

**KARNATAKA ORDINANCE NO.3 OF 2001
THE KARNATAKA TAX ON LUXURIES (AMENDMENT)
ORDINANCE, 2001.**

ARRANGEMENT OF SECTIONS

Sections:

1. Short title and commencement
2. Amendment of section 2
3. Amendment of section 4B
4. Substitution of section 12B
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6. Amendment of schedule

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(Promulgated by the Governor of Karnataka in the fifty first year of the Republic of India and first published in the Karnataka Gazette Extraordinary on the twenty third day of January, 2001)

An Ordinance further to amend the Karnataka Tax on Luxuries Act, 1979.

Whereas the Karnataka Legislative Council is not in session and the Governor of Karnataka is satisfied that the circumstances exist which render it necessary for her to take immediate action further to amend the Karnataka Tax on Luxuries Act, 1979 (Karnataka Act 22 of 1979), for the purposes hereinafter appearing;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Karnataka is pleased to promulgate the following Ordinance, namely:-

1. Short title and commencement.- (1) This Ordinance may be called the Karnataka Tax on Luxuries (Amendment) Ordinance, 2001.

(2) It shall come into force at once.

2. Amendment of Section 2.- In Section 2 of the Karnataka Tax on Luxuries Act, 1979 (Karnataka Act 22 of 1979)(hereinafter referred to as the principal Act),

(1) for clause (5-A), the following shall be substituted, namely:-

“(5-A). **“Luxury Tax Officer”** means an Assistant Commissioner of Commercial Taxes or any other officer of the Commercial Taxes Department as the State Government or the Commissioner may, by notification in this behalf, appoint to exercise and perform functions of the Luxury Tax Officer under this Act;”

(2) in clause (6-B), the following shall be inserted at the end, namely:-

“or on the first day of April 2000, on which tax under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) has been paid or has become payable;”

3. Amendment of Section 4B.- In Section 4B of the principal Act, in sub-section (3),-

(1) after clause (i), the following shall be inserted, namely:-

“(ia) on which tax under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) has been paid or has become payable.

(2) in clause (iii), before the words “on which”, the following words and punctuation mark shall be inserted, namely, -

“other than relating to gutkha, “

4. Substitution of Section 12B.- For Section 12B of the principal Act, the following shall be substituted, namely:-

“12-B. Maintenance of accounts and issue of sale bills or cash memorandum.- (1) Every registered proprietor, stockist and every proprietor or stockist liable to get himself registered

under this Act shall maintain and keep true and complete accounts relating to his business as well as such other registers or records as may be prescribed in this regard. All such accounts, registers or records shall be retained by him in his safe custody till his assessment or re-assessment, as the case may be, for the relevant year is completed or, in cases where any appeal, revision or other proceedings in respect of such year has been filed and is pending, the same is disposed of.

(2) Every proprietor liable to pay luxury tax under the Act shall issue a bill or cash memorandum in respect of the charges for lodging accommodation or charges for marriage hall recovered by him from a guest or any person and shall specify in such bill or cash memorandum, the full name of the hotel or marriage hall, the amount of luxury tax recovered, the name of the guest or any person from whom it is recovered and where the charges are recovered in any foreign exchange, the name of the currency.

(3) Every registered stockist or a stockist liable to registration under the Act, in respect of each and every delivery of a luxury which is in pursuance of a sale shall issue a bill of sale containing the particulars and which is other than in pursuance of a sale shall issue a delivery note, prescribed, respectively, in sub-section (1) of section 27 and sub-section (2) of section 28A of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957).”

5. Insertion of new Section 17A.- After Section 17 of the principal Act, the following shall be inserted, namely:-

“17-A. - Recognition of sales tax check posts or barriers for the purposes of the Act. - (1) With a view to prevent or check evasion of tax under this Act, check posts or barriers or

both, as the case may be, established or erected under the provisions of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) (hereinafter referred to as the "Sales Tax Act") shall be recognized for the purposes of this Act.

(2) The owner or person-in-charge of the goods vehicle carrying any luxury shall carry with him the documents prescribed for the purpose of sub-section (2) of Section 28-A of the Sales Tax Act and produce and give a copy of the same in the manner and to the officer prescribed in the said Section.

(3) Where the owner or person in-charge of the goods vehicle carrying any luxury is not required to carry the documents prescribed for the purpose of sub-section (2) of Section 28-A of the Sales Tax Act, he shall give a declaration in the prescribed form to the prescribed officer in the said section.

(4) The officer referred to in sub-section (4) of Section 28-A of the Sales Tax Act may, in cases of the type and in the circumstances mentioned in the said sub-section levy penalty not exceeding three times the amount of tax leviable under this Act in respect of the luxury under transport.

(5) Where luxuries are delivered to a carrier or other bailee for transmission, the movement of the luxuries shall be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from such carrier or bailee. Where before delivery is taken from him a carrier or bailee to whom luxuries are delivered for transmission, keeps the said luxuries in any office, shop, godown, vessel, receptacle, vehicle or any other place of business or any building or place, any officer empowered to exercise the powers under sub-section (3-A) of section 28-A of the Sales Tax Act, shall have power to enter into and search such office, shop, godown, vessel, receptacle, vehicle

or other place of business or building or place, and to examine the luxuries and inspect all records relating to such luxuries. The carrier or bailee or the person-in-charge of the luxuries and records shall give all facilities for such examination or inspection and shall, if so required, produce the bill of sale or delivery note or other documents referred to in sub-section (2) and give a declaration containing such particulars as may be prescribed regarding the luxuries and give his name and address and the name and address of the carrier or the bailee and the consignee.

(6) If any officer empowered to enter into and search any office, shop, godown, vessel, receptacle, vehicle or any other place of business or any building or place where a carrier or bailee keeps the luxuries delivered to him for transmission, has reason to suspect that such carrier or bailee has colluded with the owner of the luxuries in evading payment of any tax, he may for reasons to be recorded in writing, seize accounts, registers, records or other documents of the bailee or carrier as he may consider necessary and shall give a receipt for the same. The accounts, registers, records and other documents seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceeding under this Act:

Provided that all searches and seizures under sub-section (5) or this sub-section shall, so far as may be, made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974):

Provided further that accounts, registers, records and other documents so seized shall not be retained by such officer for a period exceeding one hundred eighty days from the date of seizure, unless the reasons for retaining the same beyond the said period are recorded by him in writing and the approval of

the next higher authority is obtained and such approval in any case shall not be for more than sixty days at a time.

(7) Where the officer-in-charge of the check post or barrier, or the officer empowered as aforesaid on interception of the goods vehicle or inspection of any godown, is of the opinion that further verification is necessary with respect to either accuracy of the particulars furnished in the documents accompanying the luxuries under transport or in transit, or, as to the sufficiency and the cause adduced in respect of any contravention of sub-section (2), he may verify the particulars himself or if it is necessary cause it to be verified by referring the matter to any other officer and if such verification is not likely to be completed within a reasonable time, he may direct in writing the carrier or the person-in-charge of the goods vehicle or the godown not to deliver the luxuries until permitted to do so by him or such other officer to whom the matter is referred for verification and allow the intercepted vehicle, if any, to pass through:

Provided that the officer shall order for detention of such quantity of luxuries as in his opinion would be equivalent to three times the amount of two leviable on such luxuries.

(8) The verification under sub-section (7) shall be completed within a period of fifteen days from the date of the direction issued under that sub-section and where such verification cannot be completed within the aforesaid period the officer who has issued such direction, or, as the case may be, the officer to whom the matter is referred for verification shall obtain the permission in writing of the next higher authority to extend such period or completion of the verification, so however such extension shall not be permitted for the period exceeding fifteen days at a time.

(9) Where such officer or other officer to whom the matter is referred, upon such verification is of the opinion that there is a non-compliance with sub-section (2), and penalty is leviable under sub-section (4), he may, proceed against such luxuries in the custody of the carrier, or the person-in-charge of vehicle or the godown in accordance with sub-sections (4) and (11) of this Section.

(10) Where the officer-in-charge of the check post or any empowered officer has issued a notice for contravention of any of the provisions of this Section, further proceedings in pursuance to such notice may, subject to such conditions and in such manner as may be prescribed, be continued by any other officer empowered by the Commissioner in this behalf, from the stage at which it is pending.

(11) The provisions of Section 28-A of the Sales Tax Act relating to the recovery of penalty and appeals shall mutatis mutandis apply to the penalty leviable under sub-section (4) of this Section.”

6. Amendment of schedule.- In the schedule to the principal Act,-

(1) in the entries relating to Serial Number 2, in column 2, the words and punctuation mark “gutkha, “shall be omitted;

(2) after the entries relating to Serial Number 2, the following entries shall be inserted, namely:-

“ 3. Gutkha 20 per cent “