

KARNATAKA

Sales tax was introduced in Karnataka in 1948. As a result of reorganisation of States in 1956, the new State of Karnataka was formed by merging the old Mysore State, parts of the erstwhile States of Bombay, Madras, Hyderabad and Coorg.

The Karnataka Sales Tax Act, 1957 was to apply to the entire State. The different sales tax laws administered in the integrated areas were all consolidated into one Act effective from 1.10.1957.

Some major changes were brought about in the scheme of the Act on the recommendations of Shri Boothalingam and Prof. I.S. Gulati. Sales Taxation in Karnataka is enforced by the Central Sales Tax Act, 1956 and the Karnataka Sales Tax Act, 1957.

1. Structure

Every dealer whose total turnover in any year is Rs.2 lakh or more is liable to pay tax on his taxable turnover (Section 5(a)). Dealers registered under the Central Sales Tax Act, 1956 purchasing any goods in the course of inter-State trade or commerce in respect of which tax at concessional rate under Section 8(1)(b) has been levied (Section 5(2)), every casual trader and the non-resident dealers and their agents dealing in non-exempted goods are liable to pay tax on their taxable turnover (Section 5(b)) irrespective of the quantum of turnover.

Point of Levy: In the State of Karnataka, there is a composite system of (a) single point levy (i) either at the point of first sale or last sale (Schedule II under Section 5(3)(a) or (ii) at the point of first purchase or last purchase (Schedule III under Section 5(3)(b));

Schedule IV under Section 5(4)) (b) dual-point levy (both at the point of first sale and last sale) Schedule VIII under Section 5(3c) and (c) multi-point levy in its sales tax administration.

Rate Structure: Schedule II, in accordance with Section 5(3)(a) enumerates, alphabetically, in 23 groups, the 190 goods which are subject to single-point levy at the point of first sale. The tax ranges from 1 per cent to 200 per cent.

As per Schedule IV, in accordance with Section 5(4) of the Act, the declared goods are taxable at the rate of 4 per cent mostly at the first point of sale. Sesamum/til/gingili seeds etc., cotton seed, other oil seeds etc. barley, however, are taxable at the rate of 4 per cent (the latter three at first point of sale). Cotton yarn, rice paddy and wheat, pulses, etc. are taxable at the rate of 2 per cent. Groundnut, copra are taxable at the rate of 4 per cent. Goods which are not exempt and yet not mentioned in any schedules, i.e. non-specified goods, are taxable at the rate of 7 per cent (a multi-point levy).

Schedule VIII, under Section 5(3-C), lists 16 goods subject to double point levy. The tax rates are 2,3,4,5 per cent. Some examples: Alcoholic liquor (including toddy, beer etc.) is taxable at the rate of 5 per cent.

In accordance with Section 5-B, Schedule VI lists 29 types of works contracts the tax rates being 5,6,7,8,10,12 and 15 per cent.

Schedule VII, under Section 5-C, lists 13 types of transfer of right to use goods, including horses, the tax rate being 5 per cent.

Turnover Tax: Turnover tax, which is a multi-point levy, came into force in 1981 and was leviable on the turnover of those dealers whose annual turnover exceeded Rs.1 lakh. The tax rate was 0.50 per cent.

With effect from 1.4.1990, however, the minimum turnover limit was raised to Rs.10 lakh. The rates at different slabs are as under (Section 6-B).

	<u>Rate of Tax</u> <u>(per cent)</u>
i. Where the total turnover of a dealer in a year does not exceed Rs.10 lakh.	Nil
ii. Where the total turnover in a year exceed Rs.10 lakh but is less than Rs.200 lakh.	1.25
iii. Where the total turnover in a year is not less than Rs.200 lakh but less than Rs.500 lakh.	2.05

There are certain statutory deductions on account of declared goods, tax-free goods, inter-State export sales etc.

This multi-point tax is not recoverable from buyers. There are penal provisions for violation.

Purchase Tax: As already pointed out, there are a number of goods which are subject to a single point purchase tax either at the first or at the last point of purchase. In accordance with Section 5(3)(b), Schedule III enumerates these goods. The tax rates are 3,4,5 and 13 per cent.

In addition, under Section 6, purchase tax is leviable under certain circumstances. When a dealer purchases any taxable goods in the circumstances in which no tax is leviable on the sale price of such goods and he either consumes such goods in the manufacture of other goods for sale or otherwise or despatches these goods

out of the State except as a direct result of sale or purchase in the course of inter-state trade or commerce, he is liable to pay tax on the purchase price of such goods at the same rate at which it would have been leviable on the sale price of such goods.

As per the provisions of Section 25-B of the Act, with effect from 1.4.1990, purchase tax, ad-valorem, on sugarcane at the last purchase point is leviable.

Works Contract, Hire Purchase, Leasing: For covering works contract under the net of sales tax, the definition of the terms 'dealer' (Section 2(k), (viii)), 'goods' (Section 2(m)), 'sale' (Section 2(t)(ii)), 'turnover' (Section 2(v)) have been enlarged.

Schedule VI, lists 29 types of works contract which are taxable at rates ranging from 5 per cent to 15 per cent. Fabrication and erection of structural works etc., installation of doors etc., ship and boat building etc. are subject to tax at the rate of 5 per cent. Programming and providing of computer software, processing and supplying and installation of electronic photographs etc., fire fighting equipment and devices are taxable at the rate of 6 per cent.

Deduction at Source: Central Government, or any State government, or an industrial, commercial or trading undertaking of the Central government or of any State government or a local authority or a statutory body are empowered to deduct taxes out of the amounts payable by them to the dealers executing works contracts specified in Schedule VI of the Karnataka Sales Tax Act 1957 at the rate of 2 per cent in respect of civil works executed and at the rate of 4 per cent in respect of other works contracts enumerated therein and remit to the government treasury.

Leasing: 'Leasing' has also been brought under the net of taxation. For, this, definition of the term, 'dealer' (Section 2(k)(x))) 'sale' (Section (t)(iv)); 'turnover' (Section 1)(v)) have been enlarged.

Section 5-C provides for the levy of tax on the annual taxable turnover in respect of the transfer of the right to use any goods for any purpose, whether or not for a specific period. Leasing machinery, cars, videos etc. enumerated in Schedule VII are taxable under this.

Exemptions: In accordance with Section 8, Schedule V enumerates 62 goods which are exempt from tax without or with conditions; goods of mass consumption like, fresh fruits, eggs and meat, fish, fresh milk, etc., kumkum, glass and plastic bangles, etc. are exempted and some of the conditional exemptions are canteen stores sold to Canteen stores department of Government of India, goods sold to the Indian Aid mission, Nepal, children's toys costing upto Rs.20, wheel chairs, crutches used by the handicapped/sick.

Taxation of Inputs: As per Section 5-A, sale of any industrial input (component part, raw material, packing material) to registered dealers intending to manufacture goods out of the same within the State for sale would be subject to a concessional rate of tax of 4 per cent or the rate specified in Section 5, whichever is lower, subject to the proviso that the selling dealer shall furnish the declaration to the appropriate assessing authority from the purchasing dealer, the requisite declaration having been obtained from the prescribed authority.

Incentives to Industries: Under the new scheme of incentives to industries, tiny industrial units and SSI units (new or expanding) are exempt from payment of taxes for a period of 7 years and 5 years respectively from the date of commercial production or from the notification whichever is later.

The tax payable by large/medium industries in Zone II and III are deferred for a period of 7 years and 5 years respectively subject to certain ceilings and limited to 50 per cent of the value of the fixed assets prescribed separately for large/medium industries and tax deferred is treated as interest free loan.

Another new incentive scheme has been introduced during October 1990 where the new industries get concessions. The 1990 package offers further concessions to units falling under the thrust sectors, 100 per cent export oriented units specified in zones, units which are agro-based in nature, units in telecommunications and electronics sectors etc. The latest package offers a tax holiday rather than a deferment of reduction in rate, in order to afford price competitiveness and to avoid possible administrative bottlenecks.

Composition Benefit: Dealers are also granted an option to avail of the benefit of composition under which dealers other than those dealing in goods taxable at first sale point, casual dealer, dealer registered under the CST Act, non-resident dealers, commission agents, may opt to pay in lieu of the amount of tax payable by them during any year by way of composition, a lumpsum amount as specified in the Act, based on the turnover slabs for the dealers and hoteliers (whose turnover does not exceed Rs.5 lakh and Rs.15 lakh respectively) and to the contractors executing works contracts (on their total turnover).

2. Registration

Every dealer whose total turnover in any year is not less than Rs.2 lakh and the casual dealers, dealers registered under the CST Act, 1956, managers, agents of non-resident dealers, millers irrespective of their turnover are statutorily required to get themselves registered. There is a provision for voluntary registration also.

3. Assessment

Returns and Payment of Tax: All categories of dealers liable to registration are required to file statement of turnover on monthly basis in Form 3 along with the proof of payment of full amount of tax before the 20th of the subsequent month.

An annual return in Form 4 is required to be filed within 60 days of the close of the year concerned by every registered dealer. Small scale industrial undertakings and small dealers could pay tax within 20 days after the close of the quarter concerned.

Mode of Assessment: Ordinarily assessments are completed on an annual basis.

If the assessing authority is satisfied that any return submitted is correct and complete, he can assess the dealer on that basis. A Provision for summary assessment on the basis of return/returns, alongwith the requisite forms, declarations, etc., under certain conditions laid down also exist. In cases where the return is not filed or appears to be incorrect or incomplete (when filed), the assessing authority can complete assessment to the best of his judgement after having given the dealer, a reasonable opportunity of being heard.

In cases where the turnover (for any period) of a dealer has been proved to have escaped assessment or has been under - assessed or has been assessed at a lower rate than the appropriate rate or any deductions or exemptions have been wrongly allowed, the assessing authority may at any time within a period of eight years from the expiry of the year concerned, complete assessment/reassessment (Section 12-A). The period of limitation for assessments is three years from the date on which the return is submitted by a dealer.

4. Penalty and Prosecution

Penalties: In cases where the best judgement assessment under Section 12(3) is resorted to, in addition to the tax assessed, penalty upto one and a half times the tax due or tax assessed (in a case of non-filing of return), as the case may be, can be imposed.

In case of best judgement assessment of escaped turnover, under Section 12-A, in addition to the tax assessed, a penalty not exceeding one and a half times the tax assessed is imposable. In respect of default of short payment of Advance Tax (if it is short by more than 15 per cent of the due tax) penalty upto 1.5 times of the deficit amount in addition to the tax due is imposed.

If any person who is not a registered dealer collects tax or a registered dealer collects tax at a rate exceeding the rate specified in the Act, or any person collects tax on tax-free goods or any dealer violates conditions of compounding of tax or of exemption under recognition or recovers turnover tax, penalty not exceeding one and a half times the amount realised, can be imposed.

Prosecution: Some offences, as noted in Section 29 are punishable, on conviction, with the following:

<i>Categories I Offence</i>	<i>Punishment</i>
i. Failure to submit return in accordance with provisions and rules (Section 12 and relevant rules).	Fine between Rs.250 to Rs.500.
ii. Dishonest objections to or failure to comply with, the recovery notice (Section 14(1)).	
iii. Failure to pay tax, penalty in time.	
iv. Failure to keep true, complete accounts (Section 26).	
v. A dealer (or a miller) failing to comply with the order of production of Accounts/documents (Section 28).	

- vi. Failure to submit monthly statement.

Category II Offences

Punishment

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| <ul style="list-style-type: none"> i. Deliberate submission of an untrue return or non-submission of a return (in the case of a liable but not assessed earlier). ii. Non-furnishing of security in the matter of registration, in the matter of taxation of industrial inputs (on the strength of declaration) (Section 5-A), in the matter of transportation of goods etc. (Section 28-A(2)). iii. Willful submission of untrue statement in connection with payment of tax in advance (Section 12-B). iv. A liable dealer's failure to get registered. v. Prevention of, or obstruction to, inspection, entry, search, seizure. (Section 28) by competent officers. vi. Prevention of, or obstruction to inspection of vehicle/boat/ seizure of goods by check-post barrier incharge (Section 28-A). vii. Tampering of seal put by inspecting authorities (Section 2 clause (iii) and Section 2(2A)). viii. Fraudulent evasion of payment of tax/dues (Section 13). ix. Unregistered dealer collecting tax/registered dealer collecting tax at rate/rates higher than | <p>In addition to the recovery of tax/dues punishable with simple imprisonment upto 12 months or with a fine ranging between Rs.1,000 and Rs.5,000 or with both.</p> <p>In case the offence is a continuing one, a daily fine upto Rs.100 during the period of continuance of offence.</p> |
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that stipulated (Section 5) or for works contract (Section 5B) or for leasing (Section 5C) (Section 18(1), Section 18(2)).

- x. Collection of Turnover Tax by liable dealer (in violation of Section 18(3)).
- xi. Wilful violation of tax provisions and rules.

5. Administrative Organisation

The Commercial Taxes Department is headed by the Commissioner of Commercial Taxes who is an officer in the rank of super-time scale of I.A.S.

Apart from Sales Tax (the major tax) other taxes such as Entertainment Tax, Agricultural Income Tax, Entry Tax, Profession Tax, Luxury Tax and Betting Tax are also administered by the Department. The Commissioner is assisted at the State level by four Joint Commissioners (Vigilance, Legal, Headquarters and Additional Commissioner Intelligence cum Coordination) Deputy Commissioner (Legal), Assistant Commissioners and a number of other officers.

The Commissioner's office has a Legal Cell, Special Cell, Vigilance Cell and an In-house Computer Centre to assist the Commissioner in the respective fields for planning, controlling and co-ordinating the activities of the department.

The State is divided into 9 administrative divisions of the Commercial Taxes Department. Each Division is headed by a Deputy Commissioner of Commercial Taxes (Administration) and he is responsible for administration of various Acts of the department in the division under his jurisdiction with the assistance of Commercial Tax Officers and Assistant Commercial Tax Officers in his office.

Each Division has a number of Assistant Commissioners of Commercial Taxes (Assessment), Commercial Tax Officers and Assistant Commercial Tax Officers who carry out work of registration, assessments etc. An Assistant Commissioner of Commercial Taxes (Assessment) holds jurisdiction in respect of dealers whose annual tax liability is Rs.1.5 lakh in Bangalore and Rs.1 lakh in Mangalore cities and Rs.75,000 in other places. A Commercial Tax Officer assesses dealers with annual turnover of Rs.2.5 lakh and above but where the tax liability is less than that is required in the cases for Assistant Commissioners. The Assistant Commercial Tax Officers hold jurisdiction over dealers having a total turnover of less than Rs.2,50,000 in a year. These Commercial Tax Officers and Assistant Commercial Tax Officers are also entrusted with the work of administration of Entry Tax Act, Profession Tax Act, Luxury Tax and Entertainment Tax Act. There are Agricultural Income Tax Officers, Assistant Agricultural Income Tax Officers, Assistant Profession Tax Officers for administering the Agricultural Income Tax Act and Profession Tax Act (in respect of professions) and assist the Deputy Commissioner of Commercial Taxes (Administration) in the Division.

There are four Intelligence Wings, north zone with headquarters at Belgaum, south zone with headquarters at Bangalore, west-zone with headquarters at Mangalore and East Zone with headquarters at Bellary. These divisional zones are headed by the Deputy Commissioners of Commercial Taxes (Intelligence) both from the I.A.S. Cadre and from the Department.

At the Divisional level there are separate Deputy Commissioners of Commercial Taxes (Appeals) and Assistant Commissioner of Commercial Taxes (Appeals) to dispose of appeals against the assessment orders of assessing authorities.

There are four Sales Tax benches of the Karnataka Appellate Tribunal each of which has a Additional Commissioner of Commercial Taxes as a sitting member.

6. Appeal/Revision (Remedial Measures)

Section 20 of the Act provides for first appeals. The Assistant Commissioner of Commercial Taxes (Appeals) and the Deputy Commissioner of Commercial Taxes (Appeals) respectively are empowered to hear appeals against the orders of Assistant Commercial Tax Officers and the Commercial Tax Officers.

The Assistant Commissioners, Commercial Taxes (Appeals) and Deputy Commissioner Commercial Taxes (Administration) exercise first stage suo moto revisional powers.

The appellate Tribunal, Karnataka, is the second appellate authority to hear appeals against the orders (either appellate orders or revisional orders) passed by the A.C.C.T & C.C.T.

The Commissioner of Commercial Taxes and Joint Commissioner of Commercial Taxes have powers to revise suo moto orders of any of the subordinate officers prejudicial to the interests of revenue. Any revision against the orders of the Appellate Tribunal, only on questions of law, lie to the High Court.

Appeals against the suo moto revisional orders of the Commissioner of Commercial Taxes or the Joint Commissioner of Commercial Taxes also lie to the High Court.

Under Section 25-A, each assessing, appellate, revising authority has the power to rectify mistakes apparent from the record.

7. Checkposts

There are 40 stationary checkposts, two mobile checkposts at Bangalore, two control rooms - one at Bangalore and the other at Hubli. The checkposts and barriers have been set up according to the provisions of Section 28-A with a view to prevent or check evasion of tax under the Act. The owner or person in charge of a goods vehicle or boat has to carry with him a goods vehicle record, a trip sheet, or log book, as the case may be, and a bill of sale or delivery note obtained from the prescribed authority and other documents and declaration as prescribed for production before the Assistant Commercial Tax Officer incharge of checkpost/barrier and stop the vehicle to enable him to examine and inspect the contents in the vehicle and all relevant documents.

Violation will attract penalty upto double the amount of tax leviable; goods in lieu of penalty are taken into possession, which, if the penalty is not recovered could be auctioned to recover the same.