

KARNATAKA ACT NO 5 OF 2007

THE KARNATAKA TAXATION LAWS (AMENDMENT) ACT, 2007

Arrangement of Sections

Sections:

1. Short title and commencement
2. Amendment of Karnataka Act 25 of 1957
3. Amendment of Karnataka Act 30 of 1958
4. Amendment of Act 35 of 1976
5. Amendment of Karnataka Act 22 of 1979

STATEMENT OF OBJECTS AND REASONS

Amending Act 5 of 2007.- It is considered necessary to amend the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976 and the Karnataka Tax on Luxuries Act, 1979 to give effect to the proposals made in the Budget and matters connected therewith and also to amend the Karnataka Sales Tax Act, 1957 to provide for a provision for empowering the State Government to withdraw any notification issued under section 8-A either prospectively or retrospectively to give effect to the decision taken by the State Government with regard to discontinuance of sales tax based incentives to industries as a part of national consensus to bring in reforms in State taxes.

Certain consequential and incidental amendments are also made.

Hence the Bill.

[L.A.Bill No. 22 of 2007]

[Entries 54, 60 and 62 of List II of the Seventh Schedule to the Constitution of India.]

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(First Published in the Karnataka Gazette Extra-ordinary on the Thirtieth day of March, 2007)

THE KARNATAKA TAXATION LAWS (AMENDMENT) ACT, 2007

(Received the assent of the Governor on the Thirtieth day of March, 2007)

An Act further to amend certain taxation laws in force in the State of Karnataka.

Whereas it is expedient to amend certain taxation laws for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the fifty-eighth year of the Republic of India, as follows.-

1. Short title and commencement.- (1) This Act may be called the Karnataka Taxation Laws (Amendment) Act, 2007.

(2) It shall come into force from the first day of April, 2007.

2. Amendment of Karnataka Act 25 of 1957.- In the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), in section 8-A, after sub-section (3), the following proviso shall be deemed to have been inserted with effect from the first day of January, 2000, namely:-

“Provided that where Government has withdrawn the scheme of giving exemption of tax to any class or category of new investors in general by way of general or special order and in pursuant to such order, the Government may, by notification, withdraw such exemption including exemption granted by special order, if any, from a retrospective date. However, such date shall not be beyond the date of such general or special order.”

3. Amendment of Karnataka Act 30 of 1958.- In the Karnataka Entertainments Tax Act, 1958 (Karnataka Act 30 of 1958),-

(1) in Section 3, in sub-section (1-A), in the proviso, after the words “circus”, the words “or drama” shall be inserted;

(2) in section 4-E, for the words “twenty per cent”, the words “ten per cent” shall be substituted;

(3) in section 4-G, for the words “ten per cent”, the words “six per cent” shall be substituted;

(4) in section 6, in sub-section (3), for the word “Commissioner” in the two places it occurs, the words “such authority as may be prescribed” shall be substituted.

4. Amendment of Act 35 of 1976.- In the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976 (Karnataka Act 35 of 1976),-

(1) in section 10,

(i) in the heading, after the words " Payment of tax", the words "and filing of return" shall be inserted;

(ii) for sub-section (1) excluding the proviso, the following shall be substituted, namely:-

"(1)Every enrolled person shall pay the tax payable by him under this Act and file his return before the assessing authority, in such manner and such form as may be prescribed."

(iii) for sub-sections (3) to (8), the following sub-sections shall be substituted, namely,-

"(3) Notwithstanding anything contained in sub-sections (1) and (2),

(a) the tax payable under this Act by any agent or any other person by whatever name called earning income by way of commission or other remuneration as specified in item 4 of the Schedule, shall be deducted by the insurance company or bank or other financial institution before such commission or other remuneration is paid to him, and such insurance company or bank or other financial institution shall, irrespective of whether such deduction has been made or not when the commission or other remuneration is paid to such person shall be liable to pay tax on behalf of all such persons;

(b) where any salary or wage earner as specified in item 1 of the Schedule is working for any person registered or enrolled under this Act not as his employee but as a part of man power service by whatever name called being provided to him by any other person, the tax payable under this Act by such salary or wage earner shall be deducted by the person registered or enrolled under this Act before any amount is paid to such person providing service to him, and such person shall, irrespective of whether such deduction has been made or not when the amount is paid to such service provider shall be liable to pay tax on behalf of all such salary or wage earners;

(c) where any person registered or enrolled under this Act has taken on rent or hire or on similar terms any transport vehicle (other than auto rickshaws)for more than a month in a year, the tax payable by the owner of such transport vehicle shall be deducted by such person registered or enrolled under this Act before any amount is paid as rent or by whatever name called to the owner, and such person shall, irrespective of whether such deduction has been made or not when the rent or other amount is paid to such owner shall be liable to pay tax on behalf of all such owners ;

(d) the tax payable under this Act by any licensed race horse owner, trainer, jockey or book maker as specified in item 11 of the Schedule shall be deducted by the turf club or race club which has given him the licence before any amount is paid to such person for whatever reason, and such turf or race club shall, irrespective of whether such deduction has been made or not when any amount is paid to such person shall be liable to pay tax on behalf of all such persons; and

(e) the tax payable by any medical practitioner as specified in item 6 of the Schedule, shall be deducted by the person owning or running the nursing home, hospital, pathological testing laboratory or the X-ray clinic in which such medical practitioner carries on his profession other than as a salaried person, before any amount is paid to such medical practitioner, and such person shall, irrespective of whether such deduction has been made or not when any amount is paid to such medical practitioner shall be liable to pay tax on behalf of all such medical practitioners.

Provided that no deduction shall be made for any year under this sub-section from any enrolled person or person liable to be enrolled who produces copy of the return filed by him for that year.

(4) (a) The deduction under clause (a) of sub-section (3) shall be made in the month in which the commission or other remuneration payable for any year exceeds thirty six thousand rupees.

(b) The deduction under clause (b) of sub-section (3) shall be made every month in which the amount payable to a person exceeds three thousand rupees.

(c) The deduction under clauses (c) to (e) of sub-section (3) shall be made in the month in which any amount is paid for the first time in that year to the said persons.

(5) The person making deduction under sub-section (3) shall send every month to the jurisdictional assessing authority a statement in the prescribed form containing particulars of tax deducted during the preceding month and pay full amount of the tax so deducted by it within twenty days after the close of the preceding month in which such deduction was made and the amount so payable shall for the purposes of Section 13 be deemed to be an amount due under this Act.

(6) If default is committed in the payment of tax deducted beyond ten days after the period specified under sub-section (5), 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.

(7) The person making deduction under sub-section (3), shall furnish to the enrolled person or person liable to be enrolled from whom such deduction is made, a certificate obtained from the jurisdictional assessing authority containing such particulars as may be prescribed.

(8) Payment by way of deduction in accordance with sub-section (5), shall be without prejudice to any mode of recovery of tax due under this Act from the enrolled person or person liable to be enrolled and the burden of proving that the tax payable by him has already been deducted and remitted under sub-section (5) shall be on such person."

(2) in the Schedule,-

(i) for the entries relating to serial number 69, the following entries shall be substituted, namely:-

- “69. Persons engaged in maintenance or running of vehicle including bicycle parking places or areas
 (i) in the Bangalore Urban Agglomeration Rs.2,500 per annum
 (ii) in any other area in the State Rs.1,500 per annum
70. Persons owning or running places providing massage, sauna and other health and beauty improvement services,
 (i) in the Bangalore Urban Agglomeration Rs.2,500 per annum
 (ii) in any other area in the State Rs.1,500 per annum
71. Persons acting as brokers, commission agents and the like for purchase and sale of old or used motor vehicles,
 (i) in the Bangalore Urban Agglomeration Rs.2,500 per annum
 (ii) in any other area in the State Rs.1,500 per annum
72. Persons acting as agents, consultants and the like for any company or firm engaged in any business,
 (i) in the Bangalore Urban Agglomeration Rs.2,500 per annum
 (ii) in any other area in the State Rs.1,500 per annum
73. Persons other than those mentioned in any of the preceding entries who are engaged in any profession, trade, calling or employment and who are paying tax under the Income Tax Act, 1961 (Central Act 43 of 1961) Rs. 2,500 per annum
74. Persons other than those mentioned in any of the preceding entries who are engaged in professions, trades, callings or employments as the State Government from time to time by notification specify Rs.1,000 per annum ”

(ii) in the Explanation IV, for the figures and word “64 and 66”, the figures, brackets and word “64, 66, 69(i), 70(i), 71(i), 72(i) and 73” shall be substituted.

5. Amendment of Karnataka Act 22 of 1979.- In the Karnataka Tax on Luxuries Act, 1979(Karnataka Act 22 of 1979),

(1) in section 2, in clause (1-C), for the words “charges for hospital”, the words “charges for luxuries provided in a hospital” shall be and shall always be deemed to have been substituted;

(2) in section 3, in sub-section (1), in the second proviso, after the words “in India”, the words “other than such foreign diplomatic mission as may be notified” shall be inserted;

(3) in section 3-E, for sub-section (1), the following shall be and shall always be deemed to have been substituted, namely:-

“(1) There shall be levied and collected a tax at the rate of eight per cent on the charges collected for luxuries provided in a hospital in a room such as accommodation, air conditioning, telephone, telephone calls, television, radio, music, extra beds and the like, where such charges are more than one thousand rupees per day per room.”

(4) in section 4, for sub-section (3), the following shall be substituted, namely:-

“(3) Where luxury provided in a hotel to any person is charged at a concessional rate, then the tax on such luxury, shall be levied and collected on such lower charges where such lower charges are allowed as a result of any discount allowed in general or is in accordance with the terms of a contract or agreement entered into in a particular case and also where such discount allowed is published in tariff cards or displayed or disclosed in writing, in any manner for information.”

(5) in Section 17, for sub-section (4), the following shall be substituted with effect from the first day of April, 2006, namely:-

“(4) For the purposes of this Act, the Luxury Tax Officer or the person authorised by him in this behalf or the officer authorised under sub-section (1), may enter and search any hotel or any place of business of the proprietor or any other place where the Luxury Tax Officer or the officer authorised under sub-section (1) has reason to believe that the proprietor keeps, or is for the time being keeping, any records of accounts, registers or other documents relating to his business.”

By Order and in the name of the Governor of
Karnataka

G. K. BOREGOWDA
Secretary to Government,
Department of Parliamentary Affairs and
Legislation