

TAX FLASH NEWS

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Kerala Amnesty scheme 2020 to settle pre-GST regime disputes

Further to the announcement made in the Kerala Finance Bill, 2020, Kerala government has issued a circular¹ to lay down the details of the 'Amnesty Scheme 2020' to clear the backlog of arrears in pre-GST regime tax disputes.

The key highlight of the new amnesty scheme is that it provides up to 60 per cent waiver in tax amounts, in addition to a complete waiver of interest and penalties. However, the downside is that all outstanding Pre-GST regime disputes needs to be settled together. Taxpayers are not given the option to choose the matters to be settled under the scheme and the matters for which litigation should continue.

The last date to apply for the scheme is 31 July 2020.

Gist of the scheme is as under -

The scheme shall apply to the outstanding dues under the following Statutes:

- Kerala Value Added Tax Act;
- Central Sales Tax Act;
- Tax on Luxuries Act;
- Kerala Surcharges Act;
- Kerala Agriculture Income Tax Act; and
- Kerala General Sales Tax Act.

Waiver under the scheme is tabulated as under

Nature of amount due	Waiver	Balance payable under scheme
Tax	60% if amount paid in lumpsum	40%
	50% if amount is not paid in lumpsum, but paid in instalments	50%
Interest	100%	Nil
Penalty	100%	Nil

Note: In case of arrears under Kerala General Sales Tax Act (KGST), the above benefit applies to matters prior to 1st April 2005 only. For KGST matters from 1st April 2005 to 31st March 2020, principal and interest amounts needs to be paid in full. Waiver is limited to penalty amount in such matters.

¹ Circular no. 2/2020 dated 4 April 2020

Other key points of the scheme are:

- Last date to apply for scheme – 31st July 2020
- Last date for payment of amount – 31st December 2020 (Even if paid in instalments)
- Demands newly generated or modified after 31st July 2020 – application to be made within 30 days of receipt of order. Payment to be made before 31st March 2021
- Taxpayers who failed to opt / settle arrears under the earlier scheme can also opt for this scheme
- Credit shall be given for;
 - Tax or interest paid after receipt of demand notice
 - Any amount paid under the earlier amnesty scheme
 - Tax paid while compounding the offences
- Taxpayers do not have the option to choose or select the matters to be settled under the scheme. All outstanding dues as on the date of application to be settled together
- Cases pending before any appellate or revisional authority, tribunal or courts shall be withdrawn unconditionally and a declaration to this effect shall be filed online
- No refund is contemplated under the scheme (clarity on refund of amount paid as pre-deposit is awaited)

The process is completely online, and no manual filing or payment is permitted.

Our comments

This is a good opportunity for taxpayer to clear off pending litigations considering that it gives significant waiver from principal amount and full waiver from Interest and Penalty. However, it is pertinent to note that the taxpayer will be required to mandatorily opt for all the litigation under the aforementioned statutes and shall not have an option to choose or select matters to be settled under the scheme.

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