails to submit a return as required by the provisions of the Act or Rules thereunder; or
- fraudulently evades the payment of any tax and other amount due from him under the Act.

**NOTE: - The Hon'ble High Court of Karnataka in the judgement dated 29-03-2007 (W.P No. 42570, 48016 of 2004) in the case M/s Bharat Earth Movers Ltd., Bangalore Vs the State of Karnataka has held the provisions of Section 3 of the KSTEG Act, 2004 as unconstitutional. (Copy of the judgement enclosed)**

## **CHAPTER IV**

### **RECORDS, REGISTERS AND RETURNS OF THE DEPARTMENT**

#### **4.1 ASSESSMENT FILES**

An assessment file opened for every assessee for each year would contain the following:

- statement of total / taxable turnover relating to every month,
- challans and receipts regarding the payment of tax in advance for each month,
- return of final or annual turnover submitted by the dealer
- challans or receipts regarding payment of tax
- notes or verification report
- assessment order
- office copy of the Demand Notice and acknowledgements
- correspondence relating to further action for recovery of tax,
- correspondence relating to penal action
- appeal order / revision order
- charge sheet or references relating to recovery of tax. In some offices separate files are maintained in respect of (i) registration, (ii) assessment and (iii) correspondence relating to recovery proceedings.

#### **4.2 REGISTERS**

With a view to facilitate proper administration of the provisions of the Act, all the Entry Tax officers in the State are required to open and maintain the following Registers in the prescribed formats. All the columns in those Registers are to be properly filled up by the concerned case workers, monthly abstracts put up and the entries / abstracts attested by the officers in charge.

##### **1. Dealers Index Register**

In this register, the names and other particulars of all the dealers registered under the Act are entered. At the end of every month, necessary abstract showing the details of (i) number of cases registered at the beginning of the month; (ii) new cases registered;

(iii) number of cases received by transfer from other offices; (iv) number of cases cancelled; and (v) number of cases transferred to other offices, are mentioned.

## **2. Register of Daily Cash Collections**

In this register, the amount collected towards tax registration, fee etc., are noted. The amount collected should be remitted into the treasury the same day or the next working day under a challan. The challan number and the date of remittances should be noted at the end of each day. The registers should be checked daily and initialed by the assessing officer. Daily totals should be put up in this register.

## **3. Register of Daily Cheque collection**

This register shows the cheques received from the assesseees towards tax etc., and the amount realised. Cheques received are entered in this register and sent to the treasury along with a challan prepared for the amount for credit into the Treasury. On receipt of information regarding the date of realisation and the challan number and date, necessary entries are made in the register. Collection entries in the Demand Register should not be posted directly from this register, but should be done only from Challan Posting Register. At the end of each month, abstract showing the details of cheques not presented / realised / dishonored etc., is to be prepared.

## **4. Challan Posting Register**

This is an important basic record from which demand registers are posted and the reconciliation of receipts is effected. The register is written up daily. For this purpose, the assessing officers should insist upon the daily receipt of challans from the Treasury and reconcile the difference, if any, then and there. Soon after entries are made in this register, appropriate registers are posted and a note of collection is also made in the assessment file.

As the challans are the basic records regarding collections, with reference to which the correctness of the entries in several other registers are to be checked, they should be carefully filed and stitched separately for each month.

## **5. Register of DCB**

This register is to ascertain the demands, collection and balance of tax against each assessee. The demand of tax should be entered in this register immediately after the assessments are made. They should not be postponed or posted in the subsequent month on the ground that demand notices were served in the subsequent month. In respect of entry tax, the previous month's balance and the current month's demand

constitute the total demand against which the collections of the month are posted, the balance being the difference of the two. Reasons for variations in demand should be indicated in remarks column like reduction in appeal, revision on final assessment etc. The arrears relating to previous years should be noted in the first few pages of this register, the entries being made year-wise

**6. Dealer's Ledger Account**

This register is the ledger account of each of the dealers assessed to tax. This should be maintained for four years. The arrears of tax due for all the previous years should be brought forward and noted in the register and collections watched.

**7. Recovery Register**

This register is meant for watching action taken for recovery of tax under Section 8(4), 9 and 21 of the Act. Recovery certificates issued to revenue authorities, applications filed before the court, recovery certificates issued to tax recovery officer and also notices issued to other persons from whom money is due to the dealer are entered.

**8. Refund Register**

This register shows the accounts of entry tax refunded to the assessee either by cash or by adjustment of the amount towards the tax payable on reduction of assessment in appeal, on revision etc.

**9. Cash Remittance Register**

This register is used to record the remittances of entry tax collected to Government Treasury / Bank. The entries in this register are checked everyday with reference to the original receipts by the officer – in – charge when they are in headquarters and in other cases soon after their return to the Headquarters.

**10. Register of pendency and disposal of assessments**

This register is maintained to note all the cases in which final assessments are pending in chronological order i.e. according to the year of assessment, earlier year assessment being entered first. Various stages of assessment should be entered as and when the different steps are taken. Remanded cases should also be entered in this register, under the year to which it relates.

**11. Confidential Register showing information received regarding evasion of tax, etc.**

This is maintained by the assessing officers personally and the particulars received regarding the suppression of turnover etc., are recorded in this register which also serves as a guide to his successor in office. The assessing authority should take action to dispose of the assessments making use of the information received.

<b>1.</b>	<b>A-Register : Dealers Index Register</b>	<b>Maintained Electronically w.e.f 01-04-2011</b>
<b>2</b>	<b>D-Register : Dealers Ledger Account</b>	
<b>3</b>	<b>E – Register: Notice Register</b>	
<b>4</b>	<b>G – 1 Register : Daily Collection/ Challan Posting Register</b>	
<b>5</b>	<b>G – 2 Register : Register of DCB</b>	
<b>6</b>	<b>G-3 Register :Advance Collection and Adjustments</b>	
<b>7</b>	<b>H- Register :Daily Cash Collection</b>	
<b>8</b>	<b>I-Register : Recovery Register</b>	
<b>9</b>	<b>P-Register:Register of Remittance into treasury</b>	
<b>10</b>	<b>M Register: Daily Cheque Collection Register</b>	
<b>11</b>	<b>Q-Register : Register of Refunds</b>	
<b>12</b>	<b>Cash Remittance Register</b>	
<b>13</b>	<b>K-Register : Register of Crimes</b>	
<b>14</b>	<b>L-Register :Register of Cross Reference sent out/received</b>	
<b>15</b>	<b>N-Register: Process Register</b>	
<b>16</b>	<b>O-Register : Receipts for Payment of money</b>	
<b>17</b>	<b>R-Register : Confidential Note books</b>	
<b>18</b>	<b>T1&amp;T2-Register : Commodity wise &amp; Consolidated Register of T1 Register</b>	
<b>19</b>	<b>Disposal Register</b>	
<b>20</b>	<b>Cheque Bounce Register</b>	<b>Maintained Manually</b>
<b>21</b>	<b>J-Register : Appeals and Revision</b>	

### **4.3 STATEMENT OF RECONCILIATION BETWEEN THE TREASURY AND THE DEPARTMENTAL FIGURES**

Reconciliation is carried out to verify realisation of remittances as per monthly treasury schedules with that of actual remittances made by assessing officers by means of challans. The Treasury on a monthly basis prepares treasury schedules and the same are furnished to the Department.

On receipt of Treasury schedules, reconciliation is carried out in the Department. This exercise consists of securing the presence of a representative from each assessing office. Date wise realizations concerning each office are announced and the official representative takes down the details. With reference to the allotments made in respect of realisation as per treasury schedules, further action is taken in the assessing offices totaling the realisation with that of remittances made as per the remittance registers. On this basis, postings are made in the challan posting register with particulars of challan number and dates and the amounts realised. Differences are reconciled taking into account cheques remitted to Treasury and not realised / pending realisation.

## **CHAPTER V**

### **AUDIT CHECKS**

AQMF: III – Audit Management

QME : N- Conducting of Audit

KIE : (i) Section 16 of C&AG's (DPC) Act, 1971

(ii) Para 2.3.1 to 2.3.15 of Chapter 3, Section II of MSO (Audit)

(iii) The KTEG Act, 1979

(iv) The KSTECEG Act, 2004

(v) The KTEG Rules, 1979

(vi) Order of Hon'ble High Court of Karnataka dated 24-07-2009  
in W.P No. 39540/2003 (T-YET) U/s 4B and 4BB of this Act  
circulated vide CCT notification dated 27-08-2009

(vii) Circulars dated 18-11-2005 & 21-03-2007 of RBI

(viii) Circular of RAPC(s) dated 24-11-2009.

#### **5.1 AUDIT CHECKS IN ASSESSMENTS**

The following checks should be exercised in the audit of assessments:

- (i) Whether the returns, assessments orders and other documents are filed in the assessment case of the dealer in the proper form.
- (ii) A perusal of the registration documents would give an idea about the nature of business, the goods the dealer deals in branches within and outside the State etc.
- (iii) Whether the tax due was credited to the proper head of account and there is no misclassification.
- (iv) It should be seen that there are no arithmetical or computation errors in determining the turnover or the tax payable.
- (v) Whether the order of assessment has been properly and correctly made out with reference to the turnover, rate of tax etc. and whether the assessing officer has properly carried out the checks required to be conducted by him.

- (vi) Where any concessional rate of tax has been levied or exemption allowed, it should be seen the conditions prescribed for the grant of such concession or exemption have been duly fulfilled.
- (vii) Whether the demands raised have been properly recorded in the registers and recoveries watched. It should be seen that the challans in support of the remittances are genuine and whether the reconciliation between the departmental figures and the Treasury figures is done properly and promptly. A test check of authenticity of challans for tax paid, furnished by the dealers, should be verified with reference to the treasury accounts.
- (viii) Whether the assessments are made according to the provisions of the Act and the Rules and also in conformity with directions issued by Government/Department.
- (ix) Whether the gross, exempted and net turnover have been correctly calculated taking into account all the transactions of the dealer.
- (x) Whether the correctness of the various figures furnished by the assessee has been verified by the department by a cross-reference to the relevant documents of other officer etc., wherever possible.
- (xi) Whether the assessment records contain the details of verification of goods subjected to single point tax, before giving exemption under the Act.
- (xii) Whether the classification of goods is correct with reference to the wording and description of the entry in the schedule.
- (xiii) Whether the transactions relating to all branches of the dealer have been considered for assessment.
- (xiv) Where there are differences between the turnover returned by the assessee and that determined in assessment, whether they are investigated and differences properly explained.
- (xv) Whether there is inordinate delay in finalizing the assessment and in the recovery of tax from the dealer.
- (xvi) Whether the interest leviable under Sections 7(2) and 8(2) of the Act for delayed payment of advance/assessed tax has been levied.
- (xvii) Whether levy of penalty prescribed in Sections 5(5), 11A (3), etc., has been considered by the assessing officer and in cases where the penalty under the above section has been levied, it should be seen that there is no reduction in the prescribed quantum.



- (xviii) Whether the amount of tax paid in advance under Section 7 of the Act adopted in the assessment order is correct.
- (xix) In the case of exemptions allowed, on a turnover relating to export/ re-export sales outside the state, it should be seen whether the turnover exempted has been verified with reference to the relevant agreements / other documents for effecting such sales / export / re-export.
- (xx) Whether the tax collected by the dealer under Section 9 has been remitted to Government.
- (xxi) Whether the special reports regarding evasion of tax etc., entered in the confidential register, have been made use of at the time of concluding the assessment of the dealers concerned.
- (xxii) Whether the interest (8% per annum) for belated realization of cheques have been levied and collected from the nodal banks earmarked for remittances in to Government treasury. (vide RBI circular No. RBI/2005/209 dated 18-11-2005 and No. RBI/2006-07/291 dated 21-03-2007 communicated by RAPC(S) vide circular dated 24-11-2009)

## **5.2 SCRUTINY OF REGISTERS**

In order to check that there has been prompt booking of demand and realisation of demands, the entries of the Demand and Collection Register should be checked with the Daily Collection Register. A test check of some of the entries in the daily collection register with the receipted challans should also be carried out.

The other registers maintained should be generally examined to verify that the departmental instructions relating to their proper maintenance have been followed.

Irregularities in assessment, collection and adjustment of tax due to improper maintenance of the registers should be pointed out.

### **5.3 CROSS-CHECK OF TURNOVER FIGURES COLLECTED IN INCOME TAX AUDIT**

During Local Audit, it is also necessary to link figures of turnover on the basis of the assessment made in respect of the same assessee by the Income Tax officer. If in the return submitted to the Income tax officer or in an assessment made by the Income Tax Officer, the extent of turnover is different from that taken for entry tax purposes that might lead to detection of entry tax evasion. A crosscheck of these two figures will, therefore, be useful. This may be done in cases where it is felt by the inspecting officer to be necessary during the local audit of assessment cases in the income tax wards.

### **5.4 SCRUTINY OF ORDERS**

The orders sanctioning writes off of demands should be scrutinized to see that –

- (i) the write off is sanctioned by the competent authority;
- (ii) that the circumstances in which the loss arose did not indicate serious or willful neglect, and that adequate steps were taken before deciding that recovery was impossible; and that the loss was not occasioned by any defect in the procedure or system or by any failure to observe prescribed rules or statutory provisions or by defective supervision on the part of higher administrative officers.

### **5.5 PENDENCY OF ASSESSMENTS AND ARREARS OF DEMAND**

During the local audit of entry tax offices, the audit parties should examine whether the pendency of assessments and arrears in demand present any special features such as –

- (i) omission to conclude/rectify an assessment (in individual cases by the end of three years from the year to which the turnover relates or four years from the date of the order to be rectified) ; or
- (ii) inadequacy of action taken in individual cases of arrears of demand where such demand exceeds Rs. 1,00,000; or where the total demand which has been in arrears is not less than Rs. 1,00,000 and is more than three years old, such cases should be included in the Local Audit Report with full facts viz., the name of the assessee, registration number, year, amount etc., so as to enable the Headquarters section to bring the cases to the notice of the higher authorities.

### Audit Quality Management System – Mapping of Guidelines

Audit Quality Management Framework	Quality Management Employed	Key Instruments Employed	Reference to the manual
Leadership & Direction	Tone at the Top	(i) Article 148 to 151 of the Constitution of India. (ii)CAG’s DPC Act 1971	Para 1.1 of Chapter I
	Vision, Mission core values and Auditing standards	(i) The KTEG Act and Rules (ii) The KSTECEG Act, 2004 (ii)MSO(Audit)	Para 1.2 of Chapter I
	Strategic Audit Planning	(i) The KTEG Act and Rules (ii) The KSTECEG Act, 2004 (ii)MSO(Audit)	Para 2.3 to 2.8, 2.17 of Chapter II
	Strategic direction and planning	(i)MSO(Audit) (ii)Performance audit guide lines	Para 4.1 & 4.2 of Chapter IV
Audit Management	Conducting of audit	(i) Section 16 of C&AG’s (DPC) Act, 1971 (ii) Para 2.3.1 to 2.3.15 of Chapter 3, Section II of MSO (Audit) (iii) The KTEG Act & Rules (iv) The KSTECEG Act, 2004 (v) High Court order dated 24-07-2009 (vi) Circulars issued by RBI & RAPC(S)	Para 5.1 to 5.5 Chapter V

**PART-III**  
**ENTERTAINMENTS TAX**

**THE KARNATAKA ENTERTAINMENTS TAX ACT, 1958**

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# **CHAPTER I**

## **THE KARNATAKA ENTERTAINMENTS TAX ACT, 1958**

### **AUDIT MANDATE**

The Comptroller and Auditor General of India has the mandate to audit the receipts flowing into the Consolidated Fund of Union, State and Union Territories under Articles 149 to 151 of the Constitution of India read with the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. The role of the Comptroller and Auditor General of India with regard to the audit of receipts is specified in Section 16 of the CAG's (DPC) Act, 1971.

The power of the State to levy Entertainment Tax is derived from Article 246(3) read with Entry 62 of List II of the Seventh Schedule of the Constitution of India.

### **1.1 LEGISLATIVE BACKGROUND**

In Karnataka, Entertainment tax was introduced for the first time in 1932, by the Mysore Amusement Tax Act 1932. It was replaced by the Mysore Cinematograph Shows Tax Act in 1951. In Bellary District, which joined the State in 1953, the Madras Entertainment Tax Act, 1939 was in force. Consequent on the re-organisation of States with effect from 1<sup>st</sup> November 1956, the levy of the tax was regulated by different statutes applicable to different areas of the State before the reorganization. With a view of having a uniform entertainment tax law for the entire State, the Karnataka Entertainment Tax Act, (Karnataka Act No.30 of 1958) was promulgated in 1958, as a consolidating and amending Act. This act as amended from time to time governs the levy of the Entertainment Tax and the Cinematograph shows Tax in all the areas of this State. For carrying out the various provisions of the Act, the State Government has been empowered to frame the necessary rules. Hence, the State Government passed the Karnataka Entertainment Tax Rules, 1959.

## **1.2 DEFINITIONS (SECTION 2)**

**Admission** includes admission as a spectator or as one of the audience and admission for the purpose of amusement by taking part in an entertainment.

**Amusement** means any amusement for which persons are required to make payment for admission to any amusement arcade or amusement park or by whatever name called.

**Antenna** means an apparatus which receives television signals that enables viewers to tune into transmission including national or international satellite transmission or moving pictures or series of pictures, by means of transmission of television signals by wire where subscriber's television sets at the residential or non-residential places are linked by metallic co-axial or optic fibre cable to a Central System called Headend.

**Cable Television** means a system organised for exhibition of films or moving pictures or series of pictures by means of transmission of television signals by wire where subscriber's television set is linked by metallic co-axial or optic fibre cable to a central system called the headend and by using a video cassette or disc or both, recorder or player or similar such apparatus on which pre-recorded video cassettes or disc or both are played or replayed and the films or moving pictures or series of pictures which are viewed and heard on television receiving set at a residential or a non-residential place of a connection holder.

**Cinema Theatre** means any place of entertainment in which cinematograph shows are held to which persons are admitted for payment.

**Complimentary ticket** means a ticket or pass for admission to an entertainment free of any payment or at a reduced rate of payment for such admission.

**Distributor** means any person who is engaged in selling, supplying, or distributing or making available on rental or hire basis, feature films, for exhibition of cinematograph show whether for cash or for deferred payment, or for rental or hire charges or for payment in any ratio or in any proportion to the total payment for admission to cinematography shows either in respect of individual cinematograph shows or in respect of such shows conducted in a day or a week or for any period or for other valuable consideration.

**Entertainment** means

- **A horse race or live telecast of a horse race** to which persons are admitted on payment;
- Cinematograph show including video shows to which persons are admitted on payment or exhibition of films or moving pictures which are viewed and heard on the television receiving set, with the aid of any type of antenna with the cable network attached to it or cable television for which persons are required to make payment by way of contribution or subscription or installation and connection charges or any other charges collected in any manner whatsoever;
- Any amusement or recreation or any entertainment provided by a multi system operator or exhibition or performance or pageant or a game or sport whether held indoor or outdoor to which persons are admitted on payment.

**Multi System Operator** means person engaged in the business of receiving and distributing satellite television signals, communication network, including production and transmission of programmes and packages.

**Payment for admission** includes

- Any payment made by a person who having been admitted to one part of a place of entertainment is subsequently admitted to another part thereof for admission to which a payment involving a tax or a higher tax is required.
- Any payment for seats or other accommodation in a place of entertainment.
- Any payment made for the loan or use of any instrument or contrivance which enable a person to get a normal or better view or hearing of the entertainment, which without the aid of such instrument or contrivance, such person would not get.
- Any payment for any purpose connected with an entertainment which a person is required to make as a condition of attending or continuing to attend the entertainment in addition to the payment, if any, for admission to an entertainment.
- Any payment for any purpose whatsoever connected with an entertainment including sponsorship fee and advertisement charges, which is paid to the proprietor or any person connected with conducting or organising such entertainment (except any event of sport), with a view to promote goodwill, brand



name or any business interest directly or indirectly which enable entry of any person into the entertainment.

- Any payment for admission of a motor vehicle into the auditorium of a cinema known as drive-in theatre.

**Place of entertainment** means the place where an entertainment is held and includes the booking office and any place from where the entertainment is provided by means of cable connection from any type of antennae with cable network attached to it or cable television and such other place where the accounts and other documents connected with the entertainment are kept.

**Population** means the population ascertained at the last preceding census of which the relevant figures are published..

**Proprietor** in relation to any entertainment other than the entertainment referred to in Section 2(e)(iii) means any person responsible for the management thereof and in relation to Section 2(e)(iii) means any person conducting, organising, sponsoring or patronising any such entertainment.

**Recreation Parlour** means any place where a game such as bowling, billiards, snooker or the like by whatever name called is provided for which persons are required to make payment for admission or participation.

### 1.3 LEVY OF TAX:

#### (A) TAX ON PAYMENTS FOR ADMISSIONS TO ENTERTAINMENTS (SECTION 3)

**Section 3(1):** For any entertainment, there shall be levied and paid to the State Government on each payment for admission excluding the amount of tax, entertainment tax at prescribed rates.

Provided that no tax shall be levied in the case of admission to a circus or drama or magic show or game or sport, where it involves no participation.

Provided further that admission to a game or sport involving proprietary teams, that is played for prize moneys and organized on commercial basis shall not be exempted from tax under the first proviso.

*It may be noted that not only cricket matches played as a part of IPL & ICL become liable to tax under this provision but all other games or sports which are organized on similar lines.*

However, on every complimentary ticket issued by the proprietor, entertainment tax shall be levied at such appropriate rates as if full payment had been made for admission to the entertainment according to the class of seat or accommodation to which the holder of such ticket is entitled to occupy or use. Where the seat or accommodation which the holder of such a ticket is entitled to occupy or use is different from the classes of seat or accommodation inside the auditorium or place of entertainment and for admission to the said seat or accommodation, no payment is fixed, the holder of such ticket shall be deemed to be entitled to occupy the highest class of seat or accommodation.

**(B) ADDITIONAL TAX ON ADMISSION (SECTION 3-A)**

In case of cinematograph shows, in addition to the tax leviable under Section 3, there shall be levied and paid to the State Government, a tax at prescribed rates based on the classification of the theatre (i.e., Air-conditioned/Air-cooled theatres, and other theatres).

**(C) SPECIAL PROVISIONS IN RESPECT OF CERTAIN FILMS (SECTION 3-C)**

Notwithstanding anything contained in Sections 3 and 3A,

- In the case of cinematograph show of a Kannada film (other than a remake or a dubbed version of a film of other language, which has secured a Censor Certificate from the Central Board of Film Certification on or after 1<sup>st</sup> September 1993) or a Kodava, Konkani, Tulu or Banjara Film produced in the State of Karnataka, the rate of entertainment tax shall be nil.
- In case of a Kannada film which is a remake of a film of other language, which has secured Censor Certificate on or before 31<sup>st</sup> March 2002, no tax shall be leviable under Sections 3 and 3A.
- From 1-4-2002, in case of Kannada film which is a remake of a film of other language and which has secured Censor Certificate, the tax shall be leviable at the rate of seventy five percent of the tax payable under Sections 3 and 3-A.
- However, tax leviable for such films shall be nil if the film has been remade in the State of Karnataka after 10 years from the date of issue of Censor Certificate to such other film or if such other film has secured a best feature film award granted by any State Government/ Central Government or has figured in the Indian Panorama section of International Film Festival.

- From 01-08-2008 no tax shall be levied under the said sections on a cinematograph show of a Kannada, Kodava, Konkani, Tulu or Banjara film *which is not a dubbed version of a film of other language*, subject to production of a certificate by the proprietor, as may be prescribed.

**(D) ADDITIONAL TAX ON CINEMATOGRAPH SHOWS (SECTION 4)**

In addition to the tax leviable under Sections 3, 3-A and 4-A on cinematograph shows, there shall be levied and paid to the State Government, a tax called show tax at prescribed rates based on the payment for admission and this amount shall not be collected from the persons admitted.

**(E) TAX ON CINEMATOGRAPH SHOWS IN CERTAIN PLACES (SECTION 4-A)**

In lieu of entertainment tax payable under Sections 3 and 3-A, in case of cinematograph shows held in a theatre situated within the limits of a local authority (but excluding a cantonment board), whose population does not exceed seventy five thousand, the proprietor, may at his option and subject to such conditions pay tax at prescribed percentage of the gross collection capacity, based on the population of the local authority.

From 01-08-2008, no tax shall be levied under this sub-section on a cinematograph show of a Kannada, Kodava, Konkani or Tulu film which is not a dubbed version of a film of other language, subject to production of a certificate by the proprietor, as may be prescribed .

**(F) SPECIAL PROVISION IN RESPECT OF VIDEO SHOWS (SECTION 4-B)**

In lieu of the tax payable under Sections 3 and 3-A or 4 and subject to such rules as may be prescribed, there shall be levied and paid to the State Government, entertainment tax at prescribed rates on video shows. If the proprietor has conducted no show on any day or days during a month, proportionate amount of tax paid in respect of such day or days shall be refunded.

**(G) SPECIAL PROVISIONS IN RESPECT OF CERTAIN ENTERTAINMENTS (SECTION 4-C)**

There shall be levied and paid entertainments tax at prescribed rates in the case of entertainment provided with the aid of antennae or cable television to a connection holder on payment of any contribution or subscription or installation and connection charges or any other charges collected. However, no tax shall be leviable if the period of connection provided to a connection holder in any month is less than fifteen days.

**(H) COMPOSITION OF TAX PAYABLE UNDER SECTION 4-C  
(SECTION 4-D)**

In lieu of tax payable under Section 4-C, the proprietor may, at his option and subject to such conditions and such manner as may be prescribed, pay tax at prescribed rates in respect of entertainment provided at prescribed places.

**(I) TAX ON AMUSEMENT (SECTION 4-E)**

There shall be levied and collected a tax at prescribed rates on each payment for admission to or participation in an amusement. The tax so levied shall be paid by the proprietor.

**(J) TAX ON RECREATION PARLOURS (SECTION 4-F)**

There shall be levied and collected a tax calculated at prescribed rate on each admission to or participation in recreation parlour. The tax so levied shall be paid by the proprietor.

**(K) TAX ON MULTI SYSTEM OPERATOR (SECTION 4-G)**

There shall be levied and collected a tax at prescribed rate on the amounts received \*[or receivable] by a Multi System Operator towards distributing satellite television signals, communication network, including production and transmission of programmes and packages.

\* w.e.f 01-04-2009

**(L) ADMISSION TO ENTERTAINMENTS (SECTION 5)**

In addition to State Government, the Commissioner of Commercial Taxes is empowered to approve admission to an entertainment and further they are empowered to authorize any other officer in this behalf.

**1.4 RETURNS, PAYMENT, ASSESSMENT, PENALTIES, ETC**

**(A) RETURNS AND ASSESSMENTS (SECTION 6-A)**

Every proprietor of an entertainment shall submit such returns relating to complimentary tickets and to payments for admissions to such authority, in such manner and within such period as may be prescribed. In respect of entertainment which is single event or which is held for duration less than a week, the proprietor shall submit such return on conclusion of the entertainment.

Before any proprietor submits the returns required, he shall in the prescribed manner pay into a Government Treasury, the full amount of tax and additional tax or other taxes, if any, payable by him on the basis of such returns.

If the prescribed authority is satisfied that any return submitted is correct and complete and that the tax due thereon is paid in full, he shall assess the proprietor on the basis thereof.

If no return is submitted by the proprietor within the prescribed time or if the return submitted by him appears to be incorrect or incomplete, the prescribed authority shall determine the taxes due and assess the proprietor to the best of his judgement.

**(B) PAYMENT FOR ADMISSIONS, ETC ESCAPING ASSESSMENT  
(SECTION 6-B)**

If for any reason:

- Any complimentary ticket or payment for admission to an ‘entertainment’ has escaped assessment, or
- Any cinematograph show has escaped assessment; or
- Any tax on Multi System Operator has escaped assessment; or
- Such ticket, payment or show has been assessed at a rate lower than the assessable rate,

the authority prescribed may, within such period as may be prescribed, assess or re-assess to the best of his judgement, the tax due on such entertainments.

**(C) EXEMPTION/REDUCTION OF TAX (SECTIONS 7 AND 7-A)**

The State Government may, by order and subject to such condition as may be specified therein, grant reduction not exceeding fifty percent of the rate of Entertainment tax, if the State Government is satisfied that the entire proceeds of entertainment after deducting the actual expenses are devoted to philanthropic, religious, charitable or for development of recognised games or sports in the State. A cinematograph show of a film which has been certified as an educational film or a children’s film may be granted exemption or reduction in the rate of tax payable for any period of time.

The State Government may, by notification, make an exemption of any tax or reduction in the rate of any tax, in respect of entertainments held in newly constructed cinema theatres situated within the limits of any specified local authorities.

**(D) REFUNDS IN CERTAIN CASES (SECTION 8)**

Where the State Government is satisfied that the whole of the net proceeds of an entertainment are devoted to philanthropic, religious or charitable purposes, and that in calculating the net proceeds, not more than twenty five percent of the gross proceeds have been deducted on account of expenses of the entertainment, it shall, by order direct repayment to the proprietor, the amount of the entertainments tax paid. The State Government may also direct repayment to the proprietor, the tax paid by him, if it is satisfied that any performance of a cinematograph show could not be completed on account of failure of electric power or mechanical breakdown and that the proprietor has returned the payments for admission to the persons admitted for such show.

**(E) APPEALS (SECTION 8-B)**

Any person objecting to any order passed affecting him passed under the provisions of the Act by the prescribed authority may appeal to the Appellate Authority within 30 days from the date of communication of such order.

**(F) REVISIONAL POWERS (SECTION 8-CC)**

The Additional Commissioners of Commercial Taxes are empowered to take up the revisional orders/proceedings of officers up to the rank of Joint Commissioner whenever they are found to be prejudicial to the interest of the revenue.

**(G) APPEAL TO THE APPELLATE TRIBUNAL (SECTION 8-E)**

Any officer empowered by the State Government or the Commissioner in this behalf or any other person objecting to an order passed by the Joint Commissioner under section 8B or section 8C may appeal to the Appellate Tribunal within a period of sixty days from the date on which the order was communicated to him.

**(H) REVISION PETITION BEFORE HIGH COURT (SECTION 8-F)**

Provision has been made for filing revision petition before the High Court against the Appellate Tribunal orders.

**(I). PAYMENT AND RECOVERY OF TAX (SECTION 9)**

The tax payable under this Act shall be paid in such manner and in such instalments, if any and within such time as may be prescribed. If default is made in payment of tax, the whole amount outstanding on the date of default shall become immediately due and the proprietor shall be liable to pay interest at prescribed rates.

Any amount of tax or any other amount including interest due may, without prejudice to any mode of collection be recovered:

- As if it were an arrears of land revenue; or
- By attachment and sale or by sale without attachment of any property of such proprietor; or
- On application to any magistrate, by such magistrate as if it was a fine imposed by a Magistrate.

**J. PENALTY (SECTION 12)**

The proprietor of any entertainment or any person employed by him in any place of entertainment who admits any person to any place of entertainment in contravention of the provisions of **Section 5**, shall on conviction be punishable with simple imprisonment for a term which may extend to six months or with fine which shall not be less than rupees ten thousand for the first offence and not less than rupees fifteen thousand for the second or subsequent offence during the financial year or both.

## **CHAPTER II**

### **RECORDS/REGISTERS AND AUDIT CHECKS**

#### **2.1 REGISTERS**

The important registers prescribed by the Commissioner of Commercial Taxes for the effective functioning of the Entertainment Tax Department and the purpose served by them are mentioned below:

- i) Register of deposits/security deposits:** The purpose of these registers is to see whether suitable security as prescribed under Rule 18(2), 39-A and 41-A has been obtained from each proprietor and the security is maintained and renewed as and when necessary so that the security can be adjusted towards tax in case of default, etc.
- ii) Register of tickets sealed by the Entertainment Tax Officer:** This register gives the account of tickets sealed by the entertainment tax officer as per the provisions of Rule 19. The register helps to ensure that the tickets are not sealed in excess of the limit prescribed in the rules as compared with the security furnished by the proprietor.
- iii) DCB Register of Entertainment tax:** This register is meant to serve the purpose of ascertaining the demand, collection and balance of entertainment tax against each proprietor. Twelve pages should be allotted for each proprietor and a monthly abstract prepared at the end. The postings in this register are made with reference to the weekly/fortnightly returns furnished by the proprietors. Belated submission of returns is also indicated in this register in the columns provided, for taking action for the offence.
- iii) Register of cinematograph shows tax:** This register is meant to serve the purpose of ascertaining the demand, collection and balance of cinematograph shows tax against each proprietor. The posting in this register is made from the fortnightly returns furnished by the proprietor.
- iv) Challan postings register:** This is an important basic record. The register is written up daily with reference to the challans received from the treasury. Refunds and charges relating to the net proceeds paid to local authorities are also indicated in this register. The total receipts as posted in the register are also reconciled with the treasury figures.



v) **Register of advance or excess collections:** After assessment, excess collection of tax, if any is noted in this register for eventual refund or adjustment against future demand.

vi) **Crime Register:** Offences and crimes by each proprietor are indicated in this register with the full particulars of action taken thereon.

vii) **Register of Entertainment Tax Statistics:** This register is meant to give the statistical information regarding the various taxes collected under the Act in respect of each month.

viii) **Register of Appeals:** This register is maintained by appellate authorities only. This register indicates the nature of appeal made by each proprietor, order passed thereon etc.

ix) **Register of exemptions:** This register is required to be maintained by all the commercial tax officers. In this register, the details of orders of exemption granted, the result of verification of accounts by them in such cases and action initiated i.e., action taken to collect tax where the exemption is found to be inadmissible later, etc., are required to be recorded.

ix) **Register of cheques received (M-Register):** This register is maintained separately for entertainment tax since the proprietors are allowed to pay tax through cheques also under the Act. This register shows the cheques received from the proprietors and the amount realised. Cheques received are entered in this register and sent to the treasury along with a challan prepared for the amount. Information regarding the date of realisation and challan number and date is noted in this register. At the end of each month, a plus and a minus memo of cheques outstanding unrealized should be prepared in the form of an abstract in the register.

**Consequent on introduction of online system from March 2013 filing of returns, payments and process of cheques received are maintained electronically.**

x) **Cheque Bounce Register:** This register is maintained separately for the cheques dishonored by banks for watching the adjustment/payment of tax from the proprietors along with interest.

## **2.2 AUDIT CHECKS**

AQMF: III -Audit Management

QME: N- Conducting of Audit

KIE: (i) Section 16 of C&AG's (DPC) Act, 1971

(ii) Para 2.3.1 to 2.3.15 of Chapter 3, Section II of MSO (Audit)

- (iii) The Karnataka Entertainment Tax Act, 1958
- (iv) The Karnataka Entertainment Tax Rules, 1959
- (v) Circulars dated 18-11-2005 & 21-03-2007 of RBI
- (vi) Circular of RAPC(s) dated 24-11-2009.

1. Whether the returns are submitted in time and where there is delay whether suitable action is taken to compound the offences etc.
2. Whether in the final return the tickets sealed and issued from office are only used?
3. Whether the serial number of ticket used is in continuation of the one in the previous return.
4. Whether there is any fall of revenue as compared with the average earnings of the past and future months, and if so, whether it is satisfactorily explained.
5. Whether the rate of tax and final computation of tax are correct with reference to the particulars furnished in the returns.
6. Whether changes in gross collection capacities are got approved by the competent authority in respect of theatres assessable to tax under Section 4A on the basis of gross collection capacity.
7. Whether the tax due was credited to the proper head of account and there are no mis-classifications?
8. Whether there are no arithmetical or computation errors in determining the tax payable?
9. Where any concessional rate of tax has been levied or exemption allowed, it should be seen that conditions prescribed for the grant of concession or exemption have been duly fulfilled.
10. Whether the assessments are made according to the provisions of the Act and Rules and also in conformity with the directions issued by Government, Commissioner etc.
11. Whether the tax recoverable is calculated taking into account all the transactions of the proprietor during the relevant period?
12. Whether the correctness of the various figures furnished by the proprietor has been verified by the department by a cross reference to the relevant documents, say, previous return for the continuity of tickets sold, tickets sealing register for the genuineness of the use of ticket sealed and issued by the office etc.

13. Whether the rate of tax fixed is correct with reference to payment for admission, population of the place etc., as contemplated in the Act and Rules.
14. Whether the transactions relating to all shows as given in the show-tax return, have been considered for taxation under entertainment tax
15. Whether there is inordinate delay in finalizing the assessment and in the recovery of tax from the proprietor?
16. Whether the penalty prescribed under the Act and Rules have been levied and collected wherever necessary.
17. Whether in respect of exemptions allowed, they are covered by proper authority and the conditions attached to them are fulfilled?
18. Whether the demands raised have been properly recorded in the registers and recoveries watched (It should be seen that challans in support of the remittances are genuine and whether the reconciliation between the departmental figures and the treasury figures is done properly and promptly. A test check of challans for tax paid, furnished by the proprietors should be conducted with the Treasury Accounts.
19. Whether the tax collected by the proprietor has been made over to the Government.
20. Whether the interest (8% per annum) for belated realization of cheques have been levied and collected from the nodal banks earmarked for remittances in to Government treasury.. (vide RBI circular No. RBI/2005/209 dated 18-11-2005 and No. RBI/2006-07/291 dated 21-03-2007 communicated by RAPC(S) vide circular dated 24-11-2009)

## Audit Quality Management System – Mapping of Guidelines

Audit Quality Management Framework	Quality Management Employed	Key Instruments Employed	Reference to the manual
Leadership & Direction	Tone at the Top	(i) Article 148 to 151 of the Constitution of India. (ii)CAG’s DPC Act 1971	Para 1.1 of Chapter I
	Vision, Mission core values and Auditing standards	(i) The Karnataka Entertainment Tax Act and Rules (ii)MSO(Audit)	Para 1.3 of Chapter I
	Strategic Audit Planning	(i) The Karnataka Entertainment Tax Act and Rules (ii)MSO(Audit)	Para 1.4 of Chapter I
	Strategic direction and planning	(i)MSO(Audit) (ii)Performance audit guidelines	Para 2.1 of Chapter II
Audit Management	Conducting of audit	(i) Section 16 of C&AG’s (DPC) Act, 1971 (ii) Para 2.3.1 to 2.3.15 of Chapter 3, Section II of MSO (Audit) (iii) The Karnataka Entertainment Tax Act and Rules (iv) Circulars issued by RBI & RAPC(S)	Para 2.2 of Chapter II

**PART-IV**  
**PROFESSIONS TAX**

**THE KARNATAKA TAX ON PROFESSIONS, TRADES,  
CALLINGS AND EMPLOYMENTS ACT, 1976**

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**CHAPTER I**  
**THE KARNATAKA TAX ON PROFESSIONS, TRADES,**  
**CALLINGS AND EMPLOYEMENTS ACT, 1976**

**1.1 MANDATE FOR AUDIT**

The Comptroller and Auditor General of India has the mandate to audit the receipts flowing into the Consolidated Fund of Union, State and Union Territories under Articles 149 to 151 of the Constitution of India read with the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. The role of the Comptroller and Auditor General of India with regard to the audit of receipts is specified in Section 16 of the CAG's (DPC) Act, 1971.

The Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976 (hereinafter referred to as KPT Act) came into force from 1.4.1976. This Act provides for levy and collection of tax on professions, trades, callings and employments and it extends to the whole of the State of Karnataka.

**1.2 IMPORTANT DEFINITIONS (Section 2)**

**ASSESSEE** means a person or employer by whom tax is payable under this Act.

**EMPLOYER** in relation to an employee earning any salary or wages on regular basis under him, means the person or the officer who is responsible for the disbursement of such salary or wages and includes the head of the office or any establishment as well as the manager or agent of the employer **(Section 2(f))**.

**PERSON** means any person who is engaged in any profession, trade, calling or employment in the State of Karnataka and includes a Hindu Undivided Family, Firm, Company, Corporation or other Corporate body, any Society, Club or Association, so engaged but does not include any person who earns wages on a casual basis **(Section 2(h))**.

**PROFESSION TAX** or "tax" means a tax leviable under the provisions of this Act.

**SALARY OR WAGE** includes pay or wage, dearness allowance and all other remunerations received or receivable by any person including any amount received by way of arrears of salary or bonus by whatever name called whether payable in cash or kind and also includes perquisites and profits in lieu of salary as defined in Section 17 of the Income Tax Act, 1961 **(Section 2(j))**.

### **1.3 LEVY AND COLLECTION OF TAX (SECTION 3)**

There shall be levied and collected a tax on professions, trades, callings and employments for the benefit of the State. Every person who exercises any profession or calling or is engaged in any trade or holds any appointment, public or private, or is employed in any manner in the State, as specified in the second column of the Schedule appended to the Act, is liable to pay tax to the State Government at the rates specified in the Schedule.

Professions Tax is not payable:

- by persons who have attained sixty five years of age;
- by a person in respect of any year if the period during which he exercises such profession or calling or is engaged in trade or holds the appointment or is employed does not exceed one hundred and twenty days in that year.

### **1.4 Employer's Liability To Deduct And Pay Tax (Section 4)**

The tax payable by any person earning a salary or wage, is to be deducted by his employer from the salary or wage payable to such person before it is paid to him and such employer shall be liable to pay tax on behalf of all such persons irrespective of whether such deduction has been made or not.

### **1.5 REGISTRATION AND ENROLMENT (SECTION 5)**

- i) Every employer (not being an officer of Government) liable to pay tax under Section 4 shall obtain a certificate of registration from the assessing officer in the prescribed manner.
- ii) Every person liable to pay tax (other than a person earning salary or wages) shall obtain a certificate of enrolment from the assessing officer in the prescribed manner.

Provided that, where an employer or a person liable for registration or enrolment has failed to apply for such registration or enrolment within the time specified, the assessing authority shall, after giving him a reasonable opportunity of being heard, impose a penalty of one thousand rupees in the case of an employer and five hundred rupees in the case of any other person.

### **1.6 Returns, Payment of Tax And Assessments Returns (Section 6)**

Every employer registered under this Act, shall furnish to the assessing authority within sixty days of the expiry of a year, a return in the prescribed



form/manner showing therein the salaries and wages paid by him and the amount of tax deducted by him during the preceding year.

#### **PAYMENT OF TAX IN ADVANCE (SECTION 6-A)**

Every employer registered under this Act, shall furnish electronically to the assessing authority within twenty days of expiry of a month, a statement in the prescribed form/manner showing therein the salary and wages paid by him and the amount of tax deducted by him during the month immediately preceding that month. Where the amount of tax deducted in a month is not more than rupees five thousand, the registered employer shall furnish such statement within twenty days of expiry of a quarter.

If no such statement is submitted by any employer before the date specified therein or if the statement submitted by him appears to be incorrect or incomplete, the assessing officer may assess the employer provisionally for that month or that quarter to the best of his judgement and proceed to demand and collect the tax on the basis of such assessment.

#### **ASSESSMENTS (SECTION 7)**

If the assessing authority is satisfied that the return filed by any employer is correct and complete, it shall accept the return. If the assessing officer is not satisfied that the return filed by any employer is correct and complete, it shall serve upon the employer a notice requiring him to attend in person or otherwise on a specified date and to produce accounts and papers in support of the return. On examination of accounts and papers, the assessing officer shall assess the amount of tax payable by the employer.

If any employer has failed to get himself registered or being registered has failed to file any return or any person has failed to get himself enrolled, the assessing officer shall pass an order assessing the amount of tax due to the best of its judgement.

#### **1.7 SELF ASSESSMENT IN CASE OF CERTAIN EMPLOYERS (SECTION 7-A)**

The assessing authority in respect of any year commencing from 1<sup>st</sup> day of April 2003, shall assess an employer in whose case, the total amount of tax deducted is less than twenty five thousand rupees on the basis of the returns submitted within the specified time, without requiring his presence or production of books of accounts.

However, such self assessment shall not be made in respect of any employer for any year if:

- The return filed for any year is incomplete or incorrect or defective, save for mistakes apparent on record;
- It is found that the employer has attempted to evade any tax, for the year.

**1.8 Payment of Tax And Filing of Return By Enrolled Persons And Deduction of Tax In The Case of Certain Enrolled Persons (Section 10):**

If default is committed in the payment of tax deducted beyond ten days after the period specified under sub-section (5) of Section 10, such person shall be liable to pay interest at 2% of the amount of tax due for each month or part thereof for a period for which the tax remains unpaid.

**1.9 FAILURE TO DEDUCT OR PAY TAX (SECTION 11)**

If any enrolled person or any registered employer does not deduct the tax at the time of payment of salary or wage or after deducting fails to pay the tax, he shall be liable to pay simple interest at 1.25% per month (2% up to 31-03-2005) of the amount of tax due for each month or part thereof for the period for which the tax remains unpaid.

**1.10 PENALTY FOR NON-PAYMENT OF TAX (SECTION 12)**

If an enrolled person or a registered employer fails, without reasonable cause, to make payment of any amount of tax within the required time or date as specified in the notice of demand the assessing authority may, after giving him a reasonable opportunity of making representation, impose upon him a penalty not exceeding fifty per cent of the amount of tax due. This penalty shall be in addition to the interest payable under sub-section (2) or (3) of section 11.

**1.11 APPEALS (SECTION 16)**

Any employer, not being an officer of Government or any person aggrieved by an order of an assessing authority may appeal to the Appellate Authority of the area concerned within 60 days of receipt of the demand notice or the order against which the appeal is intended.

**1.12 APPEAL TO THE APPELLATE TRIBUNAL (SECTION 17)**

Any employer or any person objecting to an order passed by the Appellate Authority under section 16 may appeal to the Tribunal within sixty days from the date on which the order was communicated to him.

### **1.13 REVISION (SECTION 18)**

The Deputy Commissioners, Joint Commissioners, Additional Commissioners and the Commissioner of Commercial Tax department have been empowered to call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by any assessing authority subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue he may, if necessary, stay the operation of such order for such period as he deems fit and after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling the assessment or directing a fresh assessment.

### **1.14 REVISION BY HIGH COURT IN CERTAIN CASES (SECTION 18A)**

Within 180 days from the date on which an order under section 17 of the Act was communicated to him, the appellant or the respondent may prefer a petition to the High Court against the order on the ground that the Appellate Tribunal has either failed to decide or decided erroneously any question of law.

### **1.15 REFUNDS (SECTION 22)**

Any person who has paid any tax or penalty or interest or fee in excess of the amount due under this Act may apply to the assessing authority for a refund or adjustment of such amount towards future tax and the amount paid in excess shall be refunded or adjusted accordingly.

### **1.16 OFFENCES AND PENALTIES (SECTION 23)**

Any person or employer who, without sufficient cause, fails to comply with any of the provisions of this Act, or the rules framed there under shall, on conviction, be punished with fine which may extend to five thousand rupees and when the offence is a continuing one, with fine which may extend to fifty rupees per day of such continuance.

**CHAPTER II**  
**REGISTERS/RECORDS MAINTAINED AND AUDIT CHECKS**

**2.1 REGISTERS**

1.	Register of applications for registration of employers	Maintained Electronically w.e.f 01-04-2011
2.	Register of applications for enrolment of persons.	
3.	Ledger for recording month-wise filing of returns, assessments and payment of tax by employers.	
4.	Ledger for recording year-wise payment of tax by enrolled person.	
5.	H-Register - Register of cash collection.	
6.	M-Register - Register for cheques.	
7.	Q-Register - Register of Refunds.	
8.	G1 Register - Register of daily collections or challan posting register.	
9.	G2 Register - Register showing the demand, collection and balance in respect of registered, enrolled persons.	
10.	Cheque Bounce Register	Maintained Manually
11.	J-Register – Appeals and Revision	

**2.2 AUDIT CHECKS:**

AQMF: III – Audit Management

QME : N- Conducting of Audit

KIE : (i) Section 16 of C&AG's (DPC) Act, 1971

(ii) Para 2.3.1 to 2.3.15 of Chapter 3, Section II of MSO (Audit)

(iii) The KTPTC&E Act 1976 & KTPTC&E Rules 1976

(iv) Circulars dated 18-11-2005 & 21-03-2007 of RBI

(v) Circular of RAPC(s) dated 24-11-2009.

It shall be seen that:

- (xxii) Whether the employer or person have registered or enrolled respectively within the prescribed time and in the prescribed manner.
- (xxiii) Whether the payment of tax in advance has been made every month within the prescribed time and manner.
- (xxiv) Whether the annual returns have been filed within the prescribed time and manner.

- (xxv) Whether tax has been paid within the due dates.
- (xxvi) Whether the tax due was credited to the proper head of account and there was no misclassification.
- (xxvii) that there are no arithmetical or computation errors in determining the tax payable.
- (xxviii) Whether the demands raised have been properly recorded in the related registers and recoveries watched and that the challans in support of the remittances are genuine and whether the reconciliation between the departmental figures and the Treasury figures is done properly and promptly.
- (xxix) Whether the assessments are made according to the provisions of the Act and the Rules and also in conformity with directions issued by Government/Department.
- (xxx) Whether there is inordinate delay in finalizing the assessment and in the recovery of tax from the dealer.
- (xxxi) Whether the interest for delayed payment of advance/assessed tax has been properly levied.
- (xxxii) Whether the interest (8% per annum) for belated realization of cheques have been levied and collected from the nodal banks earmarked for remittances in to Government treasury. (as per RBI circular No. RBI/2005/209 dated 18-11-2005 and No. RBI/2006-07/291 dated 21-03-2007 communicated by RAPC(S) vide circular dated 24-11-2009)

### Audit Quality Management System – Mapping of Guidelines

Audit Quality Management Framework	Quality Management Employed	Key Instruments Employed	Reference to the manual
Leadership & Direction	Tone at the Top	(i) Article 148 to 151 of the Constitution of India. (ii)CAG's DPC Act 1971	Para 1.1 of Chapter I
	Vision, Mission core values and Auditing standards	(i) The KTPTC&E Act and Rules (ii)MSO(Audit)	Para 1.3 of Chapter I
	Strategic Audit Planning	(i) The KTPTC&E Act and Rules (ii)MSO(Audit)	Para1.6 to 1.9 of Chapter I
	Strategic direction and planning	(i)MSO(Audit) (ii)Performance audit guide lines	Para2.1 of Chapter II
Audit Management	Conducting of audit	(i) Section 16 of C&AG's (DPC) Act, 1971 (ii) Para 2.3.1 to 2.3.15 of Chapter 3, Section II of MSO (Audit) (iii) The KTPTC&E Act and Rules (iv) Circulars issued by RBI & RAPC(S)	Para 2.2 of Chapter II

**PART-V**  
**AGRICULTURAL INCOME TAX**

# THE KARNATAKA AGRICULTURAL INCOME TAX ACT, 1957

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# THE KARNATAKA AGRICULTURAL INCOME TAX ACT, 1957

## CHAPTER I INTRODUCTION

### MANDATE FOR AUDIT

The Comptroller and Auditor General of India has the mandate to audit the receipts flowing into the Consolidated Fund of Union, State and Union Territories under Articles 149 to 151 of the Constitution of India read with the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. The role of the Comptroller and Auditor General of India with regard to the audit of receipts is specified in Section 16 of the CAG's (DPC) Act, 1971.

### 1.1 BASIS FOR THE LEVY OF AGRICULTURAL INCOME TAX

Article 270 of the Constitution gives the Centre authority to legislate with regard to "taxes on income other than agricultural income" (entry 82 of List I) and the States are given authority to legislate with regard to taxes on 'Agricultural Income' (entry 46 of List II). In terms of Article 366(1) of the Constitution, 'Agricultural Income' means agricultural income as defined for the purpose of enactment relating to Indian Income Tax. Hence, the States are entitled to tax agricultural income as defined by the Indian Income Tax Act. Any amendment of the definition in the Central Act will have automatic application to the States.

The levy and collection of the agricultural income tax in Karnataka State are governed by **the Karnataka Agricultural Income Tax (KAIT) Act, 1957**. This act received the assent of the Governor on 06.09.1957 and is in force from 01.10.1957. It is applicable to the entire State of Karnataka.

The basis and the procedure for the levy and collection of Agricultural Income Tax in the Karnataka State are regulated by:

- a. the provisions of the Karnataka Agricultural Income Tax Act, 1957.
- b. The Karnataka Agricultural Income Tax Rules, 1957 framed under the said Act;  
and
- c. the judicial pronouncements of the Supreme Court and the Karnataka High Court interpreting the provisions of the Act and Rules

## **1.2 PROVISIONS RELATING TO AGRICULTURAL INCOME**

Agricultural income tax is levied on the Agricultural Income.

Agricultural income means:

- i. any rent or revenue derived from the land situated in the State of Karnataka and used for growing plantation crops such as coffee, cardamom, linaloe, orange, pepper, rubber or tea;**
- ii. income derived from land by the tillers or cultivators of the soil directly from the land or by the large land holders and tenure holders and ordinary small land holders who without themselves cultivating, collect rents from tenants who cultivate; and**
- iii. any income derived from any building owned and occupied by the receiver of the rent or revenue of such land( Section 2(1) (a)).**

For rent becoming agricultural income, fulfillment of the following three conditions is necessary.

- i. the rent or revenue should be derived from the land;**
- ii. the land must be used for agriculture purpose;**
- iii. the land should be situated in the State of Karnataka.**

Since agricultural income tax is levied on the value of the agricultural produce, the valuation of agricultural produce is of paramount importance. Rule 7 of the I.T. Rules, 1962 provides for valuation of agricultural income where it is earned in business. Where the recipient sells the produce, such sale price would be taken into account. Where he does not sell and holds on to stock or consumes it, the value shall have to be estimated. In such estimation, the average market rate for the year should be taken into account.

Normally the total agricultural income of a person chargeable to agricultural income tax is the income, which legally belongs to him. But under the KAIT Act, 1957, certain incomes which belong to other persons are held to belong to the assessee in certain circumstances and are accordingly assessed as his income. They are

- i) all agricultural income arising to any person by virtue of settlement or disposition;

- ii) the income arising directly or indirectly
  - a. to the spouse of the individual
    - from the membership of the spouse in a firm in which such individual is a partner
    - from the assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart and
  - b. to a minor child of such individual
    - from the admission of the minor to the benefits of the partnership in which such individual is a partner;
    - from assets transferred to the minor child; and
  - c. to any person or association of persons from assets transferred directly or indirectly otherwise than for adequate consideration (**Section 11**).

## **CHAPTER II**

### **ORGANISATIONAL SET UP**

#### **2.1 ORGANISATION AND FUNCTIONS OF THE DEPARTMENT**

The Commissioner of Commercial Taxes, Bangalore and other officers of the Commercial Taxes Department are performing the duties and exercising the powers under the Act.

The Commissioner of Agricultural Income Tax is the head of the department. He is assisted in the discharge of his functions by the Additional Commissioner of Agricultural Income Tax, Joint commissioner of Agricultural Income Tax (Administration) and Deputy Commissioner of Agricultural Income Tax (Assessment) and Assistant Commissioners of Agricultural Income Tax.

The Commissioner or the Joint Commissioner of Agricultural Income Tax is the authority competent to exercise the powers of revision subject to the limitation prescribed in Section 35-A of the Act.

**CHAPTER III**  
**BASIC PROVISIONS OF LAW AND THE RULES GOVERNING**  
**AGRICULTURAL INCOME TAX**

**3.1. CHARGE OF AGRICULTURAL INCOME TAX**

**Section 3(1)** of the Act provides for the levy of agricultural income tax for each financial year on the total agricultural income of any person for the previous year derived in Karnataka State.

Agricultural Income Tax is chargeable at the rates specified in the Schedule to the Act.

- i) for each financial year beginning on the first April and ending on 31<sup>st</sup> March of the following year; and
- ii) on the total agricultural income of the relevant financial year [Sec. 3]

The rates of taxes specified in the Schedule are in respect of:

- i. persons other than a company or a firm
- ii. in the case of a firm; and
- iii. in the case of a company

**3.2. COMPUTATION OF AGRICULTURAL INCOME [SECTION 5(1)]**

In the computation of agricultural income various deductions are allowed. The deductions to be allowed represent mainly expenses of a revenue nature incurred during the previous year for the benefit of the agricultural land or for raising agricultural produce. The expenses incurred should be for the purpose of earning agricultural income and should not be of a capital nature. If the accounts are maintained by the assessee on mercantile basis, expenses actually have become due but are not discharged would also be eligible for deduction.

The **expenses admissible *interalia*** are –

- i. Land revenue, local rates, cesses and municipal taxes
- ii. Excise duty
- iii. Rent paid to the landlord
- iv. Expenses incurred on the maintenance of irrigation or protective work
- v. Repairs to the capital assets
- vi. Depreciation
- vii. Interest

- viii. Expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of deriving agricultural income.
- ix. Expenditure incurred in the collection of agricultural income
- x. Expenses incurred to make the agricultural produce marketable and transport it to the market
- xi. Maintenance of agricultural implements and cattle
- xii. Cost of purchase or replacement of cattle or implements.
- xiii. Any sum paid in order to effect an insurance against the loss or damage of crops and property
- xiv. Maintenance of capital assets
- xv. Annuity subscriptions paid to any agricultural association of India.

**Inadmissible expenses**

- i) In the case of a firm, any payment of interest salary, bonus, commission or remuneration made by the firm to any partner of the firm
- ii) In the case of a company, any expenditure resulting directly or indirectly in the provision of any remuneration or benefit or amenity to a director or any body who has a substantial interest in the company or to a relative of the director.
- iii) Agricultural income tax, income tax, wealth tax paid
- iv) Payment of fines and penalties for breach of law
- v) Expenses on charity
- vi) Expenses for touring abroad for acquiring knowledge

**Proviso u/s 5(1)**

**Re-plantation allowance (Section 5(2) (b) (ii))**

Expenses incurred on cultivation, upkeep or maintenance of immature plants (other than tea plants) is allowed as deduction to the extent shown below:

- i) Ten percent of expenditure incurred in any year exclusively for new cultivation of land and also on maintenance of immature plants [Section 5(2) (b) (i)];
- ii) Replanting expenditure incurred by a person in any year not exceeding the amount necessary for replanting -
  - a. Two and half percent of the acreage of plantation held by the person concerned, in the case of coffee or rubber plants.,
  - b. One and two third percent of the acreage of plantation held by the person concerned, in the case of orange plants and

- c. Eight and one third percent of the acreage of plantation held by the person in the case of cardamom plants

Provided that if the expenditure on re-plantation allowance is not incurred in one year, the allowance of the year or years may be carried forward for a period of three years in the case of coffee, orange, rubber and one year in the case of cardamom, beyond the year of assessment.

- iii)** A person deriving agricultural income from land on which coffee is grown may, in lieu of the deductions referred to item (i) and (ii), at his option to be exercised in writing deduct from his agricultural income a sum of 900 rupees (w.e.f. 1.4.94) for every standard ton of coffee produced by him subject to a maximum of 15 per cent of the average total agricultural income during the previous year and 3 years immediately preceding it towards expenditure for new cultivation, replanting and maintenance of immature plantlings. If the said expenditure is not incurred in that year, the same may be carried forward for a period of five years beyond the year of assessment. Any such sum which is spent for purpose other than those specified above or which remains unspent for five years shall be treated as income of the year succeeding the fifth year [**Section 5(2)(b)(iii)**].

#### **Depreciation [Section 5(1) (e)]**

Depreciation allowance is admissible in respect of buildings, machinery and plant, fencing materials, hose pipes and furniture which are the property of the assessee and which are required for the purpose of deriving the agriculture income. It is allowed as a percentage on the written down value of the asset.

#### **Additional depreciation (Rule 3(2))**

In addition to the normal depreciation, further deduction as admissible only for the year of installation in respect of buildings newly erected and new machinery or new plant installed during any pervious year, a sum equivalent to twenty per cent of the cost of the asset may be allowed.

For availing depreciation and additional depreciation, the assessee should furnish particulars in Part V of Form 3.

#### **Unabsorbed depreciation (Proviso to Section 5(1)(e))**

The unabsorbed depreciation can be carried forward to the succeeding years without any limit. If the asset is sold or discarded or destroyed, the amount by which the written down value exceeds the sale/ scrap value is allowed as deduction, if such amount is actually written off in the accounts of the assessee. Where however, the amount

realised exceeds the WDV, so much of the profit on the sale of depreciated asset as does not exceed the difference between the original cost and the WDV, shall be deemed to be part of Agricultural Income of the previous year in which the sale took place.

**Investment allowance (Section 5(3)(1)).**

In respect of machinery or plant specified by the State Government by notification in the official Gazette which is owned by the assessee, a deduction of ten per cent of the cost of the machinery or plant may be allowed in the previous year in which the machinery or plant was put to use

**Interest (Section 5 (1) (g) to Section 5 (1) (j)).**

Interest on borrowed capital and actually spent on any capital expenditure, interest paid on mortgage or capital charge, interest paid on the loan for acquiring the land and interest paid on amounts borrowed and actually spent on the land on which the agricultural income is derived qualifies for the deduction. The interest paid should not exceed the amount calculated at the rates charged by the scheduled banks

**Exemptions from assessment of income tax (Section 12)**

Agricultural income tax shall not be payable on that part of the agricultural income of a person which is

- (i) Any sum he received out of agricultural income of HUF.
- (ii) Any dividend received as a share holder of a company
- (iii) Any sum which he receives as a share of a firm, or Association of Persons.
- (iv) Any sum derived from land held under a trust or other legal obligations wholly or partly for public purpose of a charitable or religious nature and actually spent for the said purpose.
- (v) Any sum paid in the previous years as donations to certain relief funds/institutions. Such donations should not exceed five per cent of the total Agricultural Income.



### **Exemption in respect of insurance premia, contribution to provident fund, etc.**

#### **(Section 5–A)**

Rebate is allowed on premia paid by an assessee towards insurance or contribution to provident fund etc., from the total Agricultural Income of the assessee computed under Section 5 as follows:

a	Where the aggregate of such amounts does not exceed Rs. 6000	The whole of such aggregate
b	Where the aggregate of such amount exceeds Rs. 6000 but does not exceed Rs. 12,000	Rs. 6000/- plus 50 % of the amount by which such aggregate exceeds Rs. 6000
c	Where the aggregate of such amount exceeds Rs. 12,000/-	Rs. 9000/- plus 40% of the amount by which such aggregate exceeds Rs. 12,000/-

### **3.3 ASSESSMENT IN RESPECT OF TEA, COFFEE AND RUBBER INCOME (SECTION 8)**

Tax leviable on agricultural income on tea, coffee and rubber will be on that portion of Agricultural income which is excluded from taxation under the Income tax Act 1961, as being Agricultural Income after deducting from the said portion any allowance authorised by the Karnataka Agricultural Income Tax Act 1957, in so far as it has not been allowed under the Income Tax Act 1961. For example, tea income to the extent of 40% is liable under Income Tax Act and the balance 60% to Agricultural Income Tax Act.

### **3.4 CARRY FORWARD OF LOSSES (Section 15)**

If the computation of agricultural income results in a loss, such loss shall be carried forward and set off against the agricultural income of the following assessment year and when it cannot be wholly set off, the balance shall be carried forward to the succeeding year, but no loss shall be carried forward for more than six years. The loss cannot be carried forward and set off unless the return of loss is filed in the prescribed form with in the due date of filing the return or within such extended time as granted by the ACAIT/DCAIT.

### **3.5 ASSESSMENT, RE-ASSESSMENT, RECTIFICATION, APPEALS AND REVISION (Section 18)**

#### **Return of Income**

Every person whose total agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income tax or every person who holds land under plantation crop, the total extent of which is not less than fifteen acres shall furnish the return of income before the expiry of four months from the end of the previous year [Section 18(1)].

A person who has filed a return and has discovered any omission or wrong statement may file a revised return at any time before the assessment is made [Section 18(3)].

The assessee shall pay in advance the full amount of tax payable by him on the basis of such return and should furnish along with return satisfactory proof of payment of such tax [Section 18(2-A)(a)].

#### **Assessment of Income (Section 19).**

- If the assessing officer is satisfied that a return is correct and complete, he may accept the return and assess the total agricultural income or loss and determine the amount of tax payable [**Section 19(1)**].
- If the assessing officer is not satisfied that the return is correct and complete, he may serve a notice requiring the assessee to attend or produce any evidence in support of the return [**Section 19(2)**].
- The assessing officer, after considering such evidence and examining the accounts, may proceed to make the assessment and determine the tax payable by the assessee [**Section 19(3)**].
- An assessment order in Form 6 and a demand notice in form 10 indicating the tax payable and requiring its payment within a specified date is issued. Even when the loss is determined, it is obligatory for the assessing officer to issue an assessment order to enable carry forward of loss.
- A best judgment assessment will be made in the case of failure to file a return or failure to comply with the notice [**Section 19(4)**].

### **Power to grant extension of time for filing return (Section 61)**

The due date of filing the return u/s 18(1) may be extended by the ACAIT/DCAIT provided the assessee undertakes to pay interest, in addition to the tax payable at the rate of twenty four per cent p.a. on the tax due as per the return from the due date to the date of actual payment of tax..

### **Belated return (Section 18-3A)**

When a return is furnished after the due date prescribed and where the assessing authority has not extended the date of filing the return u/s 61, the assessee shall be liable to pay interest, in addition to the tax payable at the rate of twenty four percent per annum reckoned from the day following the due date of filing the return to the date of furnishing the return, or when no return is furnished, the date of completion of assessment on the amount of the tax payable on the total agricultural income as determined on regular assessment as reduced by the tax paid if any.

### **Time limit for completion of assessment (Section 19-D)**

The assessments should be completed within a period of 3 years from the date of submitting the return by the assessee.

### **Reassessment (Section 36)**

If it is noticed that for any reason agricultural income has escaped assessment or has been under assessed, such cases may be reassessed at any time within five years from the end of the financial year in which the escaped income was assessable.

### **Revisional powers (Section 32-A).**

The JCAIT (Admn) may on his own motion call for and examine the records of any order passed or proceedings recorded under the Act by ACAIT subordinate to him for the purpose of satisfying himself as to the legality or propriety of such orders in so far as it is prejudicial to revenue, and may pass such orders with respect thereto as he thinks fit anytime within a period of four years from the date of earlier order.

Similarly, the Additional Commissioner may call for and examine the records of any proceedings if he considers that any order passed by any authority subordinate to him is erroneous in so far it is prejudicial to the revenue and may modify the order anytime before the expiry of four years from the date of the order sought to be revised (Section 35).

### **Rectification (Section 37)**

Any mistake apparent from records can be rectified by the authority concerned within five years from the date of that order.

### **Appeals (Section 32, 34 & 55)**

Any assessee aggrieved by the order of an assessing authority may go on appeal against the order to the JCAIT (Appeals) within a period of 180 days from the date of service of the order.

Similarly, any assessee aggrieved by the order of appellate authority may appeal to the appellate tribunal within a period of sixty days from the date on which the order was communicated to him. In exercising its appellate or revision powers, the tribunal is not competent to entertain questions as to whether any provision of the Act is *ultra-virus* of the State Legislature as it owes its own existence to the Act. The Appellate authority has wide powers in disposing of an appeal to confirm, reduce, set aside an assessment order and order a fresh assessment (**Section 34**).

The assessee or the Dy. Commissioner may prefer a revision petition to the High Court of Karnataka against the orders of the Tribunal within 60 days from the date on which an order of the Appellate Tribunal was communicated to him (**Section 55**).

## **3.6 COLLECTION, RECOVERY, REFUNDS AND PENALTIES**

### **Time limit for payment of tax (Section 41(1) & (2))**

The amount specified in the demand notice shall be payable by the assessee within the time mentioned in notice or if time is not mentioned, then on or before the first day of the second month following the date of service of the notice.

The assessing officer may allow the payment of tax due, at the request of the assessee in writing, in not exceeding four instalments subject to payment of interest at the rate charged by the scheduled banks for unsecured loans.

### **Tax collection (Section 42(2)).**

The arrears of tax (including penalties) may be recovered as if it were arrears of land revenue or by attachment or sale of any property of such assessee through the Dy. Commissioners of the District by the issue of a tax recovery certificate.

### **Refunds (Section 45)**

Refunds of tax arise in the following cases:

- i) When the total provisional tax paid is in excess of tax determined in final assessment.
- ii) When the total tax payable is reduced in appeal or in revision.

It is not necessary for the assessee to make an application for a refund; the assessing authority being vested with the responsibility of passing orders may refund the excess amount. Such refund of excess tax paid may be made in cash or by adjustment against amounts due to Government. Payment of 12 percent interest per annum on the amount refunded is contemplated u/s **45(A) (2)** of the Act.

### **Penalties**

Act provides levy of penalties on the following occasions:

- (i) If the advance tax paid on the basis of return filed by the assessee was less than tax payable after the assessment by more than 25 percent, the assessing authority may levy penalty at 24 percent p.a. on the amount of tax so paid short [**Section 18(2-A)(b)**].
- (ii) If the assessee has, without reasonable cause failed to furnish the return of income, failed to furnish the return within the time allowed, failed to comply with a notice issued, concealed the particulars of his agricultural income or deliberately furnished inaccurate particulars of such income, penalty in such cases may be levied in addition to the amount of agricultural income tax, a sum not exceeding that amount. [Section 22(1)].

### 3.7 COMPOSITION OF TAX (SECTION 66)

When the total extent of land under plantation crop held by any person (other than a company) does not exceed 150 acres 01-04-2000 (50 acres up to 31-03-2000), such person may apply to the prescribed officer for permission to compound agricultural income tax payable by him and to pay in lieu thereof a sum at the following rates:

a	Where the extent of land does not exceed 15 acres	Nil
b	Where the extent of land exceeds 15 acres but does not exceed 20 acres	Rs. 750/- per acre after 15 acres
c	Where the extent of land exceeds 20 acres but does not exceed 25 acres	Rs. 3750/- plus Rs. 1000/- per acre after 20 acres
d	Where the extent of land exceeds 25 acres but does not exceed 30 acres	Rs. 8750/- plus Rs. 1400/- per acre after 25 acres
e	Where the extent of land exceeds 30 acres but does not exceed 40 acres	Rs. 15,750/- plus Rs. 1,750/- per acre after 30 acres
f	Where the extent of land exceeds 40 acres but does not exceed 50 acres	Rs. 33,250/- plus Rs. 2250/- per acre after 40 acres
g	Where the extent of land exceeds 50 acres but does not exceed 100 acres	Rs. 1150/- per acre
h	Where the extent of land exceeds 100 acres but does not exceed 150 acres	Rs. 1250/- per acre

**Note: -**

**1) Amendment of Section 66 (w.e.f. 01-04-2012): The provision which provided for extending the facility of composition of Agricultural Income Tax payable by partnership firms has been omitted. It may be noted that this in view of tax exemption extended to partnership firms by amendment to Schedule to the Act.**

**2) Amendment to the Schedule: - By omission of Part – II in the Schedule in which the rate of tax payable by partnership firms was specified at 30%, partnership firms are now exempt from tax.**

## **CHAPTER IV**

### **4.1 RECORDS AND REGISTERS MAINTAINED IN DEPARTMENT**

The records and registers to be maintained by the assessing officers are given below:

#### **Records**

An assessment file is opened for every assessee for each year, which would contain –

- (i) Return of agricultural income
- (ii) Challans and receipts regarding payment of advance tax
- (iii) Copies of notices issued
- (iv) Copies of proposition notice issued in Form 5
- (v) Regular assessment order in Form 6
- (vi) Copies of notice of demand of tax in Form 10
- (vii) Correspondence relating to action taken for the recovery of tax, interest levied, penalty imposed, if any.
- (viii) Order of the appellate authority whenever an appeal against an assessment order is filed/ Orders of revisional authorities
- (ix) Application for the composition of agricultural income tax.
- (x) Survey report in Form no. 27

#### **Registers**

Some of the important registers maintained in Agricultural Income Tax Offices are mentioned below:

##### **1. General Index Register (G.I.R)**

The register is maintained to have a list of all the assesseees in alphabetical order within the jurisdiction of the assessing officer with all the particulars of the assesseees. The Register is maintained recording the notices issued and returns of income received for a period of five years.

##### **2. Demand Register (D Register)**

This register is a ledger account of each of the assesseees assessed to tax under the Act. It is maintained for five years. Name of the assessee, GIR No. etc., should be written in the space provided for at the top of each page. The arrears of tax due for all the previous years are brought forward and noted in the space provided for it and the

collection is watched. The date of final payment is entered in the prescribed column. All the payment entries are to be attested by the assessing officer.

3. **Challan Register**

The register is prescribed for noting the date-wise collections of agricultural income tax, composition tax, penalty, interest etc., from the assessee with reference to the challan received from the Treasury or Bank.

4. **Composition cases Register**

The register is maintained to note the details such as name of the assessee, GIR No., extent under various crops, etc. of assessee who have opted for composition u/s 67 of the Act. When the assessment is over, the date of order, amount of composition fixed, amount realised, challan number etc. has to be noted.

5. **Register of refunds**

This register shows the amount refunded to the assessee either by cash or by adjustment of the amount towards the tax payable by the assessee for the next year, consequent on reduction of assessment in appeal after final assessment etc.

6. **Demand, Collection and Balance Register (DCB Register)**

In order to have a clear picture of the assessment and the revenue position and to ensure that the demands and collections are properly accounted for, this register has been prescribed.

7. **Confidential record (History Sheet)**

These are intended to enable the assessing officers to know the past history and business particulars of each assessee. These should be kept in personal custody of the assessing officer. They may be sent along with assessment files to the appellate authority whenever appeals are preferred, if they are considered useful in disposal of the appeal.

8. **J – Register - Register of appeals and revision petition**

The register is maintained in appellate office to watch the disposal of appeals preferred against the assessment orders.



## CHAPTER V

### PROCEDURE OF LOCAL AUDIT

AQMF: III – Audit Management

QME : N- Conducting of Audit

KIE : (i) Section 16 of C&AG's (DPC) Act, 1971

(ii) Para 2.3.1 to 2.3.15 of Chapter 3, Section II of MSO (Audit)

(iii) The Karnataka Agricultural Income Tax Act & Rules, 1957

(iv) Circulars dated 18-11-2005 & 21-03-2007 of RBI

(v) Circular of RAPC(s) dated 24-11-2009.

#### **5.1. Procedure of Local Audit of Agricultural Income Tax Offices**

On the first day of local audit, the AAO should make out a list of assessment cases to be checked during local audit. The selection list should be approved by the RAO when he joins the party. A detailed scrutiny of assessment cases should be undertaken by the AAO and the supervisory officer according to the prescribed quantum of audit and review.

The following checks should be exercised in the audit of assessments.

- Whether the returns of income filed in the proper form and within the prescribed time.
- Whether in the case of default either in filing the return of income or in responding to a notice issued u/s 19(2) of the Act, penal action has been taken.
- Whether the total agricultural income has been determined correctly after making the deduction permissible u/s 5 of the Act.
- Where depreciation allowance/including initial depreciation has been claimed
  - a. whether the assessee has properly furnished the particulars relating to the claim in accordance with the Karnataka Agricultural Income Tax Rules;
  - b. whether the assessing officer has worked out the written down value correctly in the case of depreciation allowance and allowed the depreciation at the prescribed rates.
- In case a loss has been carried forward from a previous year, whether such loss has been determined properly in the previous years assessment;
- Whether the calculation of agricultural income tax has been made correctly;
- Whether the tax has been classified properly in the challan issued to the assessee;
- Whether interest/penalty at the prescribed rate has been levied for the delay in the payment of tax.

- In case of collection of tax by adjustment of a refund due, whether the amount adjusted has been correctly worked out.
- Whether the orders of appellate authorities have been given effect of promptly and the resultant total agricultural income determined correctly.
- Whether the demands raised have been properly recorded in the registers prescribed and collections watched; and
- Whether the records of income tax assessments have been cross-checked by the assessing officer in respect of tea, coffee and rubber income.

### **5.2. Quanta of Agricultural Income Tax Receipts And Refunds Audit**

The audit and the nature of checks to be exercised in the course of audit of Agricultural Income Tax receipts and refunds and the review by the AAO and the Sr. AO / AO are to be carried out to the extent prescribed from time to time.

### **5.3. Scrutiny of Registers**

In order to check that there has been prompt realisation of demands, the entries relating to demands in the Demand, Collection and Balance register should be checked with reference to the demand determined in the assessment orders. The entries relating to collection should be traced in the Daily Collection Register. A test check of some of the entries in the Daily Collection Register with the challans available in the assessment records should also be carried out.

The other registers should be generally examined to see that the departmental instructions regarding their maintenance have been followed.

Checks to be exercised in respect of important registers are listed in the Annexure.

## ANNEXURE

(Referred to in Para 5.3)

### **Audit checks to be exercised in respect of the registers maintained in the Agricultural Income Tax Offices**

The checks to be exercised are:

#### **1. General Index Register**

- a) All the assessment files opened under the Act in the office entered in the register;
- b) They are serially numbered;
- c) The register is maintained for five years;
- d) The fact of issue of notices and receipt of returns of income noted in the compartments of the concerned year.

#### **2. Demand, Collection and Balance Register**

- a) The register is maintained separately for each year
- b) The entries relating to the name of the 'assessee' and the tax due are correctly entered with reference to the assessment records.
- c) The collections are posted in the prescribed column correctly from the register of Daily Collections.
- d) Penal action has been taken promptly wherever necessary;
- e) The abstract of demand and collection struck regularly;

#### **3. Collection Register**

- a) The abstract of monthly collections struck at the end of the month and reconciled with the collections noted in the Demand and Collection Register.
- b) A certificate of reconciliation with Treasury schedules endorsed in the register below the monthly abstract

#### **4. Register of Refunds**

- a) Entries are made with reference to the number and dates of refund order;
- b) The fact of refund noted against the related entry in the Demand and Collection Register;
- c) That the refund is ordered by competent authority;

#### **5. Register of Appeal and Revision Petitions**

- a) The register is maintained upto date;
- b) Particulars of records sent to the different appellate authorities and the action taken to recall the records with a copy of the orders of the appellate authority.

### Audit Quality Management System – Mapping of Guidelines

Audit Quality Management Framework	Quality Management Employed	Key Instruments Employed	Reference to the manual
Leadership & Direction	Tone at the Top	(i) Article 148 to 151 of the Constitution of India. (ii)CAG's DPC Act 1971	Para 1.1 of Chapter I
	Vision, Mission core values and Auditing standards	(i) The Karnataka Agricultural Income Tax Act and Rules (ii)MSO(Audit)	Para 2.1 of Chapter II
	Strategic Audit Planning	(i) The Karnataka Agricultural Income Tax Act and Rules (ii)MSO(Audit)	Para 3.2, 3.5 to 3.7 of Chapter III
	Strategic direction and planning	(i)MSO(Audit) (ii)Performance audit guide lines	Para 4.1 of Chapter IV
Audit Management	Conducting of audit	(i) Section 16 of C&AG's (DPC) Act, 1971 (ii) Para 2.3.1 to 2.3.15 of Chapter 3, Section II of MSO (Audit) (iii) The Karnataka Agricultural Income Tax Act and Rules (iv) Circulars issued by RBI & RAPC(S)	Para 5.1 of Chapter V

**PART-VI**  
**LUXURY TAX**

# THE KARNATAKA TAX ON LUXURIES ACT, 1979

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# THE KARNATAKA TAX ON LUXURIES ACT, 1979

## CHAPTER – I

### 1.1 MANDATE FOR AUDIT

The Comptroller and Auditor General of India has the mandate to audit the receipts flowing into the Consolidated Fund of Union, State and Union Territories under Articles 149 to 151 of the Constitution of India read with the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. The role of the Comptroller and Auditor General of India with regard to the audit of receipts is specified in Section 16 of the CAG's (DPC) Act, 1971.

The Karnataka Tax on Luxuries Act, 1979 (hereinafter referred to as KTL Act) came into force from 1<sup>st</sup> June 1979 (Karnataka Act No. 22 of 1979). It extends to the whole of the State of Karnataka.

### 1.2 IMPORTANT DEFINITIONS (SECTION 2)

**Luxuries means** services ministering to enjoyment, comfort or pleasure, extraordinary to necessities of life (**Section 2(4-B)**)

**Tax** means the luxury tax levied and collected under this Act.

**Charges for Lodging** include charges for air-conditioning, telephone, telephone calls, television, radio, music, extra bed and the like but do not include any charges for food, drink, laundry or other amenities (**Section 2(1)**).

**Charges for Marriage hall** include charges for air-conditioning, chairs, utensils and vessels, shamiana, electricity, water, fuel, interior or exterior decoration or any amount received by way of donation or charity or by whatever name called in relation to letting out the marriage hall but do not include any charges for food and drinks (**Section 2(1-A)**).

**Charges for Hospital** 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 calls, television, radio, music, extra beds and the like but do not include charges for food, drinks, laundry or other amenities, medicines, medical including consultation, testing, diagnostic and nursing services, therapeutic services or other similar services (**Section 1-C**).

**Hospital** includes a nursing home, therapy centre, rejuvenation or recuperation centre, nature care or cure centre, ayurvedic cure or care or any treatment centre, personal care centre and beauty treatment centre, by whatsoever name called (**Section 2(3)**).

**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 (**Section 2(4)**).

**Luxuries provided in a hotel means:**

- Accommodation for lodging provided in a hotel, the rate of charges for which is (including charges for air-conditioning, telephone, television, radio, music, extra beds and other amenities for which charges are compulsorily payable, but excluding charges for food and drinks) not less than one hundred and fifty rupees per room per day.
- Provision in hotels, whether to residents or others of such facility as health club, beauty parlour, swimming pools, conference hall and the like for which charges are separately made (**Section 2(5)**).

**Marriage hall (w.e.f 01-04-2012)** includes all immovable properties where accommodation is provided for organizing any official, social or business function that would include marriage or reception or matters related with.

It may be noted that as per the earlier definition, seminar, convention, banquet, meeting or exhibition cum sale hall in which accommodation was provided for organizing functions other than marriage or reception or matters related there with could not be brought to tax under Section 3(c).



## **CHAPTER II**

### **2.1 LEVY OF TAX**

#### **A. ON LUXURY PROVIDED IN A HOTEL (SECTION 3):**

There shall be levied and collected a tax on the luxury provided in the hotel in respect of every room (hereinafter referred to as LT) at prescribed rates. If these charges are payable otherwise than on daily basis, charges must be computed as for a day. In computing the tax payable, the amount shall, if it is not a multiple of five paise, be increased to the next higher multiple of five paise.

The members of the Foreign Diplomatic Mission in India other than such foreign diplomatic mission as may be notified are exempt from payment of Luxury Tax.

#### **B. ON LUXURIES LIKE HEALTH CLUB ETC. (SECTION 3-B):**

LT at prescribed rates shall be levied and collected on the charges collected for luxuries provided in a hotel for residents or others such as health club, beauty parlour, swimming pool, conference hall and the like, when such charges are collected separately.

#### **C. ON CHARGES FOR MARRIAGE HALLS (SECTION 3-C)**

Where charges for luxury provided in a marriage hall are not less than Rs. 5000 per day, LT shall be levied and collected at prescribed rates. Where the charges are payable otherwise than on daily basis, then for determining the tax liability under this section, the charges shall be computed as for a day.

With effect from 01-04-2012 tax is leviable on proprietors of marriage halls holding industrial exhibitions also.

#### **D. ON LUXURY PROVIDED IN A CLUB (SECTION 3-D)**

There shall be levied and collected a tax on luxuries provided in a club, located in Corporation area and other areas at Rupees Six Hundred and Rupees Three Hundred respectively per member per annum, to the members who are required to pay any amount as fee, deposit, donation or any other charges by whatever name called.

However, no tax shall be payable in respect of a member:

- who has attained 65 years of age and who is not a corporate member
- of a youth club registered or recognised as such by the department of youth services.

**Explanations:**

I. Luxuries under this section means more than one of the facilities like card room, bar, billiards room, snooker room, tennis court, swimming pool, sauna, Jacuzzi and the like, gymnasium, golf course, internet facility, video, video compact disk, digital video disk and computer games.

II. Where any corporate membership or similar membership allows use of luxuries provided in a club by more than one person (other than a person who is a dependent of the member), tax shall be levied and collected in respect of every such person.

**E. ON LUXURY PROVIDED IN A HOSPITAL (SECTION 3-E)**

Where charges for luxury provided in a hospital are more than one thousand rupees per day, there shall be levied and collected a tax at prescribed rate.

**2.2 MODE OF COLLECTION OF TAX (SECTION 4)**

Where the rate of charges for luxury provided in a hotel is inclusive of the charges for food or drink or other amenities, then the Luxury Tax Officer (LTO) may, from time to time, after giving the proprietor an opportunity of being heard, fix separate rates of charges for such luxury and for food or drink or other amenities if any, being amenities referred to in clause (5) of Section 2, for the purpose of calculating the tax under this Act.

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 also be deemed to be part of the charges for luxury provided in the hotel.

Where luxury provided in a hotel to any person (not being an employee of the hotel) is not charged at all, or is charged at a concessional rate, then the tax on such luxury, shall be levied and collected as if full charges for such luxury were paid to the proprietor of the hotel.

Where luxury provided in a hotel for a specified number of persons is shared by more than the number specified, then, in addition to the tax paid for the luxury provided to such specified number of persons, there shall also be levied and collected separately, the tax in respect of the charges made for the additional number of persons accommodated.

### **2.3 REGISTRATION OF PROPRIETORS (SECTION 4-A)**

Every proprietor 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 on payment of a registration fee of two hundred and fifty rupees. The registration granted shall be valid for one year and shall be renewed from year to year on payment of the fee specified above.

Where, the proprietor is already registered under the KST Act 1957 or KVAT Act 2003, then, he shall not be liable to pay the registration or renewal fee prescribed under this section.

### **2.4 DECLARATION OF CHARGES FOR MARRIAGE HALL (SECTION 4-AA)**

Every proprietor of a marriage hall liable to pay tax under this Act, shall declare the normal rate fixed for luxury provided by him in such manner within such period as may be prescribed. Where luxury provided in a marriage hall is not charged at all or is charged at a concessional rate, then the tax on such luxury shall be levied and collected as if full charges were paid.

### **2.5 RETURNS, ASSESSMENT, PAYMENT, RECOVERY AND COLLECTION OF TAXES**

#### **RETURNS (SECTION 5):**

Every proprietor liable to pay tax under the Act shall furnish to the assessing authority within 60 days of the expiry of the year, a return in prescribed forms/manner.

Before any proprietor submits any such return, he shall in the prescribed manner pay in advance the full amount of tax payable by him on the basis of such return as reduced by any tax already paid under Section 5-A.

#### **PAYMENT OF TAX IN ADVANCE (SECTION 5-A)**

Every proprietor liable to pay tax shall furnish to the assessing authority within twenty days of the expiry of a month, a statement in the prescribed form/manner, showing therein the whole amount of tax due from him.

If no statement is submitted or if statement submitted appears to be incorrect or incomplete, the assessing authority may assess the proprietor provisionally for that month to the best of his judgement.

If default is committed in payment of tax for any month beyond ten days, the dealer shall, in addition to the tax, pay interest at **2% per month**.

## **ASSESSMENT AND COLLECTION OF TAX (SECTION 6)**

If the LTO is satisfied that the return furnished is complete and not incorrect, he shall assess the amount of tax due from the proprietor on the basis of such return. If the LTO is not satisfied that the return furnished is complete and correct, he shall serve on such proprietor in the prescribed manner, a notice requiring him on a date and at a place specified therein, either to attend or produce or cause to be produced all evidences on which the proprietor relied in support of his return or to produce any such evidence as is specified in the notice. The LTO, shall, on production of such evidence by the proprietor, assess the amount of tax due from him. If the proprietor fails to comply with the terms of the notice, the LTO shall assess to the best of his judgement.

If the proprietor fails to furnish a return within the time prescribed, the LTO shall assess the proprietor to the best of his judgement.

### **2.6 FORFEITURE OF ILLEGAL/EXCESS COLLECTION OF TAXES (SECTION 6-A)**

A proprietor, who is not registered under this Act, shall not collect any amount by way of tax or purporting to be by way of tax nor shall a registered proprietor collect any amount by way of tax or purporting to be by way of tax at the rate exceeding the rate specified under this Act. If any proprietor contravenes the provisions, the LTO:

- shall, by order in writing, forfeit in favour of the State Government the amount unauthorisedly collected/collected in excess of the prescribed rates:
- may, in addition, by order in writing, impose penalty.

### **2.7 IMPOSITION OF PENALTY IN CERTAIN CASES (SECTION 7)**

Where any proprietor liable to pay tax under this Act fails to comply with the provisions of Section 5 and 6, the Luxury Tax Officer may impose by way of penalty, in addition to any tax assessed under Section 6, a sum not exceeding one and half times the amount of tax.

### **2.8 PAYMENT OF TAX AND PENALTY (SECTION 8)**

The amount of tax due where returns have been furnished without full payment therefor or assessed for any period less any sum already paid by the proprietor in respect of such period and the amount of penalty, if any, levied shall be paid by the proprietor in such manner as may be prescribed and by such date as may

be specified in the notice issued by the LTO for this purpose, being a date not later than thirty days from the date of service of notice.

If default is made in making payment as above,

- The whole of the amount towards tax or penalty outstanding on the date of default shall become immediately due and shall be a charge on the properties of the proprietor liable to pay such tax or penalty, and
- The proprietor liable to pay such tax or penalty shall be liable to pay simple interest at **two per cent** of the amount of the tax or penalty due for each month or part thereof for the period for which the tax or penalty remains unpaid.

Any tax or penalty which remains unpaid on the date specified in the notice of payment shall be recoverable.

- As if it were an arrears of land revenue;
- By attachment and sale or by sale without attachment of any property of such proprietor or any other person;
- On application to any Magistrate by such Magistrate, as if it were a fine imposed by him.

Where the amount of penalty does not exceed Rs. 5 lakh, the Commissioner and in other cases, the State Government, may, subject to such conditions as may be prescribed, remit the whole or any part of the penalty payable in respect of any period by any proprietor.

## **CHAPTER – III**

### **APPEALS, OFFENCES & PENALTIES**

#### **3.1 APPEALS (SECTION 9)**

Any proprietor aggrieved by notice of assessment, any other order or proceedings passed under the provisions of this Act, may appeal to the Appellate Authority within 30 days from the date of communication of notice of assessment/any other order or proceedings.

#### **RECTIFICATION (SECTION 10-A)**

Any mistake apparent from records can be rectified by the authority concerned within five years from the date of that order.

#### **APPEAL TO THE APPELLATE TRIBUNAL (SECTION 11 & 11-A)**

An officer empowered by the State Government in this behalf or any other person objecting to an order passed by the appellate authority/revisional authority under Section 9 & 10(1) may appeal to the tribunal within 60 days from the communication of the order.

Within 180 days from communication of the date of order under Section 11, the appellant or the respondent may prefer a petition in High Court against the order of the Appellate Tribunal.

#### **3.2 PAYMENT OF INTEREST (SECTION 12)**

Where any amount refundable to any person under an order made under any provision of this act is not refunded to him within 90 days from the date of such order, the refunding authority shall pay such person a simple interest at the rate of *12% per annum* on the said amount from the date immediately following the expiry of the said 90 days to the day of refund.

#### **3.3 OFFENCES AND PENALTIES**

**Section 13** of the Act provides for levy of fine or conviction or both for failure to submit returns and any tax assessed within the due date, to keep true and complete accounts, to comply with the notice issued etc.,

## **CHAPTER – IV**

### **REGISTERS AND AUDIT CHECKS**

#### **4.1 REGISTERS**

##### **i) General Index Register**

This register shows the names and addresses of the proprietors of Hotels registered under the KTL Act. This is maintained in one volume for each office. It contains an abstract detailing the cases registered so far, registration certificates cancelled/transferred and the balance as at the end of the month.

##### **ii) Register of Daily Cash Collections**

The amounts collected should be remitted into the treasury through a challan. The challan number and date of remittance should be noted in this register. The LTO should check the entries daily and attest the entries. An abstract, showing the total collections by way of luxury tax, penalties, composition money and miscellaneous fee for the month and total up to the end of the month should be put up at the end of each month.

##### **iii) Register of Daily Cheque Collections**

On receipt of cheques, columns 1 to 4(e) should be filled up and the cheques remitted to the Treasury/Bank through challan. The Challan Number and the date of encashment should be entered after obtaining the challan copy from the Treasury/Bank. Entries of collections in the demand register should not be posted directly from this register but should be entered only with reference to the challan posting register. A monthly abstract showing the details of cheques received, sent to treasury but not realised, cheques dishonoured and action taken for collection of cheques dishonoured has to be prepared.

##### **iv) Challan Posting Register**

The assessing authority should ensure that the challans are received daily from the Treasury and the register is written up every working day. The correctness of the entries made in this register, should be counter-checked with reference to the Treasury figures. The entries in other relevant registers must be posted with reference to the entries in the challan posting register.

This register should be written up by only one case worker and an abstract should be put up at the end of each month.

**v) Register of Demand, Collections and Balances**

The postings in this register should be made with reference to Challan Posting Register. The demands of tax should be entered in this register immediately after the assessments are made. Balance of each month will be arrived by deducting the tax amount collected. At the end of each month, an abstract of all the pages should be prepared which would be the basis for the preparation of DCB statement.

**vi) Dealers Ledger Account**

This is the ledger account of each of the dealer assessed to tax. The arrears of tax due for all the previous years should be brought forward and noted in the space provided for it and collections watched.

**vii) Recovery Register**

The register is meant for watching action taken for recovery of tax. Recovery certificates issued to revenue authorities, applications filed before the court etc., have to be entered. The action taken u/s 8, 8A, 13 and 14 of the Act will be noted in this register. A monthly abstract indicating details of cases disposed of and pending at the end of the month should be put up.

**viii) Register of Refunds**

All refunds, whether on account of final assessment or on account of appeal or revision etc., should be entered in this register. Amounts ordered for refund by adjustment should also be entered in the Dealers Ledger Account Register and also the DCB Register, in red ink simultaneously, to distinguish them from cash collections. The words "Refund adjustment" along with the number and date of the refund order must be entered in the 'remarks' column in this register. While marking entries in the dealers' ledger account, the number and date of refund order should be mentioned in the column meant for posting the challan number and date. The adjustment of the refunds should be made in the same month in which they are ordered, as far as possible.

**ix) Cash Remittance Register**

The entries in the register will be made date-wise with reference to the original receipt, by the officers-in-charge.



**x) Register of pendency and disposal of assessments**

This register contains – (i) No. of cases pending at the beginning of the month (ii) No. of cases received by transfer from other officers/remanded cases (iii) New cases detected with ante-date liability (iv) No. of cases transferred out (v) No. of assessments finalized etc.

1.	General Index Register	Maintained Electronically w.e.f 01-04-2008
2.	Register of Daily Cash Collection	
3.	Register of Daily Cheques Collection	
4.	Challan Posting Register	
5.	Recovery Register	
6.	Register of Refunds	
7.	Cash Remittance Register	
8.	Register of DCB	
9.	Register of Pendency and Disposal of Assessments.	Dispensed consequent on introduction of online system.
10.	D-Register - Dealers Ledger Account	Maintained Manually
11.	J-Register – Appeals and Revision	
12.	Cheque Bounce Register	

## 4.2 AUDIT CHECKS

AQMF: III – Audit Management

QME : N- Conducting of Audit

KIE : (i) Section 16 of C&AG's (DPC) Act, 1971

(ii) Para 2.3.1 to 2.3.15 of Chapter 3, Section II of MSO (Audit)

(iii) The Karnataka Tax on Luxuries Act & Rules, 1979

(iv) Circulars dated 18-11-2005 & 21-03-2007 of RBI

(v) Circular of RAPC(s) dated 24-11-2009.

i) Details of daily account of occupancy of rooms and collection of tax furnished by the proprietor may be cross verified with reference to basic information of accommodation and tariff furnished in Form I – B and monthly abstract of collection and remittances of luxury tax in Form III. If any omission is noticed in audit of selected month, a thorough check of assessment records for the entire year may be conducted. If the rate is charged otherwise than on daily basis per room, then the charges shall be calculated per day based on the period of lodging for which charges are payable (first proviso to Section 3(1)).

ii) Whether the rate of charges for luxury provided in a hotel is inclusive of the charges for food or drink or other amenities, it may be seen whether separate charges are fixed for luxury and for food or drink or other amenities for the purpose of calculating the tax.

iii) 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, it may be seen whether such charges are treated as part of the charges for luxury provided in the hotel.

iv) Where luxury provided in a hotel to any person (not being an employee of the hotel) is not charged at all, or is charged at a concessional rate, then it may be seen whether the tax on such luxury has been levied and collected as if full charges for such luxury were paid to the proprietor of the hotel.

Where luxury provided in a hotel for a specified number of persons is shared by more than the number specified, it may be seen whether in addition to the tax paid for the luxury provided to such specified number of persons, tax in respect of the charges made for the additional number of persons accommodated has been levied and collected separately.

- v) Whether the luxury tax is paid on the due date and if not the penalty has been levied correctly. Cases of non-levy of penalty under Section 8 of the Act may be commented upon.
- vi) Whether the amount of tax paid in advance u/s 5-A of the Act adopted in the assessment order is correct.
- vii) Whether tax collected by the proprietor has been made over to Government as required under Rule 16
- viii) Whether the tax levied under other sections of the Act are in accordance with the provisions made therein.
- ix) Whether the special reports of the intelligence, if any, have been made use of at the time of concluding the assessments.
- x) Whether tax already paid u/s 6 or in appeal under Section 9 or in revision u/s 10 exceeds, the adjustment made towards any amount of which notice has been issued is in order.
- xi) Compliance with any guidelines/circulars/clarifications issued by the Government/ Department may also be looked into.
- xii) Whether the interest (8% per annum) for belated realization of cheques have been levied and collected from the nodal banks earmarked for remittances in to Government treasury. (as per RBI circular No. RBI/2005/209 dated 18-11-2005 and No. RBI/2006-07/291 dated 21-03-2007 communicated by RAPC(S) vide circular dated 24-11-2009)

### Audit Quality Management System – Mapping of Guidelines

Audit Quality Management Framework	Quality Management Employed	Key Instruments Employed	Reference to the manual
Leadership & Direction	Tone at the Top	(i) Article 148 to 151 of the Constitution of India. (ii)CAG’s DPC Act 1971	Para 1.1 of Chapter I
	Vision, Mission core values and Auditing standards	(i) The Karnataka Tax on Luxuries Act and Rules (ii)MSO(Audit)	Para 2.1 of Chapter II
	Strategic Audit Planning	(i) The Karnataka Tax on Luxuries Act and Rules (ii)MSO(Audit)	Para2.2 of Chapter II
	Strategic direction and planning	(i)MSO(Audit) (ii)Performance audit guide lines	Para 2.5 of Chapter II
Audit Management	Conducting of audit	(i) Section 16 of C&AG’s (DPC) Act, 1971 (ii) Para 2.3.1 to 2.3.15 of Chapter 3, Section II of MSO (Audit)	Para 4.1 & 4.2 of Chapter IV

**PART-VII**  
**BETTING TAX**

## THE MYSORE BETTING TAX ACT, 1932

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# THE MYSORE BETTING TAX ACT, 1932

## CHAPTER I

### AUDIT MANDATE

The Comptroller and Auditor General of India has the mandate to audit the receipts flowing into the Consolidated Fund of Union, State and Union Territories under Articles 149 to 151 of the Constitution of India read with the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. The role of the Comptroller and Auditor General of India with regard to the audit of receipts is specified in Section 16 of the CAG's (DPC) Act, 1971. Accordingly, the audit of the receipts under the Karnataka Betting Tax Act, 1932 was taken up in January 1973.

### 1.1 LEGISLATIVE BACKGROUND

Betting tax is governed by the provisions of the 'Mysore Betting Tax Act, 1932' and the Rules made thereunder as amended from time to time. Under this Act, two types of taxes are levied viz. Tax on Totalisators and Betting Tax.

The Betting Tax is payable by the licensed book makers and the totalisator tax is payable by the Racing Club licensees viz., Mysore Race Club and the Bangalore Turf Club. Both the taxes are collected from the backers at the time of betting and remitted to the Government Account on the next working day.

### 1.2 DEFINITIONS

- (i) **Racing Club** means a club for which a licence has been granted for horse racing on such race course or for arranging for wagering or betting in such race course on a horse race run on some other race course either within the State or outside the State.
- (ii) **Backer** is any person who bets on a horse and includes any person who bets with a licensed bookmaker or at a totalisator.
- (iii) **Bet** includes "wager" and "betting" includes "wagering"
- (iv) **Licensed Bookmaker** means any person who carries on the business or vocation of or acts as a bookmaker or turf commission agent under a permit granted by a licensee to enable him to carry on his business or vocation under the Mysore Race Courses Licensing Act, 1952, as specified in the permit.

- (v) **Totalisator** means a totalisator in an enclosure which the licensees have set apart in accordance with the provisions of the Mysore Race Course Licensing Act, 1952 and includes any instrument, machine or contrivance known as the totalisator or a sweep or any other scheme for enabling any number of persons to make bets with one another on like the principles.
- (vi) **Totalisator Tax** is a tax on backers charged, levied and paid to the State Government out of all money paid into the totalisator by way of stakes or bets, at such rate not exceeding 25% of every sum so paid as the State Government may from time to time notify in this behalf.
- (vii) **Betting tax** is a tax charged, levied and paid to the State Government out of all moneys paid or agreed to be paid to a licensed bookmaker by a backer in respect of a bet made in an enclosure set apart by the licensee in accordance with the provisions of the Mysore Race Courses Licensing Act, 1952 or any race, at a rate not exceeding 25% of all money as the State Government may from time to time notify in this behalf.
- (viii) **Prescribed Officer** the Joint commissioner of the Division in which the race meeting takes place shall be the prescribed officer under Sections 4, 7, and 8 of the Betting Tax Act.
- (ix) **Turf Commission agent** means any person other than licensed bookmaker who-
- receives bets from the public in general;
  - purchases tickets on behalf of others; or
  - makes bets on behalf of others;
- for commission or remuneration in respect of any horse, mare or gelding run in a horse-race or in respect of a rider of any such horse, mare or gelding.



### 1.3 ORGANISATIONAL SETUP

Horse racing in the State is organized by the Bangalore Turf Club at Bangalore and the Mysore Race Club at Mysore. They are called licensees in the Act. Besides, there are licensed bookmakers who obtain permit from the Race Clubs and who accept bets from backers of the horses. The Joint Commissioner of the Division is the prescribed officer under the Act who is responsible for watching the collection and remittance of the tax amount. He is also empowered to inspect the accounts maintained by the Race Clubs and Bookmakers.

Apart from the races conducted at Bangalore and Mysore, the Bangalore Turf Club and the Mysore Race Club are empowered to participate in the betting of races conducted at other race centers. This is otherwise called *off-course* betting. At present, Bangalore Turf Club has such reciprocal arrangements with race clubs at Bombay/Pune, Calcutta, Hyderabad and Mysore. The Mysore Race Club has reciprocal arrangements with Bangalore, Bombay, Calcutta, Hyderabad, Delhi and Madras Race Clubs. No payment of share of betting tax is, however, payable to other Governments.

## CHAPTER II

### TAXES ON TOTALISATOR

#### 2.1 LEVY AND PAYMENT OF TOTALISATOR TAX

Under **Section 3** of the Betting Tax Act, a tax on backers shall be levied at such rate as fixed from time to time out of all moneys paid into any totalisator by way of stakes or bets. The totalisator tax shall be received by the licensees on behalf of the State Government.

#### RATE OF TAX

The rate of tax is fixed by the State Government in respect of totalisator for the Bangalore Turf Club and Mysore Race Club from time to time by issue of notification in this behalf.

#### PAYMENT OF TOTALISATOR TAX BY WAY OF COMPOSITION

Under **Section 3-A** of the Betting Tax Act 1932, a licensee who opted for payment of *composition tax* (in lieu of totalisator tax) shall pay the *amount of tax as may be notified by the Government from time to time* and such tax is required to be paid in 12 monthly equal installments and each installment shall be paid on or before 20<sup>th</sup> of every month.

However, from 1<sup>st</sup> August 2004, the composition tax is payable at the following rates of tax on the total amount of moneys paid into the totalisator (i.e. Totalisator receipts) during a month in respect of Bangalore Turf Club and Mysore Race Club as detailed below :

<b>Race Club</b>	<b>01-8-2004 to 31-3-2006</b>	<b>01-4-2006 to 31-7-2008</b>	<b>01-8-2008 to 31-3-2011</b>	<b>01-4-2011 to 31-03-2012</b>	<b>From 01-04-2012 onwards</b>
Bangalore Turf Club	<b>4%</b>	<b>4%</b>	<b>4%</b>	<b>8%</b>	<b>4%</b>
Mysore Race Club	<b>4%</b>	<b>2%</b>	<b>4%</b>	<b>4%</b>	<b>4%</b>

#### **PROCEDURE OF COLLECTION AND REMITTANCES (RULE 2-A (5))**

The licensees shall, at such times and in such manner as may be prescribed, forward to the prescribed officer a return stating the total amount of the moneys paid into the totalisator at the meeting and shall, at the prescribed time, make over to the prescribed officer the amount of tax for that meeting (Section 4) such tax shall be paid on or before 20<sup>th</sup> of succeeding month.

#### **IMPOSITION OF PENALTY (SECTION 4- A)**

If any default is committed in the payment of composition tax beyond 10 days after due date, the licensee shall pay penalty at 2% per month during the period in which such default is committed.

#### **RETURNS OF ACCOUNTS**

For each event, i.e. jackpot, treble, double, quinella, place, win, etc., ticket checkers' summary sheets (counter sheet, working sheet of the floor-man) are maintained.

Out of the total value of ticket sold, Government tax due and race club commission is deducted and the net surplus is distributed as dividends to the winning ticket holders. The total collections, deductions therefrom towards tax and commission to the race club and the distributable balance are worked out for each race.

#### **RECOVERY OF ARREARS**

Under Section 9(1) of the Betting Tax Act, the totalisator tax payable shall be recoverable from the licensees as an arrear of land revenue.

## CHAPTER – III

### BETTING TAX

Under Section 6 of the Betting Tax Act, *Betting tax* is levied on all moneys paid or agreed to be paid to a licensed bookmaker by a backer in respect of a *bet amounts* made in an enclosure set apart by the licensees in Bangalore and Mysore, in respect of On-course and Off-course race meetings either within the State or outside the State.

#### 3.1 LEVY AND COLLECTION OF BETTING TAX (SECTION-6)

##### RATE OF TAX

The tax is payable not exceeding 25% of the bet amounts as notified by the Government from time to time by issue of notification in this behalf.

From 1<sup>st</sup> April, 2009, the tax is payable not exceeding Rs.50,000 per each day of race meeting as notified by the Government by Notification No. FD 65 CSL 2009 dated 16-4-2009. (Please refer Notification enclosed).

**Increase of tax on licensed bookmakers (W.e.f. 01-04-2012):** By Notification – **XII No. FD 57 CSL 2012 dated 31-03-2012** (enclosed), the rate of tax on licensed bookmaker operating in Bangalore and Mysore has been increased based on the nature of the race meeting for which the bets are accepted.

##### COLLECTION OF TAX

The tax is collected by the bookmakers simultaneously along with the betting amounts.

##### PAYMENT OF TAX

Within three days after each day of a race meeting, every bookmaker licensed to carry on business at the meeting shall make over to the prescribed officer, the amount of betting tax due to Government on such moneys at the rate notified by Government under Section 6 of the Act. He shall forward to the prescribed officer through the Secretary or other authorised officer of the racing club a return in Form 'B' setting forth the total amount of the moneys paid or agreed to be paid to him in respect of all bets. The Secretary or other authorised officer of the racing club shall forward such returns to the prescribed officer without delay.

In the case of credit bets, the licensed bookmaker shall be deemed to have collected the betting tax due to Government at the time the bet is laid by the backer (with the bookmaker) and shall be accountable for the same to the Government.

If any default is committed in the payment of tax beyond 10 days after the due date, the licensee shall pay penalty at 2% per month during the period in which such default is committed (Section 4-A).

Payment of taxes due to Government into the local Government Treasury shall be deemed to be payment to the prescribed officer.

In Bangalore Turf Club, taxes in respect of bets with bookmakers are collected by the Turf Club authorities from the bookmakers and the amount so collected is credited to Government Treasury under the appropriate Head of account.

### **SERVICE OF NOTICE**

The Act or the Rules thereunder, do not indicate the manner of service of notice and hence the instructions in that regard available in the KST Act 1957 would apply mutatis mutandis under Mysore Betting Tax Act also.

### **RETURNS OF ACCOUNTS**

- a. Betting cards printed at the Bangalore Turf Club Press are issued to Book-makers at cost. An account of stock, issue and balance of such cards for each bookmaker is kept. In Mysore Race Club, the Book-makers bring their printed betting cards. These are checked and verified before they are brought to use, by Mysore Race Club authorities.
- b. Betting sheets are maintained by the bookmakers in the prescribed form indicating therein, the card number, amount bet against each horse of each race, field money collected and the tax due. One sheet is used for each race. On the betting sheet of the last race of the day, abstract showing field money on each race is given and total collections for the day and tax due to Government are worked out.
- c. On the day following the race day, a statement showing field money collected by each bookmaker and tax due thereon is submitted to the Joint Commissioner in the prescribed form. In Bangalore, Turf club authorities collect the tax due from bookmaker and remit the same into the Reserve Bank. In Mysore Race Club, the individual bookmakers remit the tax due as worked out in their betting sheets into the bank and produce the challan to the race club authorities. These challans are filed separately.

## **INSPECTION OF ACCOUNTS**

The betting sheets of bookmakers are checked by a supervisor to see the correctness of the total bets, and the calculations of tax at the prescribed rates.

In respect of credit bets, the entries in the ledger maintained for this purpose, are traced in the Betting sheet.

## **PUNISHMENT (SECTION 11(2))**

If any licensee or licensed bookmaker:

- a. evades or attempts to evade the collection or payment of the totalisator tax or betting tax, as the case may be;
- b. fails to maintain the accounts or supply any information which such licensee or bookmaker is required to maintain or supply by or under the Act; or
- c. knowingly maintains false accounts or supplies false information,

Such licensee or bookmaker shall be punishable with imprisonment which may extend to six months or with fine or both. (Section 11(1) of Betting Tax Act).

If any person contravenes or fails to comply with any of the provisions of the Act, or of any rule made thereunder, he shall be punishable with fine, which may extend to Rs.500.

## **PENALTIES**

According to **Section 8B** of the Mysore Betting Tax Act, any officer empowered by the State Government in this regard may, if he has reason to believe from an examination of documents that a licensed bookmaker has attempted to evade payment of betting tax collected, shall determine to the best of his judgment the amount of betting tax payable by the licensed bookmaker and shall pass orders levying the same. In addition, he may also levy a penalty not exceeding one and a half times the amount of betting tax levied, after giving a reasonable opportunity to the bookmaker to show cause against such imposition.

## **RECOVERY OF ARREARS**

Under **Section 9(2)** of the Betting Tax Act, all moneys which a licensed bookmaker is liable to make over to the prescribed officer under Section 7 *ibid* shall be recoverable from him as arrears of land revenue

### **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. **(Ref: CCT circular No.1/2011-12 dated 21-04-2011)**

### **3.2 RECORDS MAINTAINED BY THE DEPARTMENT**

#### **Betting Tax**

- a. Betting sheets
- b. Cash cards stock issue register
- c. Challans in support of tax remittances

#### **Totalisator tax**

- a. Counter-sheets with abstracts
- b. Challan file

#### **General**

- a. Government order file containing notification and orders issued by Government
- b. Reports of inspection by the staff of the Joint Commissioner's office.

**CHAPTER – IV**  
**PROCEDURE OF LOCAL AUDIT**

AQMF: III – Audit Management

QME : 5- Conducting of Audit

KIE : (i) Section 16 of C&AG's (DPC) Act, 1971

(ii) Para 2.3.1 to 2.3.15 of Chapter 3, Section II of MSO (Audit)

(iii) The Mysore Betting Tax Act, 1932

(iv) The Mysore Betting Tax Rules, 1933

The following checks have to be exercised by the Local Audit Parties with respect to the various documents associated with the collection and account of betting tax and totalisator tax.

**A. Tax on totalisator**

- a. Whether the totals in the abstracts of each event are correct.
- b. Whether the calculations of the tax due are in accordance with the Government orders issued from time to time.
- c. Whether the totals of the tax so collected for each event on a race day can be traced to the consolidated tax return submitted to the Joint Commissioner.
- d. In respect of payment of totalisator tax by way of composition, whether the tax is paid on or before 20<sup>th</sup> of every month.
- e. Whether penalty at 2% per month during the period of default has been levied.

**B. Betting tax**

In respect of each bookmaker for the selected month

- a. Whether the total bet money on each horse is correct.
- b. Whether the totals taken to abstract on the betting sheets are correct.
- c. Whether the totals of the abstracts are correct.
- d. Whether the abstract on the betting sheet for the last race and the total field money for the race day tally and the tax due is worked out correctly.
- e. Whether the field money and the tax due for the race day could be traced from the betting sheet into the return submitted to the Joint Commissioner.
- f. Whether the Betting Cards numbers issued and used can be verified with the Register of Stock/Issue.



**C. Returns to the Joint Commissioner**

- a. Whether the field money and tax due for the race day could be traced to the return submitted by the Club to the Joint Commissioner.
- b. Whether the total of the entries in the return is correct and the amounts remitted could be traced to the challans in the separate file and to the treasury records for the selected month.
- c. Whether any delay has occurred in remittances.
- d. Whether the betting cards issued and used could be verified from the register of stock/issue of betting cards. The missing card numbers should be pointed out. The winning cards, bookmakers' betting sheets, unused tickets, totalisator's account sheets of each race and consolidation sheets have to be checked.

**D. Inspection reports issued by the Joint Commissioner's Office.**

- a. Whether the action taken on the internal inspection was reviewed?

**E. Government order file**

- a. Whether the Government orders relating to Betting Tax issued from time to time were reviewed?
- b. Whether the rates of tax specified periodically were checked with the
- c. Rates actually applied?

## Audit Quality Management System – Mapping of Guidelines

Audit Quality Management Framework	Quality Management Employed	Key Instruments Employed	Reference to the manual
Leadership & Direction	Tone at the Top	(i) Article 148 to 151 of the Constitution of India. (ii)CAG’s DPC Act 1971	Para 1.1 of Chapter I
	Vision, Mission core values and Auditing standards	(i) The Mysore Betting Tax Act and Rules (ii)MSO(Audit)	Para 1.3 of Chapter I
	Strategic Audit Planning	(i) The Mysore Betting Tax Act and Rules (ii)MSO(Audit)	Para2.1 of Chapter II
	Strategic direction and planning	(i)MSO(Audit) (ii)Performance audit guide lines	Para 3.1 & 3.2 Of Chapter III
Audit Management	Conducting of audit	(i) Section 16 of C&AG’s (DPC) Act, 1971 (ii) Para 2.3.1 to 2.3.15 of Chapter 3, Section II of MSO (Audit)	Chapter IV