

Kerala Land Tax Act, 1961

13 of 1961

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SCHEDULE 1 :- FIRST SCHEDULE

Kerala Land Tax Act, 1961

13 of 1961

An Act to provide for the levy of a basic tax on lands in the State of Kerala WHEREAS it is deemed necessary to provide for the levy of a basic tax on lands in the State of Kerala; BE it enacted in the Twelfth Year of the Republic of India as follows:-

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Kerala Land Tax Act, 1961.
- (2) It extends to the whole of the State of Kerala.
- (3) It shall be deemed to have come into force,-
 - (i) in the area comprising the former State of Travancore-Cochin, with effect on and from the 1 st day of April, 1956; and
 - (ii) in the Malabar area, with effect on and from the 1 st day of September, 1957.

2. Exemptions :-

- (1) Nothing in this Act shall apply to-
 - (i) lands belonging to the Government;
 - (ii) Sreepandaravaka lands belonging to the Sree Padmanabhaswami Temple; and
 - [(iii) xxx]
- (2) The Government may, by notification in the Gazette, exempt any land belonging to any public body or institution from the provisions of this Act, if the Government are satisfied that such exemption is necessary in the public interest; and the Government may, by like notification, cancel any such exemption.
- (3) All notifications issued by the Government under sub-section (2) shall as soon as may be after they are issued, be laid before the Legislative Assembly for a period of not less than fourteen days, and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

3. Definitions :-

In this Act, unless the context otherwise requires,-

- (1) "basic tax" means the tax imposed under the provision of this Act;
- (2) "jenmikaram" means jenmikaram as defined in the Travancore Jenmi and Kudiyan Act of 1071;
- "(3) 'landholder' means,-
 - (a) in relation to any land held by a cultivating tenant as defined in the Kerala Land Reforms Act, 1963 (1 of 1964), such cultivating tenant;
 - (b) in relation to any land in the possession of a kanam tenant as defined in the Kanam Tenancy Act, 1955 (XXIV of 1955), such kanam tenant;
 - (c) in relation to any land which has not been surveyed and it not held by a cultivating tenant referred to in sub-clause (a), the

proprietor of such land;

(d) in relation to any other land, the registered holder for the time being of such land,

and includes his legal representatives and assigned and any person who under any law for the time being in force is liable for the payment of public revenue due in respect of the land held by him;".]

(4) "Malabar area" means the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956;

(5) "Oodukur holdings" means holdings which are by customary law recognized as such;

(6) "prescribed" means prescribed by rules made under this Act;

(7) "prescribed authority" means the authority appointed by the Government by notification in the Gazette to perform the functions of the prescribed authority under this Act;

(8) "State" means the State of Kerala;

(9) [xxx] "Melvaram" means [xxx] Melvaram entered as such in the revenue accounts.

4. The Arrangement Under The Act To Be A General Revenue Settlement :-

Notwithstanding anything in any enactment grant, deed or other transaction the arrangement herein made for the levy of the basic tax shall be deemed inter alia to be a general revenue settlement of the State:

Provided that-

(1) the pattom fixed by the Government, at the general revenue settlement of 1061 in respect of jenmom lands, shall be the pattom for all purposes of the Travancore Jenmi and Kudiyan Act of 1071;

(2) the registers of jenmikarams prepared in accordance with the jenmikaram settlement and the jenmikaram fixed thereunder shall remain in force for the purpose of the said Act;

(3) in the case of lands belonging to incorporated Devaswoms in the Cochin area the basic tax levied under this Act shall be in lieu of the land revenue assessment charged on such lands immediately before the commencement of this Act and the rent payable by the tenant in respect of such lands shall be reduced or enhanced to the same extent as the land revenue assessment thereon is reduced or enhanced by the levy of basic tax;

(4) in the case of lands belonging to unincorporated Devaswoms in the Cochin area the rent payable by the tenant shall be reduced or

enhanced to the same extent as the land revenue assessment charged on such lands immediately before the commencement of this Act is reduced or enhanced by the levy of basic tax.

Explanation.- In this section "Cochin area" means the area comprising-

- (i) the portion of the State of Kerala which before the first day of July, 1949, formed the State of Cochin, less the enclaves absorbed in the Malabar district under the Provinces and State (Absorption of Enclaves) Order, 1950; and
- (ii) the enclaves which formed part of the Malabar district absorbed in the State of Travancore-Cochin under the said Order.

5. Charge Of Land Tax :-

(1) Subject to the provisions of this Act there shall be charged and levied a tax called "basic tax" on all lands, of whatever description and held under whatever tenure,-

- (i) situated in the area comprising the former State of Travancore-Cochin in for every financial year commencing on and from the 1 st day of April, 1956;
- (ii) situated in the Malabar area for the period commencing on and from the 1 st day of September; 1957, and ending on the 31 st day of March, 1958, and thereafter for every financial year commencing on and from the 1 st day of April, 1958.

(2) The basic tax charged on any land shall be paid by the landholder of that land [before such date as may be prescribed].

[" Provided that where-

- (i) the landholder in respect of any land is a person referred to in sub-clause (c) or sub-clause (d) of clause (3) of section 3;
 - (ii) such land is in the possession of a tenant or other person not being the landholder; and
 - (iii) the income obtained by the landholder from that land is less than the basic tax payable thereon,
- the excess of the basic tax over such income shall be paid by the tenant or other person in possession."

["(2A) Where the basic tax charged under this Act for any period before the 1 st day of April, 1998, is in arrears, the same shall be paid before such date as may be specified by the Government in that behalf.";]

(3) The basic tax charged and levied under this Act shall be deemed to be public revenue due on land within the meaning of the Revenue Recovery Act for the time being in force and shall be

recoverable under the provisions of that Act.

6. Rate Of Basic Tax :-

["(1) Subject to the provisions of sub-section (2) of section 7, the basic tax charged and levied under section 5 shall be at the rate of one rupee in Panchayat areas, two rupees in Town Panchayats and Municipal Council areas and four rupees in Municipal Corporation areas, per Are per annum:

Provided that, where the aggregate extent of land held by a land holder does not exceed twenty ares in a Panchayat area, six ares in a Town Panchayat or Municipal Council area and to ares in a Municipal Corporation area the basic tax charged and levied on such land shall be at the rate of fifty paise in the Panchayat area, one rupee in the Town Panchayat and Municipal Council area and two rupees in the Corporation area, per Are per annum.".]

["Provided that the rate of basic tax for every financial year commencing with the financial year 1983-84 shall, subject to the provisions of sub-section (2) and section 7, be twenty rupees per hectare per annum:

Provided further that the preceding proviso shall not apply in respect of lands held by a landholder if the aggregate extent of land held by him in the State is less than one hectare.";]

(2) Notwithstanding anything contained in sub-section (1), where a landholder or other person liable to pay basic tax proves to the satisfaction of the prescribed authority that the gross income from any land was less than ["five times the basic tax on such land"] [per are] per annum, the basic tax payable on such land shall be at a rate fixed by the prescribed authority calculated at one-fifth of the gross income from such land:

Provided that pending the fixation of the rate at which basic tax is payable on any land under this sub-section, the landholder shall be liable to pay basic tax on such land at the rate of ["specified in sub-section (1) as may be applicable to such land"] [*****] and, on fixation of the rate of basic tax, the excess tax, if any, paid or collected, shall be refunded to the person entitled thereto:

["Provided further that the Government may, having regard to the potential productivity of any land used principally for growing-

(a) coconut, arecanut, pepper, tea; coffee, rubber, cardamom or cashew; or

(b) any other special crop, plant or tree that may be specified by the Government by notification in the Gazette,

levy and collect basic tax at the rate of ["at the rate [*****] specified in sub-section (1) as may be applicable to such land,"] notwithstanding the fact that such crops, plants or trees had not begun to yield or bear and that for the time being no income was made from that land or that the income made was less than ["five times the [basic tax per are] per annum on such land,"].
Explanation 1.- For the purposes of this section 'gross income' with reference to any land shall mean the gross income actually made from the land or the gross income that could be made from the land with due diligence, whichever is higher.

Explanation 2.- Lands comprised in the same survey or sub-division number and held by the same landholder shall be treated as a single unit for calculating the gross income for the purposes of this section.

Explanation 3.- For the purposes of calculating the gross income in money from any land the cash value of the produce from the land shall be commuted into money at the average market rate of such produce for six years immediately preceding the commencement of this Act.

(3) An application for fixation of the rate of basic tax under sub-section (2) shall be in the form specified by the Government by notification in the Gazette and shall be made to the prescribed authority within four months from the date of [publication of such notification] in the Gazette.

["Provided that no application under this sub-section need be made by the landholder or any other person liable to pay the basic tax, in a case where a provisional notice of demand has been served on him under sub-section (2) of section 6A.";]

"(4) The prescribed authority shall, before passing orders on an application under sub-section (3), give notice to the landholder concerned and any other person liable to pay the basic tax to show cause against the rate or amount of basic tax proposed to be fixed in respect of the land and shall, as far as may be practicable, pass orders on the application within six months from the date of first appearance of the applicant.".]

(5) The order of the prescribed authority, fixing the basic tax shall be communicated to the landholder concerned and any other person liable to pay the basic tax.

["6A. Assessment of basic tax.-

(1) The basic tax payable in respect of any land shall be assessed in the manner provided in sub-sections (2) to (4).

(2) The prescribed authority shall serve on the landholder

concerned and any other person liable to pay the basic tax in respect of any land, a provisional notice of demand in the prescribed form specifying the extent of the land, the rate and amount of basic tax payable in respect thereof and the person or persons liable to pay the basic tax and requiring the landholder and such other person to prefer objections, if any, to the particulars contained in the notice or to the rate or amount of basic tax, within such period as may be specified in the notice, which shall not be less than fifteen days from the date of receipt of the notice by the landholder or such other person.

(3) Any person aggrieved by any of the particulars contained in the provisional notice of demand or the rate or amount of basic tax specified therein may, within the period specified therein, prefer his objections in writing to the prescribed authority, and thereupon the prescribed authority shall, after making due inquiries and after giving the objector and any other person whom it considers necessary, an opportunity of being heard, pass orders on the objections.

(4) The prescribed authority shall prepare or cause to be prepared the final notice of demand in conformity with its orders under sub-section (3) and shall communicate such order and final notice of demand to the landholder concerned and any other person liable to pay the basic tax in respect of the land.".]

7. Provisional Assessment Of Basic Tax In The Case Of Unsurveyed Lands :-

(1) Notwithstanding anything contained in section 6, ["and 6A"] in the case of lands which have not been surveyed, the prescribed authority may make a provisional assessment of the basic tax payable on such lands. For the purpose of making the provisional assessment the prescribed authority shall, by notice, call upon the landholder concerned and any other person in possession of the lands to furnish such particulars relating to the lands as the prescribed authority considers necessary within such time as may be specified in the notice.

(2) If the prescribed authority is satisfied that the particulars furnished by the landholder or other person are correct and complete he shall make a provisional assessment of the basic tax payable on such lands at the rate specified in sub-section (1) or sub-section (2) of section 6, as the case may be, on the basis of the particulars so furnished.

(3) If the particulars called for under sub-section (1) are not furnished within the time specified therefore or if the particulars furnished appear to the prescribed authority to be incorrect or incomplete, the prescribed authority may make a provisional assessment of the basic tax payable on such lands at the rate specified in sub-section (1) or sub-section (2) of section 6, as the case may be, to the best of his Judgment:

[*****]

["(3A) Before making a provisional assessment under sub-section (2) or sub-section (3), the prescribed authority shall give notice to the landholder concerned and any other person liable to pay tax under the provisional assessment to show cause against the proposed assessment.".]

(4) The order of the prescribed authority under [sub-section (2) or sub-section (3)] shall be communicated to the landholder concerned and any other person liable to pay the provisional assessment.

(5) The amount of the tax under the provisional assessment fixed under this section shall be recoverable in the same manner as the basic tax.

(6) The Government shall, as soon as may be and in any case before the ["31 st day of December, 1975"] cause a survey to be conducted of the unsurveyed lands, and thereupon the prescribed authority shall make a regular assessment of the basic tax payable in respect of such lands. The provisions of section 6 [6A] shall apply to such regular assessment, provided that the time for making application for the fixation of the rate of basic tax under sub-section (2) of section 6 shall be four months from the date of completion of the survey of the land. After a regular assessment has been made [xxxxxxxxxxxxxx] any amount paid towards the provisional assessment shall be deemed to have been paid towards the regular assessment and, where the amount paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the person entitled thereto.

8. Special Provisions Relating To Basic Tax For Periods Prior To The Date Of Publication Of The Act :-

(1) Where in respect of any land basic tax has been paid or collected for the period between the date of the commencement of this Act and the date of publication of this Act in the Gazette, at a

rate higher than the rate at which basic tax is payable on such land under this Act, then the excess tax to collected for the aforesaid period shall be refunded.

(2) Nothing in this Act shall be deemed to require a person to pay basic tax on any land situated in the area comprising the former State of Travancore-Cochin for the period between the 1 st day of April, 1956 and the 1st day of September, 1957, at a rate higher than [three rupees and eighty-five paise per hectare] per annum.

(3) Any person entitled under sub-section (1) to a refund of excess tax paid or collected may apply to the prescribed authority in the prescribed form within a period of ninety days from the date on which the order finally fixing the basic tax payable under this Act was communicated to him; and no claim for such refund shall be entertained thereafter.

9. Appeals :-

(1) Any person aggrieved by the orders of the prescribed authority under sub-section (2) of section 6 [or under sub-section (3) of section 6A] or under sub-section (3) of section 7 may appeal to the Collector of the district in which the land is situated, and if the land is situated in more than one district the Collector of the district in which the major portion of the land is situated:

Provided that no such appeal shall lie unless the tax has been paid.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of five rupees.

(3) The appeal shall be presented within thirty days of the receipt of the order appealed against, but the appellate authority may admit an appeal after the expiration of the period of aforesaid if it is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

(4) The appellate authority may, after giving the prescribed authority and the appellant an opportunity of being heard, pass such orders thereon as it thinks fit.

(5) The order of the appellate authority shall be communicated to the appellant and to the prescribed authority.

(6) The order of the appellate authority shall, subject to the provisions of section 10 and section 11, be final and shall not be called in question in any court of law.

(7) Where the amount of basic tax or tax under the provisional assessment paid is in excess of the amount due under the order in

appeal such excess shall be refunded to the person entitled thereto.

10. Reference To District Court :-

(1) subject to such conditions and limitations as may be prescribed, the assessee may, within thirty days of the date upon which he is served with notice of an order under sub-section (4) of section 9, require the appellate authority to refer to the District Court any questions of law arising out of such requisition, and the appellate authority may, within sixty days of thereceipt of such requisition ,draw up a statement of the case and refer it to the District Court.

(2) If the District Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer, the case back to the appellate authority to make such additions thereto or alterations therein as the court may direct in that behalf.

(3) The district court upon the hearing of any such case shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send a copy of such judgment under the seal of the court to the appellate authority which shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(4) The decision of the District Judge on such reference shall be final.

(5) Notwithstanding that a reference has been made under this section to the District Court, basic tax shall be payable in accordance with the assessment made in the case:

Provide that if the amount of assessment is reduce as a result of such reference the amount overpaid shall be refunded.

(6) For the purposes of this section , "District Court" means the District Court having jurisdiction over the area in which the land on which basic tax has been levied is situate.

11. Power Of Revision By Board Of Revenue :-

(1) The Board of Revenue may, at any time, of its own motion or within thirty days from the date of the order of the appellate authority on the application of any party, call for and examine the record of any proceeding pending before or disposed of by the appellate authority and may pass such orders as it deems fit:

Provided that no order enhancing the rate of basic tax or the amount of provisional assessment shall be passed without notice to the party who may be affected by the order:

Provided further that no order passed on the basis of a reference under section 10 and to the extent covered by the answer to such reference shall be subjected to revision by the Board of Revenue.

(2) Where the amount of basic tax or tax under the provisional assessment paid is in excess of the amount due under the order in revision, such excess shall be refunded.

12. Construction Of Stipulation In Contract, Etc :-

(1) Where in any contract or agreement or lease or other transaction there is a stipulation to pay the land revenue assessment of any land or any amount in lieu thereof, such stipulation shall be construed as a stipulation to pay the amount of basic tax on the said land charged and levied under this Act.

(2) Where, by virtue of section 6, the existing land tax charged and levied on any land is reduced and under a contract of tenancy the michavaram or rent is shown to be inclusive of land tax, the tenant shall be entitled to the benefit of the reduction of the land tax.

13. Jenmikaram :-

Jenmikaram charged on and payable in respect of any land under the Travancore Jenmi and Kudiyan Act of 1071 shall continue to be paid to the Jenmies in addition to the basic tax thereon payable to the Government.

14. Melvaram :-

Melvaram charged on and payable in respect of any land shall continue to be paid to those entitled to it as heretofore in addition to the basic tax thereon payable to the Government"]

15. Irrigation Or Water Cess :-

Nothing in this Act shall affect the power of the Government to levy any rate, or alter any existing rate, of irrigation or water cess on any land as they deem fit.

16. Officers Under The Act :-

(1) The Government may appoint such Officers as they deem necessary for the purpose of this Act.

(2) The appointment of such officers shall be notified in the Gazette.

17. Bar Of Suits Against Government And Protection Of Action Taken Under The Act :-

(1) No suit against the Government shall be entertained in any civil court in respect of anything done or any order passed under this Act.

(2) No suit, prosecution or other legal proceeding shall lie against any officer for anything in good faith done or intended to be done under this Act or the rules made thereunder.

18. Rectification Of Mistakes :-

At any time within four years from the date of any order passed by it the prescribed authority or the appellate authority or the revisional authority may, on its own motion, rectify any mistake apparent from the record and shall, within a like period, rectify any such mistake which has been brought to the notice of the prescribed authority or the appellate authority or the revisional authority, as the case may be, by a landholder or other person liable to pay tax:

Provided that no such rectification shall be made which has the effects of enhancing the tax payable unless the land holder and any other person liable to pay tax have been given a reasonable opportunity of being heard in the matter.

19. Savings :-

Nothing in this Act shall-

- (a) affect the conditions of any agreement, grant or deed relating to any land except to the extent hereinbefore provided;
- (b) affect any rights which have accrued to the Government before the date on which this Act comes into force.

20. Rule-Making Power :-

(1) The Government may make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules-

[xxx]

["(a)"] as to the procedure to be followed by the prescribed authority and the appellate authority in the proceedings before them;

- (b) as to the conditions and limitations (including the conditions as to payment of fees) subject to which an application for reference to the District Court may be made under section 10;
 - (c) as to the manner and mode of fixing the gross income from lands;
 - (d) as to the service of notices and the communication of orders to parties;
 - (e) for the apportionment of the basic tax charged on Oodukoor holdings;
 - (f) as to the mode of making refunds;
 - (g) for defining the powers and duties of the officers appointed under this Act;
 - (h) for determining the kists or instalments in which the tax is payable and the dates on which such kists or instalments shall be due; and
 - (i) any other matter which has to be, or may be, prescribed for purposes of this Act.
- (3) All rules made under this Act shall be laid for a period of not less than fourteen days before the Legislative Assembly, as soon as may be after they are made, and shall be subject to such modifications as the Assembly may make during the session in which they are so laid or the session immediately following.

21. Repeal :-

The Land Tax Act, 1955 and the Kerala Land Tax Ordinance, 1961 (Ordinance 2 of 1961), are hereby repealed.

SCHEDULE 1

FIRST SCHEDULE

[See section 13 (2)]

Cocunuts Rs. 25 per 1000

Cocunut oil 37 paise per Edangazhi."]