

The Kerala Surcharge on Taxes Act, 1957

Act 11 of 1957

Keyword(s):

Agricultural Income, Taxes on Profession, Surcharge on Tax

Amendments appended: 12 of 1960, 2 of 1966, 10 of 1968, 16 of 1970, 40 of 1976, 9 of 2000

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THE KERALA SURCHARGE ON TAXES ACT, 1957 [\[1\]](#)

(Act 11 of 1957)

[Amended by Acts 12 of 1960, 2 of 1966, and 10 of 1968 and 16 of 1970]

An Act to provide for levy of surcharges on certain taxes.

Preamble.- WHEREEAS it is considered necessary to increase the taxes on agricultural income, taxes on the sale or purchase of goods and taxes on profession, by the levy of a surcharge on such taxes;

BE it enacted in the Eighth Year of the Republic of India as follows:-

1. *Short title, extent and commencement.*- (1) This Act may be called the Kerala Surcharge on Taxes Act, 1957.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification, in the Gazette, appoint.

2. *Levy of surcharge on agricultural income-tax.*- The [\[1a\]](#) ["Agricultural income tax"] payable by any person [\[2\]](#) ["other than a company"] assed to such tax under the [\[3\]](#) ["The Kerala Agricultural Income Tax Act, 1991"] shall be increased by a surcharge at the rate of [\[4\]](#) [ten per centum] of the tax payable each year, and the provisions of the [\[5\]](#) ["The Kerala Agricultural Income Tax Act, 1991"] shall [\[6\]](#)[apply in relation to the said surcharge as they apply in relation to the [\[7\]](#) ["Agricultural income tax "] payable under the said Act]

[\[8\]](#) [**Explanation.**- In this section, company shall have the same meaning as in the Agricultural Income-tax Act, 1950.]

3. *Levy of surcharge on sales and purchase taxes.*- [\[9\]](#) ["(1) The tax payable under sub-section (1) of section 5 of the Kerala General Sales Tax Act, 1963, by a dealer in foreign liquor shall be increased by a surcharge at the rate of ten per cent, and the provisions of the Kerala General Sales Tax Act, 1963 shall apply in relation to the said surcharge as they apply in relation to the tax payable under the said Act".]

Provided that where in respect of declared goods as defined in clause (c) of section 2 of the Central Sales Tax Act, 1956 the tax payable by such dealer under [\[10\]](#) [the Kerala General Sales-Tax Act, 1963] together with the surcharge payable under this sub-section, exceeds [\[11\]](#) [four per centum] of the sale or purchase price, the rate of surcharge in respect of such goods shall be reduced to such an extent that the tax and the surcharge together shall not exceed [\[12\]](#)[four per centum] of the sale or purchase price.

(2) Notwithstanding anything contained [13] [in sub-section (1) of section 22 of the Kerala General Sales Tax Act, 1963] no dealer referred to in sub-section (1) shall be entitled to collect the surcharge payable under the said sub-section.

[14] [“(3) Any dealer who collects the surcharge payable under sub-section (1) in contravention of the provision of sub-section (2) shall be punishable with fine which may extend to one thousand rupees and no court below the rank of a Magistrate of the first class shall try any such offence.”]

[15] [“4. *Penalty for illegal collection of surcharge.*- (1) If any person collects any sum by way of surcharge or purporting to be by way of surcharge in contravention of sub-section (2) of section 3, he shall be liable to pay penalty not exceeding five thousand rupees and any sum so collected by the person shall be liable to be forfeited to the Government by an order issued by the assessing authority after giving such person an opportunity to show cause why penalty or forfeiture shall not be ordered:

Provided that no penalty or forfeiture shall be ordered under this sub-section if the assessing authority is satisfied that the sum so collected has been returned to the person from whom it was collected.

(2) Where any sum is forfeited to the Government under sub-section (1) if any person from whom the amount was collected in contravention of the provisions of sub-section (2) of section 3 may apply to the assessing authority for reimbursement of such sum and the amount shall be reimbursed to such person and the procedure prescribed for reimbursement of the tax forfeited under sub-section (1) of section 46A of the Kerala General Sales Tax Act 1963 (15 of 1963) shall mutatis mutandis apply to such reimbursement.

(3) No prosecution for an offence under sub-section (3) of section 3 shall be instituted in respect of the same facts one which a penalty has been imposed or forfeiture has been ordered under this section.”.]

- [16][*****]

6. *Removal of difficulties.*- If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty.

7. *Power to make rules.*- The Government may, by notification in the Gazette make rules for carrying out the purposes of this Act.

8. *Amendment to the Madras Elementary Education Act, 1920.*- (1) The Chapter III (sections 32 to 40, both inclusive) of the Madras Elementary Education Act, 1920, as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956, shall be omitted.

(2) As soon as may be after the commencement of this Act, the elementary education fund constituted for each local authority under the said Act shall be transferred to the Government by such local authority and the same shall vest in the Government free of all trusts, liabilities and encumbrances. Thereupon it shall be competent for the Government to utilize the said fund in such manner as they may deem fit.



ACT 12 of 1960.**THE KERALA SURCHARGE ON TAXES (AMENDMENT) ACT, 1960 [\[1\]](#)**

An Act to amend the Kerala Surcharge on Taxes Act, 1957.

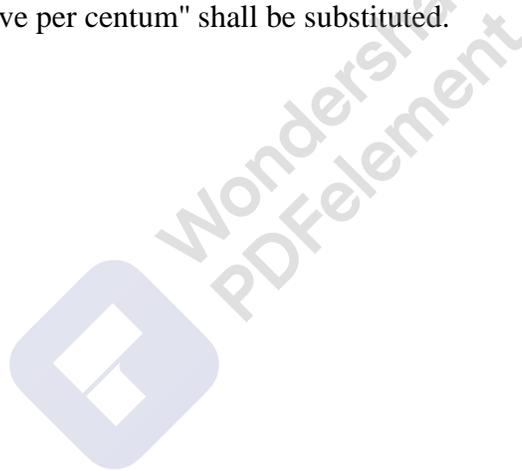
Preamble. — whereas it is expedient to amend the Kerala Surcharge on. Taxes Act, 1957, for the purpose hereinafter appearing;

Be it enacted in the Eleventh Year of the Republic of India as follows: —

1. *Short title and commencement* . —(1) This Act may be called the Kerala Surcharge on Taxes (Amendment) Act, 1960.

(2) It shall be deemed to have come into force on the first day of April, 1960.

2. *Amendment of section 3* . —In subsection (1) of section 3 of the Kerala Surcharge on Taxes Act, 1957 (Act 11 of 1957), for the words "two and a half per centum", the words "five per centum" shall be substituted.



**THE KERALA SURCHARGE ON TAXES (AMENDMENT
AND VALIDATION) ACT, 1966 [\[1\]](#)**

(No. 2 of 1966)

Enacted by the president in the seventeenth year of the republic of india .

An Act further to amend the Kerala Surcharge on Taxes Act, 1957 and to validate the levy and collection of surcharge on profession tax in certain cases.

In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1965 (12 of 1965), the President is pleased to enact as follows:—

1. *Short title and commencement.* —(1) This Act may be called the Kerala Surcharge on Taxes (Amendment and Validation) Act, 1966.

(2) Section 4 shall be deemed to have come into force on the 1st day of September, 1957, and the remaining provisions of this Act shall come into force at once.

2. *Amendment of section 2.*—In section 2 of the Kerala Surcharge on Taxes Act, 1957 (Kerala Act 11 of 1957) (hereinafter referred to as the principal Act), for the words "apply to the levy and collection of the said surcharge", the words "apply in relation to the said surcharge as they apply in relation to the income-tax or super-tax payable under the said Act" shall be substituted.

3. *Amendment of section 3.*—In section 3 of the principal Act,—
(i) in sub-section (1),

(a) for the words and figures "the Travancore-Cochin General Sales Tax Act, 1125 or the Madras General Sales Tax Act, 1939", wherever they occur, the words and figures "the Kerala General Sales Tax Act, 1963" shall be substituted;

(b) for the words "apply to the levy and collection of the said surcharge", the words "apply in relation to the said surcharge as they apply in relation to the tax payable under the said Act" shall be substituted;

(ii) in sub-section (2), for the words, brackets, figures and letter "in sub-section (1) of section 11 of the Travancore-Cochin General Sales Tax Act, 1125 or in sub-section (1) of section 8B of the Madras General Sales Tax Act, 1939", the words, brackets and figures "in sub-section (1) of section 22 of the Kerala General Sales Tax Act, 1963" shall be substituted;

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

“(3) Any dealer who collects the surcharge payable under sub-section (1) in contravention of the provision of sub section (2) shall be punishable with fine which may extend to one thousand rupees and no court below the rank of a Magistrate of the first class shall try any such offence.”

4. *Substitution of new section for section 4.*—For section 4 of the principal Act, the following section shall be substituted, namely: —

"4. *Levy of surcharge on profession tax.*— The profession tax payable by a person or company whose half-yearly income is not less than one thousand and five hundred rupees to the respective local authorities under the Trivandrum City Municipal Act (Travancore Act IV of 1116), the Travancore District Municipalities Act, 1116 (Travancore Act XXIII of 1116), the Cochin Municipal Act, XVIII of 1113 (Cochin Act XVIII of 1113), the Madras District Municipalities Act, 1920 (Madras Act V of 1920), the Travancore-Cochin Panchayats Act, 1950 (Travancore-Cochin Act II of 1950), the Madras Village Panchayats Act, 1950 (Madras Act X of 1950) or the Madras District Boards Act, 1920 (Madras Act XIV of 1920), shall be increased by a surcharge for the purpose of the Government at the rate of five per centum of the profession tax so payable and the local authorities concerned shall levy and collect the said surcharge along with the profession tax in the same manner as if it were a profession tax and the provisions of the law governing the levy and collection of such tax shall in all respects apply therefore:

Provided that—

(i) no surcharge on such tax shall be levied under this section where the profession tax payable by a person or company to any one of the said local authorities is two hundred and fifty rupees or more per annum; and

(ii) where the profession tax payable by a person or company to any one of the said local authorities is less than two hundred and fifty rupees per annum and such tax together with the surcharge exceeds two hundred and fifty rupees per annum, the surcharge leviable under this section shall be a sum which together with such tax amounts to two hundred and fifty rupees per annum."

5. *Validation.*— (1) Notwithstanding anything contained in any judgment, decree or order of any court, where any surcharge has been levied or collected before the date of publication of this Act in the purported exercise of the powers conferred by section 4 of the principal Act as originally enacted and—

(i) in any case where the aggregate amount of such surcharge and the profession tax referred to in the said section 4 which is payable by a person or a company does not exceed the limit of two hundred and fifty rupees per annum, then, such surcharge shall be deemed to have been validly levied or collected in accordance with law;

(ii) in any case where the aggregate amount of such surcharge and profession tax which is payable by a person or a company exceeds the limit of two hundred and fifty

rupees per annum, then, that portion of the surcharge, if any, which together with such profession tax does not exceed the said limit, shall be deemed to have been validity levied or collected in accordance with law,

as if such levy or collection had been made under section 4 of the principal Act as substituted by this Act, and accordingly—

(a) no suit or other proceeding shall be maintained or continued in any court for the refund of the surcharge referred to in clause (i) or such portion of the surcharge as is referred to in clause (ii), as the case may be, which has already been paid; and

(b) no court shall enforce any decree or order in so far as it relates to the refund of such surcharge or portion, as the case may be, which has already been paid.

(2) For the removal of doubts it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person from claiming any refund of any surcharge paid by him in excess of the amount due from him under section 4 of the principal Act as substituted by this Act.



THE KERALA SURCHARGE ON TAXES (AMENDMENT) ACT, 1968 [\[1\]](#)

(Act 10 of 1968)

An Act further to amend the Kerala Surcharge on Taxes Act, 1957

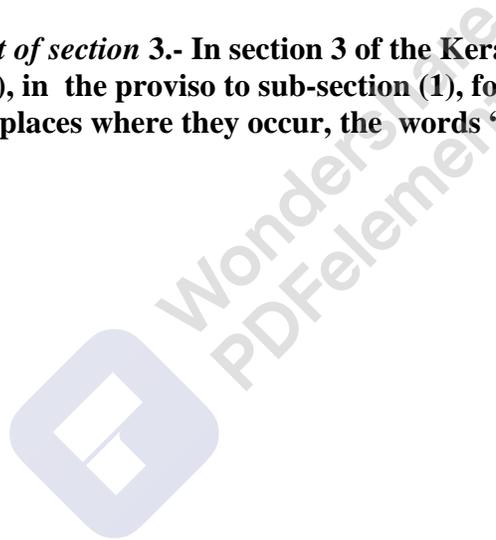
***Preamble.-* WHEREAS it is expedient further to amend the Kerala Surcharge on Taxes Act, 1957, for the purpose hereinafter appearing;**

BE it enacted in the Nineteenth Year of the Republic of India as follows:-

1. *Short title and commencement.-* (1) This Act may be called the Kerala Surcharge on Taxes (Amendment) Act, 1968.

(2) It shall be deemed to have come into force on the 1st day of September, 1967.

2. *Amendment of section 3.-* In section 3 of the Kerala Surcharge on Taxes Act, 1957 (11 of 1957), in the proviso to sub-section (1), for the words “two per centum”, in both the places where they occur, the words “three per centum” shall be substituted.



THE KERALA SURCHARGE ON TAXES (AMENDMENT) ACT, 1970 [\[1\]](#)

(Act 16 of 1970)

An Act further to amend the Kerala Surcharge on Taxes Act, 1957

Preamble.- WHEREAS it is expedient further to amend the Kerala Surcharge on Taxes Act, 1957, for the purpose hereinafter appearing;

BE it enacted in the Twenty-first Year of the Republic of India as follows:--

1. Short title and commencement.- (1) This Act may be called the Kerala Surcharge on Taxes (Amendment) Act, 1970.

(2) Section 2 shall be deemed to have come into force on the 1st day of April, 1970 and the remaining provisions of this Act shall come into force at once.

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

(a) after the words “any person”, the brackets and words “(other than a company)” shall be inserted;

(b) the following Explanation shall be inserted at the end, namely:--

“Explanation.- In this section, company shall have the same meaning as in the Agricultural Income-tax Act, 1950.”

3. Repeal and saving.- (1) The Kerala Surcharge on Taxes (Second Amendment) Ordinance, 1970 (16 of 1970), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the Kerala Surcharge on taxes Act, 1957 (11 of 1957), as amended by the said Ordinance shall be deemed to have been done or taken under the said Act as amended by this Act.

THE KERALA SURCHARGE ON TAXES (AMENDMENT) ACT, 1976 [\[1\]](#)

(Act 40 of 1976)

An Act further to amend the Kerala Surcharge on Taxes Act, 1957

Preamble:-- WHEREAS it is expedient further to amend the Kerala Surcharge on Taxes Act, 1957, for the purposes hereinafter appearing;

BE it enacted in the Twenty-seventh Year of the Republic of India as follows:-

1. Short title and commencement:-- (1) This Act may be called the Kerala surcharge on Taxes (Amendment) Act, 1976.

(2) Clause (b) of section 3 shall be deemed to have come into force on the 1st day of July, 1975 and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of April, 1976.

2. Amendment of section 2:-- In section 2 of the Kerala Surcharge on Taxes Act, 1957 (11 of 1957) (hereinafter referred to as the principal Act),-

(a) for the words “income tax or super tax”, in both the places where they occur, the words “agricultural income tax” shall be substituted;

(b) for the words “five per centum”, the words “ten per centum” shall be substituted.

3. Amendment of section 3:-- In sub-section (1) of section 3 of the principal Act,-

(a) for the opening paragraph, the following paragraph shall be substituted, namely:-

“The tax payable under the Kerala General Sales Tax Act, 1963, shall, in the case of a dealer whose turnover--

(a).is not less than one lakh rupees but does not exceed ten lakhs rupees in a year, be increased by a surcharge at the rate of five per centum, and

(b).exceeds ten lakhs rupees in a year, be increased by a surcharge at the rate of eight per centum,

of the tax payable for that year, and the provisions of the Kerala General Sales Tax Act, 1963, shall apply in relation to the said surcharge as they apply in relation to the tax payable under the said Act;”;

(b) in the proviso, for the words “three per centum”, in both the places where they occur, the words “four per centum” shall be substituted.

4. Omission of section 4 and 5:-- Sections 4 and 5 of the principal Act shall be omitted.

5. Repeal and saving:-- (1) The Kerala Surcharge on Taxes (Amendment) Ordinance, 1976 (6 of 1976), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.



THE KERALA SURCHARGE ON TAXES (AMENDMENT)

ACT, 2000 [\[1\]](#)

(Act 9 of 2000)

An Act further to amend the Kerala Surcharge on Taxes Act, 1957.

Preamble.- WHEREAS it is expedient further to amend the Kerala Surcharge on Taxes Act, 1957 (11 of 1957) for the purpose hereinafter appearing;

BE it enacted in the Fifty-first Year of the Republic of India as follows:--

1. *Short title and commencement.*-- (1) This Act may be called the Kerala Surcharge on Taxes (Amendment) Act, 2000.

(2) It shall be deemed to have come into force on the 1st day of January , 2000.

2. *Amendment of section 3.*-- In the Kerala Surcharge on Taxes Act, 1957 (11 of 1957)

(hereinafter referred to as the principal Act) in section 3, for sub-section (1) the following sub-section shall be substituted, namely:--

" (1) The tax payable under sub-section (1) of section 5 of the Kerala General Sales Tax Act, 1963, by a dealer in foreign liquor shall be increased by a surcharge at the rate of ten per cent, and the provisions of the Kerala General Sales Tax Act, 1963 shall apply in relation to the said surcharge as they apply in relation to the tax payable under the said Act. "

3. *Repeal and saving.*-- (1) The Kerala Taxation Laws (Amendment) Ordinance, 1999 (7 of 1999) except section 4 thereof is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

