

Report

Restructuring Taxation of Gold/Jewellery in Kerala



Submitted to
State Planning Board & Finance Department
Government of Kerala

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An Autonomous Institution of Government of Kerala

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A Study Report

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As far as taxation is concerned, gold is considered an evasion-prone commodity. Both the traders and consumers stand to gain through evasion. In this context, the Taxes Department of Government of Kerala entrusted Gulati Institute of Finance and Taxation [GIFT] with a Study on the Taxation of Gold Trade in Kerala in response to certain queries raised by the Subject Committee –VIII regarding the taxation of gold/jewellery.

During the course of the study, the Team received overwhelming support from the Commercial Taxes Department and the gold/jewellery trade associations.

This report is submitted to the State Planning Board and Finance Department, Government of Kerala as part of the project “Towards fiscal consolidation through effective revenue mobilization”, under Plan Fund Scheme 2013-14. I congratulate the earnest effort taken by the members of the study team Dr.N Ramalingam, Dr.C.S.Venkiteswaran, Dr.Thomas Joseph Thoomkuzhi, Smt. L.Anitha Kumari, and Smt. R.Shyama Nair for conduct of this study. The suggestions made in this report has been considered during the deliberations for the State Budget 2014-15

Thiruvananthapuram
20 January 2014

Dr. Jose Jacob
Director, GIFT

Executive Summary

Restructuring Taxation of Gold/Jewellery in Kerala- A Study Report

In the light of the observations made by Subject Committee –VIII meeting held on 12 July 2012, the Taxes Department of Government of Kerala requested Gulati Institute of Finance and Taxation [GIFT] to conduct a Study on the Taxation of Gold Trade in Kerala. Consequently, a study team was constituted with five faculty members from GIFT nominated by its Director. Senior officials from Commercial Taxes Department [CTD] were also nominated by the Commissioner, Commercial Taxes Department for providing necessary data inputs for the study. This report is also proposed as a policy note to the Taxes Department, Government of Kerala for consideration for the Kerala Budget 2013-14.

The report is presented in five Sections: Section A- Introduction, Section B- Legal provisions of Taxation on Gold/Jewellery, Section C-Economics of Price, Turnover and Tax on Gold/Jewellery, Section D- Proposed Restructuring in the Compounding Rate and Section E- Administrative Interventions and Anti-Evasion Measures

Objectives of the Study

On the basis of the observations of the Subject Committee held on 12-7-2012 the Taxes Department of Government of Kerala in its letter No. 18028/B1/2012/TD dated 23-8-2012 directed GIFT to study the tax structure of gold/jewellery trading sector in Kerala, with the following objectives:

1. To increase the tax revenue from gold trade sector in Kerala
2. To prevent the tax evasion prevailing in gold sector in Kerala
3. To suggest measures to restructure the present taxation system of gold in Kerala on the basis of the findings of the study.

The observations of the Subject Committee –VIII meeting held on 12-7-2012 are summarized below:

1. The rate of tax of gold/jewellery in Kerala is high when compared to other states including the neighbouring states of Kerala resulting in widespread evasion of tax in this sector.
2. Tax revenue from gold/jewellery has not increased in spite of the increase in the rate of tax on gold/jewellery.
3. Records show that there has not been a corresponding increase in the turnover and tax of gold/jewellery when compared with the increase in the price of gold/jewellery during 2011-12. Whether this is due to the shift in trade to the neighbouring states where the rate of tax of gold/jewellery is 1% or due to tax evasion prevalent in Kerala?

There is an urgent need for a study to look into the above aspects and suggest measures to strengthen this trade so as to mobilize more revenue from this sector. The following areas are suggested for the study:

1. Tax rate, tax structure and tax collection procedures of gold/jewellery in the neighbouring States of Kerala
2. Trends in turnover and tax revenue of gold/jewellery in proportion to the market price of gold/jewellery in Kerala
3. Reasons for the decrease in tax revenue (*if any*) when compared to previous years' sales turnover and tax collection
4. Suggest an alternative tax structure so as to augment tax revenue and plug tax evasion with the intention to retain/strengthen the gold/jewellery trade sector in Kerala

Study Findings

1. **Gold Price:** The price of gold does better when equity markets do not do well. The price of gold showed a sharp increase since 2008-09 i.e., the initial years of global financial crisis and recession. The average annual growth rate for gold price for the past four years is recorded as 23.79%.
2. **Tax Revenue from Gold/Jewellery:** Tax revenue started increasing only because of a high rate of 4% coupled with the compounding scheme. This is evident from the year 2006-07 onwards. The revenue for the past four years (2008-09 to 2011-12) reveals an average annual rate of growth of 24.2% in tax revenue
3. **Pattern of registered dealers (Compounded Vs Non-compounded):** The data for the last four years reveals that the number of small and marginal dealers in gold/jewellery trade under the non-compounding category constitute on an average 83% of the total dealers, whereas it is around only 55% under the compounding category. The number and share of the compounded category of dealers have steadily risen indicating that compounding has been attractive to the dealers till 2011-12.
4. **Pattern of Turnover (Compounded Vs Non-compounded):** The overall analysis of the turnover pattern reveals that around 90% of turnover is reported from the compounding category, and out of this, the above ₹1 Crore turnover category of dealers has the lion's share.
5. **Pattern of Tax Revenue (Compounded Vs Non-compounded):** The analysis indicates that around 68% of the total revenue from gold/jewellery comes from the compounded dealers. Out of this, around 91% of the revenue is contributed by dealers in the turnover bracket 'Above ₹ 1 crore'. The dealers under the other three turnover categories contributed only around 9% of the revenue during the last four years

6. **Skewed towards compounded category:** The above findings reveal that the number, turnover and tax revenue of gold/jewellery is skewed towards the compounded category. This shows that the non-compounded category remains un-attractive due to higher tax rate.
7. **Tax Vs Effective Rate (Compounded Vs Non-compounded):** The analysis of the total annual tax indicates visibly high tax revenue with upward trend in respect of compounding dealers. It reveals that compounded dealers have shown higher rate of growth in tax compared to the increase in turnover, as increase in tax was mandatory under compounding system w.e.f. 1-4-2011.
8. **Change in Price vis-à-vis Turnover and Tax (Compounded Vs Non-compounded):** The turnover and tax for the year 2011-12 for the non-compounded dealers have increased proportionately in comparison with the price. But in the case of compounded dealers, even though the tax has increased more than proportionate, the turnover shows only a sluggish growth when compared to price. This indicates that the current rates under the compounding scheme force the dealers to pay more tax disproportionate to their turnover.
9. **Turnover deflated by price:** On deflating the turnover with price index, it is seen that the growth in turnover is mainly due to price increase, and turnover has hardly shown any increase since 2010-11.

Subject Committee Observations and Study Findings

1. The First observation made by the Subject Committee *that the rate of tax of gold/jewellery in Kerala is high when compared to other states including the neighbouring states of Kerala resulting in evasion of tax in this sector* is endorsed.
2. The Second observation of the Subject Committee that *the tax revenue from gold/jewellery has not increased in spite of the increase in the rate of tax on gold/jewellery* cannot be endorsed since the tax revenue especially under the compounding scheme shows an upward trend.
3. The Third observation of the Subject Committee that *records show that there has not been a corresponding increase in the turnover and tax of gold/jewellery when compared with the increase in the price of gold/jewellery during 2011-12. Whether this is due to the shift in trade to the neighbouring states where the rate of tax of gold/jewellery is 1% or due to tax evasion prevalent in Kerala?* This observation is partially endorsed. The data for the past four years show that tax revenue in their absolute terms has increased in tune with the increase in the price of gold/jewellery. However the turnover of the compounded dealers has shown a sluggish growth as per the records. This may be due to the shift of around 20% of the trade to the border districts of neighbouring states and improper tax compliance resulting from

unaccounted sales. Moreover, under the compounding system the dealers are compelled to pay higher tax based on the tax paid during the previous years. On enquiry with the officials and tax practitioners it is understood that most of the dealers under the compounding system determine their current year's tax liability based on the tax paid during the past years and accordingly the turnover figures are calibrated for the purpose of the return submission.

Projected Revenue Loss under different Tax Rates for Gold/Jewellery

Proposed Rate	Projected Revenue Loss (₹ In Crores)		
	From Non-Compounded Dealers	From Compounded Dealers	From Total Dealers
1%	119.06	34.82	153.88
2%	82.46	NA*	82.46
3%	45.86	NA*	45.86
4%	9.26	NA*	9.26

* Not Applicable since the present effective rate under compounding scheme is 1.25%

Proposed Compounding Scheme W.E.F 1-4-2013

No.	Annual Turnover during the preceding year	For the new entrants for the first year of the compounding scheme*	For the dealers already in the compounding scheme and for the new entrants for the subsequent period
1	1 crore and above	130% of the base tax	120% of the preceding year tax OR 1.20 % of annual turnover whichever is higher
2	40 lakhs to 1 crore	125% of the base tax	110% of the preceding year tax OR 1.10 % of annual turnover whichever is higher
3	10 lakhs to 40 lakhs	110% of the base tax	105% of the preceding year tax OR 1.05 % of annual turnover whichever is higher
4	Below 10 lakhs	₹ 10,000 / ₹5000 as Annual Fixed Tax (AFT) to be paid in four instalments (four quarters)	

*The base tax is calculated as the highest tax paid/payable by the dealer as per the KVAT Act 2003 for the year during any of the three consecutive years preceding that to which the compounding option relates.

For dealers belonging to the first three categories, a reduction in the rate of tax of 10 per cent is proposed for the new entrants. For the existing dealers a reduction in the rate of tax of 5 per cent is proposed (except for ₹10 lakhs to 40 Lakhs category). This is done, taking into account the fluctuating trends in price and turnover, and the nature of competition in the trade, which have made the existing rate unviable for the dealers to continue within the compounding system.

For dealers belonging to the last category (less than 10 lakhs turnover), an annual fixed rate is proposed. If the Annual Fixed Tax (AFT) of ₹ 10,000 is implemented, the revenue loss will be ₹2.15 crores and it will be ₹3.88 crores if fixed at ₹ 5,000. Even if the AFT is fixed at ₹ 5000, the resultant revenue foregone will be negligible, while it will be of benefit to almost 80 % of the dealers.

The above proposed compounding rates when compared with the existing rates may result in a revenue loss of around ₹ 15 crores (mainly from the category of ₹1 crore and above dealers) during 2013-14 if implemented. This is estimated based on the total revenue collected from gold/jewellery during 2012-13. Nonetheless, it is expected that due to the attraction of the proposed reduced rates the existing dealers will remain and also more and more non-compounded dealers may switch over to the new compounding scheme. This may, by a very conservative estimate, compensate the projected revenue loss of ₹15 crores.

Along with the above revised rates proposed under the compounding scheme, the present scheduled rate of 5 percent has to be continued. Such a package will attract new dealers to the compounding system, and incentivize the dealers who have presently opted for compounding. With a maximum effective rate of 1.2 %, this package will also ensure minimum trade diversion and a normal growth in revenue from gold/jewellery.

Background

In the light of the observations made by Subject Committee –VIII meeting held on 12 July 2012, the Taxes Department of Government of Kerala requested Gulati Institute of Finance and Taxation [GIFT] to conduct a Study on the Taxation of Gold Trade in Kerala. Consequently, a study team was constituted with five faculty members from GIFT nominated by its Director. Senior officials from Commercial Taxes Department [CTD] were also nominated by the Commissioner, Commercial Taxes Department for providing necessary data inputs for the study. [Copy of the letter received from the Taxes Department, Government of Kerala along with the observations of the Subject Committee –VII meeting held on 12 July 2012 is attached in **Annexure -1.**] This report is also proposed as a policy note to the Taxes Department, Government of Kerala for consideration for the Kerala Budget 2013-14.

The report is presented in five Sections: Section A- Introduction, Section B- Legal provisions of Taxation on Gold/Jewellery, Section C-Economics of Price, Turnover and Tax on Gold/Jewellery, Section D- Proposed Restructuring in the Compounding Rate and Section E- Administrative Interventions and Anti-Evasion Measures

Section A Introduction

India accounts for about 28.3 % of the total demand for gold in the world. Within the country, Kerala is one of the largest consumers of gold and could be considered the ‘Gold Capital’ of India since it accounts for about 25% of total gold consumed in India. During the year 2011, 245 tonnes of gold worth ₹75, 000 crores was reported to be sold in Kerala, out of which Kochi alone accounted for about 14% of the total gold consumed in the State. (Courtesy: New Indian Express dated: 10 December 2012). The data from Commercial Taxes Department shows that only around ₹ 19,000 Crores is admitted as turnover from the sector during 2012-13 (ie. up to November 2012). If this trend continues, the annual turnover figures during 2012-13 will be around ₹ 25,000 crores. This works out to only one-third of the figure informed by the above report, which indicates the extent of the unaccounted sales prevalent in this sector in Kerala.

Under both the indirect tax regimes, that is, under the erstwhile Sales Tax and now the Value Added Tax regimes, gold has been considered an evasion-prone commodity. The very nature of this yellow metal and the channels/modes of its transaction make it highly evasion-prone due to various reasons like its ever increasing price and demand, high unit value, high liquidity, facility to carry and sell etc. Added to this is the fact that, in the case of gold/ornaments, both traders and consumers stand to gain through evasion, which encourages non-demand of tax invoices by buyers and non-accounting by dealers.

Objectives of the Study

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4. To increase the tax revenue from gold trade sector in Kerala
5. To prevent the tax evasion prevailing in gold sector in Kerala
6. To suggest measures to restructure the present taxation system of gold in Kerala on the basis of the findings of the study.

The observations of the Subject Committee –VIII meeting held on 12-7-2012 are summarized below:

4. The rate of tax of gold/jewellery in Kerala is high when compared to other states including the neighbouring states of Kerala resulting in widespread evasion of tax in this sector.
5. Tax revenue from gold/jewellery has not increased in spite of the increase in the rate of tax on gold/jewellery.
6. Records show that there has not been a corresponding increase in the turnover and tax of gold/jewellery when compared with the increase in the price of gold/jewellery during 2011-12. Whether this is due to the shift in trade to the neighbouring states where the rate of tax of gold/jewellery is 1% or due to tax evasion prevalent in Kerala?

There is an urgent need for a study to look into the above aspects and suggest measures to strengthen this trade so as to mobilize more revenue from this sector. The following areas are suggested for the study:

5. Tax rate, tax structure and tax collection procedures of gold/jewellery in the neighbouring States of Kerala
6. Trends in turnover and tax revenue of gold/jewellery in proportion to the market price of gold/jewellery in Kerala
7. Reasons for the decrease in tax revenue (*if any*) when compared to previous years' sales turnover and tax collection
8. Suggest an alternative tax structure so as to augment tax revenue and plug tax evasion with the intention to retain/strengthen the gold/jewellery trade sector in Kerala

Date Source of the Study

The Report is based on the analysis of the data relating to sales of and tax paid on gold by dealers for the period 2009-10 to 2012-13 collected by the study team from the Commercial Taxes Department. Detailed discussions were held with the representatives of the gold/jewellery dealers, their associations and with the officials of Commercial Taxes Department. Members of the team also visited the border district of Kanyakumari to observe the patterns of trade diversion from Kerala.

National Consensus and Kerala Concerns

Under sales tax regime, gold was taxed at 4 per cent in Kerala. When VAT was introduced from 1-4-2005, the Empowered Committee of State Finance Ministers recommended a uniform rate of 1 per cent across the country. In tune with that, Kerala too brought down the rate of tax to 1 per cent of turnover during the first year of VAT. But the decrease in the rate of tax did not result in enhanced compliance and as a result, the tax revenue from gold took a plunge. In response to this, the rate of tax was restored to 4 per cent in the subsequent year. (Refer Table No. 4 in this report)

Kerala government had to resort to other methods to ensure voluntary compliance as normal methods of enforcing tax compliance in gold trade through assessment and investigation were found wanting. With this in view, a compounding option was introduced in the case of gold dealers. Compounding was an option that prevailed even during the sales tax regime. In fact, compounding is not fully compatible with the VAT system and its principles, but in the case of gold, it had to be resorted to in order to enhance compliance. It was introduced during the second year of VAT regime i.e., 2006-07 when the tax rate was restored from 1 to 4 per cent and later, increased to 5 per cent w.e.f 1-4-2012. The compounding system as envisaged under Section 8(f) of the KVAT Act 2003 has also undergone several amendments after 2006-2007 to plug loopholes of the earlier provisions and to increase tax revenue to the State.

Section B
Legal provisions of Taxation on Gold/Jewellery

Provision as per the Kerala Value Added Tax Act 2003

[For the provisions "as it is" as per the Kerala Value Added Tax Act 2003 refer Annexure No: 2]

According to the provisions of Kerala Value Added Tax Act 2003 which came into force w.e.f 1-4-2005, bullion, gold, jewellery, precious stones and semi precious stones were brought under Second Schedule and taxed at 1 % in tune with national consensus on VAT rates. With effect from 1-7-2006, gold, silver and platinum ornaments were removed from Second Schedule and brought under Third Schedule and taxed at 4 %. Along with it, a compounding provision was introduced by the Finance Act 2006 w.e.f 1-7-2006 and subsequently substituted by the Kerala Finance Act, 2008 w.e.f. 1-4-2008. Subsequently minor amendments in the provisions were introduced during the financial year 2010-11 and 2011-12. Therefore w.e.f 1-7-2006 there exist a general provision as per the schedule rate and an alternative provision which is optional for the dealers as per the compounding scheme instead of schedule rate. **(Refer Table No.1)**

Table No.1

Taxation of Gold/Jewellery
Kerala Value Added Tax Act 2003

Year	Schedule Rate	Compounding Provision (Yes/No)
Up to 2004-05 (pre-VAT period)	4%	Yes
2005-06	1%	No
2006-07 to 2011-2012	4%	Yes
2012-13	5%	Yes

The calculation of tax liability according to the provisions of compounding that are in force during 2012-13 is as follows:

Step 1: The dealers are classified on the basis of their turnover of the preceding year as a) Less than 10 lakhs, b) ₹ 10 lakhs up to 40 lakhs, c) ₹ 40 lakhs up to ₹ 1 Crore and d) Above ₹ 1 Crore.

Step 2: Determine the highest tax paid/payable by the dealer under this Act during the three consecutive years preceding such option.

Step 3: The tax liability is calculated based on a) the highest tax of the dealer thus arrived at and b) the turnover bracket the dealer belongs to as shown below:

Compounding rates for the first year

Annual Turnover	Rate of Tax
Less than ₹ 10 lakhs	115 %
₹ 10 up to 40 lakhs	120 %
₹ 40 lakhs up to 1 crore	135 %
Above ₹ 1 Crore	150 %

The compounding scheme also carries the following conditions:

1. In the case of a dealer who had not transacted any business for the preceding three consecutive years, the highest tax paid or payable for the year during the year or years he transacted business shall be considered for the above purpose.
2. In the case of such dealer having not transacted business for all the 12 months of that financial year the tax payable shall be calculated proportionately on the basis of the tax/ turnover conceded for the period during which such dealer had transacted business
3. The dealer opting for payment of tax under this clause shall pay compounded tax in respect of all their branches existing in the year to which the option relates
4. If a dealer has not opted to pay compounded tax with respect to new branch opened in 2008-09, the compounded tax payable for such branch for the year 2008-09 shall be notionally fixed as the average of the compounded tax paid for the principal place and branches in that year and if the new branch opened is the first branch, the compounded tax payable for it shall be the same as that payable for the principal place of business.
5. If a dealer opens a new branch in the current year, the additional compounded tax payable under this clause in respect of such branch shall be the average of the tax payable by him in respect of his principal place of business and all branches.
6. If a dealer has opted for payment of tax under this clause for the first time in 2011-12 and has commenced business only in 2010-11 and the tax payable as per returns/ accounts during 2010-11 is less than the output tax payable, then the tax payable for 2010-11 shall be notionally re-determined on the basis of output tax for determining the tax liability for 2011-12.
7. Tax payable as conceded in the accounts includes the tax payable on suppressed turnover subsequently detected also.
8. If a dealer who had opted and paid tax under this clause during previous years with respect to a branch that had remained closed during the whole of the year 2009-10, for the purpose of determining the compounded tax payable for 2010-2011, the tax paid in respect of that branch shall not be reckoned

9. The “articles of gold, silver or platinum group metals” shall also include bullion and diamond.
10. The dealer who opts for payment of tax under this clause may collect tax at the rate not exceeding 1.25 per cent for the commodity, but where the tax so collected during the year is in excess of the tax payable for the year under this clause, the tax collected in excess shall be paid over to the Government in addition to tax payable under this clause.
11. With effect from 1-4-2011, a dealer shall not be allowed to opt for the payment of tax under this clause unless he has conducted business up to a full year as on the first day of April of the year to which the option relates.
12. The assessing authority, for valid and sufficient reasons, such as shifting of place of business, furnishing of false information, suppression of relevant information, failure to furnish such information demanded, may refuse permission to pay tax under this section and cancel the permission if any granted.
13. Provided that no orders under this sub-clause shall be issued without giving the dealer an opportunity of being heard and without prior approval of the District Deputy Commissioner.
14. Notwithstanding anything contained in sections 55 or 60 of this Act, orders under sub-clause (ii) shall be appealable only to the Appellate Tribunals.
15. In case where permission has been cancelled, the amount, if any paid based on the permission, shall be apportioned against the output tax due of the dealer

The above conditions of compounding apply to dealers who are opting for it for the first time. For dealers who have already opted for compounding and for the subsequent years in the case of new entrants, the following conditions shall apply:

The tax liability of such a dealer shall be calculated at the rates mentioned in item (i) or (ii) below, whichever is higher –

(i) (1) at **100%** of such tax paid during the previous year, in case their turnover for the above goods for the preceding year was rupees ten lakh or below;

(2) at **105%** of such tax paid during the previous year, in case their turnover for the above goods for the preceding year was above rupees ten lakh and up to rupees forty lakh;

(3) at **115%** of such tax paid during the previous year, in case their turnover for the above goods for the preceding year was above rupees forty lakh and up to rupees one crore; and

(4) at **125%** of such tax paid during the previous year, in case their turnover for the above goods for the preceding year exceeded rupees one crore.

Compounding rates for subsequent years

Annual Turnover	Rate of Tax
Less than ₹ 10 lakhs	100 %
₹ 10 up to 40 lakhs	105 %
₹ 40 lakhs up to 1 crore	115 %
Above ₹ 1 Crore	125 %

Provided that the tax payable under this sub-clause by the dealers covered under Condition (f) mentioned above shall be at the appropriate percentage of tax mentioned in (1), (2), (3) or (4) above, of the tax re-determined under the said Explanation.

(ii) 1.25% of the turnover of sales of the goods covered under this clause, for the previous year.

Taxation of gold/jewellery in the neighbouring states of Kerala

The Study team referred the relevant taxation provisions of gold/jewellery of State VAT Acts of all other states including neighbouring states like Tamil Nadu, Andhra Pradesh, Karnataka and Pondicherry. In the neighbouring states, the scheduled rate of tax for gold and jewellery continues to be 1 per cent ever since the introduction of VAT and there are no compounding provisions prevailing in any state except Kerala. (Refer Table No. 2)

Table No.2

Tax Rates for the neighbouring States as on 1/2/2013

No	State	Tax Rate	Schedule & Entry	Compounding Provision (Yes/No)
1	Kerala	5%	Schedule -III, Entry No. 5 1A	Yes
2	Tamil Nadu	1%	Schedule -I , Entry No. 1 to 4	No
3	Andhra Pradesh	1%	Schedule - III , Entry No.2	No
4	Karnataka	1%	Section 4(1) (iii) of Karnataka Value Added Tax 2003 & Notification No: FD 57CSL 2012(V) dated 31-3-2012	No
5	Pondicherry	1%	Schedule - II , Entry Nos. 1 to3	No

(Source: Schedules of relevant States Commercial Taxes Websites)

It has been noticed that the major gold/jewellery traders like Bhima Jewellery, Malabar Gold, Kalyan Jewellery, Josco Jewellers, Joy Alukkas, Jos Alukkas Francis Alukkas etc from Kerala have already opened establishments under the same brand name in the border districts of neighbouring states. Apart from business expansion, this phenomenon is also attributed to the lower tax rate of 1% existing in the neighbouring states. Moreover, some of the major national brands like TANISHQ have closed their establishments in Kerala due to high tax rate prevailing in the State. *(Courtesy: Calicut Bullion Dealers Association)*. It was noticed that most of the dealers mentioned above have started new branches in towns lying adjacent to the state boundary like Coimbatore, Kanyakumari (Nagercoil), and Mangalore. The local customers who approach the branches of such dealers situated in Kerala are prompted to make their purchases from the dealer's own establishments in towns in the neighbouring state. This is done in order to offer the buyer the advantage of reduced rate of tax applicable in the neighbouring state. This trend leads to shifting of local business as well as loss of tax revenue to the state.

The team visited the border town of Nagercoil. It was noticed that there were many buyers who were residents of Thiruvananthapuram and Kollam, making their purchases, especially bulk purchases occasioned by marriage in their families. Upon enquiry they opined that they make their purchases from Nagercoil to avail more discounts/offers apart from 'price' advantage. But most of them are not aware that it is mainly due to difference in tax rate. Some of them also expressed that during times of marriage, they go to Thirunelveli to purchase textiles (due to price advantage and more variety to choose from) and Nagercoil for the purchase of jewellery. The exact data regarding the loss of revenue due to such trade diversions is not available with the Commercial Taxes Department. The study team conducted separate discussions with officials in the assessment wing/intelligence wing, tax practitioners and traders. Based on their opinion it is estimated that around 20% of the total accounted sales in Kerala is diverted to other states due to the high rate of 5% rate for gold/jewellery coupled with high rate in the compounding provisions prevalent in Kerala. According to rough estimates, during the year 2011-12 sale of gold/jewellery worth ₹ 3335 crores (20% of the total sales of ₹16679 crores) could have been diverted to border districts of Kerala. This would have resulted in a tax loss of around ₹55 crores during the year 2011-12. The above estimation of trade diversion and revenue loss is very conservative since the estimation is made as a percentage of the current turnover only and as everyone is aware that almost an equal volume of unaccounted sales occur in Kerala.

Section C

Economics of Price, Turnover and Tax of Gold/Jewellery in Kerala

[Under non-compounding and compounding scheme of taxation]

For the purpose of the study, data on annual turnover, annual tax and average (yearly) price of gold/jewellery were taken. The price data was taken from the Reserve Bank of India (RBI) Bulletin. The data concerning annual turnover and tax collection were taken from the Information Technology Management Cell [ITMC] of the CTD, Kerala. The dealer-wise data for four years [2009-10 to 2012-13 (up to November 2012)] both under compounding and non-compounding schemes were collected. The data received from the CTD was cleaned by eliminating the following discrepancies

1. Dealers with only turnover and no tax
2. Dealers with only tax and no turnover
3. Dealers with neither tax nor turnover
4. Dealers having more than 50% of tax when compared to turnover
5. Dealers who are not gold dealers but erroneously included under the category of gold dealers.

The CTD was informed of the discrepancies observed in the data for their detailed scrutiny and correction. The discrepancies found in the data range between 5% to 7% in the case of tax and the number of dealers. And as such they are negligible and not likely to affect the validity of analysis and interpretation.

Price trends of Gold

Table No.3 presents the price of gold for the past nineteen years. One of the striking aspects in the movement of prices of gold is that the ten year period from 1995-96 to 2004-05 showed a very normal annual rate of growth. Further, the period was marked by a decline in the price of the metal in some years during that period. In sharp contrast, in the period since 2004-05 there has been a sharp increase in the price of gold, especially since 2008-09. It may be noted that this is the period following the global financial crisis and world recession. It is evident that the price of gold does better when equity markets do not do well. The average annual price increase for the past four years is recorded as 23.79 % (Period 2009-10 to 2012-13). The current year (2012-13) for the first time is showing a milder trend in the prices.

Table No.3

Trends in Gold Price (Period 1994-2012)

Year	Price of gold per 10 gm	Percentage change over previous year
1994-95	4667.24	
1995-96	4957.60	6.22
1996-97	5070.71	2.28
1997-98	4347.07	-14.27
1998-99	4268.00	-1.82
1999-00	4393.56	2.94
2000-01	4473.60	1.82
2001-02	4579.12	2.36
2002-03	5332.36	16.45
2003-04	5718.95	7.25
2004-05	6145.38	7.46
2005-06	6900.56	12.29
2006-07	9240.32	33.91
2007-08	9995.62	8.17
2008-09	12889.74	28.95
2009-10	15756.09	22.24
2010-11	19227.08	22.03
2011-12	25723.66	33.79
2012-13*	30124.00	17.11
Average of latest four years		23.79
* Average of eight months		

(Source: RBI Bulletin)

Trends in Tax Revenue from Gold/Jewellery

Trends in tax revenue from gold/jewellery in Kerala for the past nine years are analyzed in **Table No.4**. During the pre-VAT period (2004-05) the revenue from gold/jewellery was ₹ 55.48 crores which fell to ₹ 21.21 crores during 2005-06. This plunge in revenue of 61% during the first year of the VAT period was evidently because of reduction in rate of tax from 4% to 1%. The reversal of the rate of tax to 4% along with the introduction of compounding provision during 2006-07 resulted in the record increase of revenue from ₹ 21 crores to 97 crores (362 %). Obviously, the compounding provision has acted as a check upon under reporting of turnover. **The average rate of growth in revenue during the four years period (2008-09 to 2011-12) shows 24.2%**. This is mainly due a spurt in

growth of 39% during 2011-12. A 42.8 % growth in tax revenue is predicted during 2012-13 based on the projected revenue.

Table No.4

Tax Revenue from Gold/Jewellery (Period 2004-05 to 2012-13)

Year	Tax Revenue (₹ In Crores)	Percentage change over previous year	Rate of tax
2004-05	55.48	NA	4
2005-06	21.21	-61.77	1
2006-07	97.9	361.57	4
2007-08	120.93	23.52	4
2008-09	143.51	18.67	4
2009-10	157.59	9.81	4
2010-11	203.66	29.23	4
2011-12	283.64	39.27	4
2012-13*	405.08	42.82	5
*Revenue projected based on the collection data up to November 2012			

Source: Calculated from the data supplied by the Commercial Taxes Department, Govt. of Kerala

Registered dealer Composition in gold/jewellery

The structural pattern of gold/jewellery dealers for the past four years in the compounding, non-compounding and total under turnover classification are discussed in three tables (**Refer Table Nos. 5, 6 & 7**). The trends in their number and their percentage share reveal the structural pattern of gold dealers in Kerala. Kerala has about 5300 gold dealers of whom about 63% were in the non-compounded category in 2009-10. The share of the non-compounded category has steadily fallen during the last four years and currently it stands at 53% (**Refer Table No. 5**). The number and share of the compounded category of dealers have steadily risen which indicates that compounding has been attractive to the dealers till 2011-12.

Among the non-compounded dealers, over 80% fall in the turnover bracket below ₹ 10 lakhs. Their distribution among the different turnover categories has remained the same over the period, except till 2011-12 when there was a steady increase in the number and share of the '₹ 1 crore & above' bracket. But both their number and share have fallen in 2012-13.

Among the compounded dealers, there has been a steady increase in their number and share in all the categories except the below ₹ 10 lakhs bracket. Such an increase continued till 2011-12 before showing a sharp fall in 2012-13 (Refer Table No.6). The only large increase has been in the category of dealers below ₹ 10 lakhs turnover. This could be due to the fact that the data of 2012-13 pertain to first eight months only and not the whole year. The data for the last four years reveal that the number of small and marginal dealers in gold/jewellery trade under the non-compounding category constitute on an average 83% of the total dealers, whereas it is around only 55% under the compounded category.

Table No: 5

No. of dealers in Gold/Jewellery etc: Non-Compounded Dealers

Annual Turnover	Non-compounded dealers							
	2009-10		2010-11		2011-12		2012-13	
	No.	%	No.	%	No.	%	No.	%
1 crore and above	81	2.40	111	3.56	154	5.00	121	4.28
40 lakhs to 1 crore	101	2.99	101	3.24	121	3.93	71	2.51
10 lakhs to 40 lakhs	411	12.16	391	12.55	421	13.67	290	10.27
Below 10 lakhs	2787	82.46	2512	80.64	2384	77.40	2342	82.93
Total	3380	100.00	3115	100.00	3080	100.00	2824	100.00
Share on Total (%)	63%		59%		57%		53%	

(Source: Calculated from the data supplied by the Commercial Taxes Department, Govt. of Kerala)

Table No: 6

No. of dealers in Gold/Jewellery etc: Compounded Dealers

Annual Turnover	Compounded dealers							
	2009-10		2010-11		2011-12		2012-13	
	No.	%	No.	%	No.	%	No.	%
1 crore and above	215	10.89	246	11.15	272	11.63	247	9.77
40 lakhs to 1 crore	172	8.71	207	9.38	250	10.69	217	8.58
10 lakhs to 40 lakhs	556	28.17	649	29.42	740	31.65	658	26.02
Below 10 lakhs	1031	52.23	1104	50.05	1076	46.02	1407	55.63
Total	1974	100.00	2206	100.00	2338	100.00	2529	100.00
Share on Total (%)	37%		41%		43%		47%	

(Source: Calculated from the data supplied by the Commercial Taxes Department, Govt. of Kerala)

Table No: 7

Total No. of dealers in Gold/Jewellery etc

Annual Turnover	Total Dealers							
	2009-10		2010-11		2011-12		2012-13	
	No.	%	No.	%	No.	%	No.	%
1 crore and above	296	5.53	357	6.71	426	7.86	368	6.87
40 lakhs to 1 crore	273	5.10	308	5.79	371	6.85	288	5.38
10 lakhs to 40 lakhs	967	18.06	1040	19.55	1161	21.43	948	17.71
Below 10 lakhs	3818	71.31	3616	67.96	3460	63.86	3749	70.04
Total	5354	100.00	5321	100.00	5418	100.00	5353	100.00

(Source: Calculated from the data supplied by the Commercial Taxes Department, Govt. of Kerala)

Pattern of Turnover in gold/jewellery

Table Nos. 8, 9, & 10 show the turnover of four different categories of dealers under compounding and non-compounding. During 2009-10 out of the total reported turnover, only 12 % comes under the non-compounding category. This share remains more or less steady throughout the years except 2011-12. The major chunk of the turnover (88% in 2009-10) is reported under the compounding category. Within the compounding and non-compounding categories, an average of 80% under non-compounding and 95% under compounding falls under the turnover brackets of more than ₹ 1 crore.

The overall analysis of the turnover pattern reveals that around 90% of the turnover is reported from the compounding category and out of this above ₹1 crore dealers have the lion's share.

Table No: 8

Turnover from Gold/Jewellery: Non-Compounded Dealers

Annual Turnover	Turnover of Non-compounded dealers							
	2009-10		2010-11		2011-12		2012-13	
	₹ In Crs	%	₹ In Crs	%	₹ In Crs	%	₹ In Crs	%
1 crore and above	881	80.61	1578	88.36	2218	79.67	1541	75.78
40 lakhs to 1 crore	63	5.77	64	3.60	176	6.34	211	10.37
10 lakhs to 40 lakhs	78	7.13	75	4.20	163	5.85	126	6.18
Below 10 lakhs	71	6.49	68	3.84	227	8.15	156	7.67
Total	1092	100.00	1786	100.00	2784	100.00	2034	100.00
Share on Total (%)	12		13		17		11	

(Source: Calculated from the data supplied by the Commercial Taxes Department, Govt. of Kerala)

Table No.9

Turnover from Gold/Jewellery: Compounded Dealers

Annual Turnover	Turnover of Compounded dealers							
	2009-10		2010-11		2011-12		2012-13	
	₹ In Crs	%	₹ In Crs	%	₹ In Crs	%	₹ In Crs	%
1 crore and above	7379	96.43	11225	97.27	13540	97.44	16097	98.02
40 lakhs to 1 crore	112	1.47	129	1.12	153	1.10	134	0.82
10 lakhs to 40 lakhs	117	1.52	135	1.17	151	1.08	131	0.80
Below 10 lakhs	45	0.58	51	0.44	52	0.37	60	0.37
Total	7653	100.00	11540	100.00	13895	100.00	16423	100.00
Share on Total (%)	88		87		83		89	

(Source: Calculated from the data supplied by the Commercial Taxes Department, Govt. of Kerala)

Table No.10

Turnover from Gold/Jewellery: Total Dealers

Annual Turnover	Total Turnover							
	2009-10		2010-11		2011-12		2012-13	
	₹ In Crs	%	₹ In Crs	%	₹ In Crs	%	₹ In Crs	%
1 crore and above	8260	94.45	12803	96.08	15758	94.47	17638	95.57
40 lakhs to 1 crore	175	2.01	193	1.45	330	1.98	345	1.87
10 lakhs to 40 lakhs	195	2.22	210	1.57	313	1.88	257	1.39
Below 10 lakhs	115	1.32	120	0.90	278	1.67	216	1.17
Total	8745	100.00	13325	100.00	16679	100.00	18456	100.00

(Source: Calculated from the data supplied by the Commercial Taxes Department, Govt. of Kerala)

Pattern of Tax Revenue from gold/jewellery

The pattern of tax revenue for the last four years for the non-compounding, compounding and total dealers are given in **Table Nos.11, 12 &13**. The trends indicate that currently 68% of the total revenue from gold/jewellery comes from the compounded dealers. Moreover, around 91% of the revenue is contributed by dealers in the turnover bracket 'Above ₹ one crore'. The dealers under the other three turnover categories contributed only around 9% of the revenue during the last four years.

Table No: 11

Tax revenue from Gold/Jewellery etc: Non-Compounded Dealers

Annual Turnover	Tax Revenue from Non-compounded dealers							
	2009-10		2010-11		2011-12		2012-13	
	₹ In Crs	%	₹ In Crs	%	₹ In Crs	%	₹ In Crs	%
1 crore and above	32.61	77.02	58.00	86.35	85.62	89.30	77.50	89.62
40 lakhs to 1 crore	2.9	6.85	2.48	3.69	3.2	3.3	2.41	2.79
10 lakhs to 40 lakhs	3.42	8.08	3.40	5.06	3.76	3.92	3.35	3.87
Below 10 lakhs	3.41	8.05	3.29	4.90	3.3	3.44	3.22	3.72
Total	42.34	100.00	67.17	100.00	95.88	100.00	86.48	100.00
Share on Total (%)	27		33		34		32	

(Source: Calculated from the data supplied by the Commercial Taxes Department, Govt. of Kerala)

Table No: 12

Tax revenue from Gold/Jewellery etc: Compounded Dealers

Annual Turnover	Tax Revenue from Compounded dealers							
	2009-10		2010-11		2011-12		2012-13	
	₹ In Crs	%	₹ In Crs	%	₹ In Crs	%	₹ In Crs	%
1 crore and above	99.45	86.29	119.85	87.81	170.92	91.03	167.62	91.31
40 lakhs to 1 crore	6.48	5.62	6.63	4.86	7.01	3.73	7.27	3.96
10 lakhs to 40 lakhs	6.79	5.89	7.39	5.41	7.52	4.01	6.05	3.30
Below 10 lakhs	2.53	2.20	2.62	1.92	2.31	1.23	2.63	1.43
Total	115.25	100.00	136.49	100.00	187.76	100.00	183.57	100.00
Share on Total (%)	73		67		66		68	

(Source: Calculated from the data supplied by the Commercial Taxes Department, Govt. of Kerala)

Table No: 13

Tax revenue from Gold/Jewellery etc: Total Dealers

Annual Turnover	Total Tax Revenue							
	2009-10		2010-11		2011-12		2012-13	
	₹ In Crs	%	₹ In Crs	%	₹ In Crs	%	₹ In Crs	%
1 crore and above	132.06	83.80	177.85	87.33	256.54	90.45	245.12	90.77
40 lakhs to 1 crore	9.38	5.95	9.11	4.47	10.21	3.60	9.68	3.58
10 lakhs to 40 lakhs	10.21	6.48	10.79	5.30	11.28	3.98	9.4	3.48
Below 10 lakhs	5.94	3.77	5.91	2.90	5.61	1.98	5.85	2.17
Total	157.59	100.00	203.66	100.00	283.64	100.00	270.05	100.00

(Source: Calculated from the data supplied by the Commercial Taxes Department, Govt. of Kerala)

Tax Vs Effective Rate of Gold/Jewellery

The tax and effective rate of tax of gold/jewellery dealers having more than ₹1 crore turnovers during the past three years are analyzed in **Table No.14**. The analysis of the total annual tax indicates visibly high tax revenue with upward trend in respect of compounding dealers. It is also observed that compounded dealers have shown 52 % increase in their annual turnover and 21 % in tax during the period 2009-10 to 2010-11. During 2011-12, there is a spurt in percentage increase in tax i.e., from 21% to 43 %. However there is a decline from 52% to 21% in turnover during the same period. On the other hand, for the non-compounded dealers the rate of increase in turnover was 79 % in 2010-11 which declined to 41 % in 2011-12. The corresponding figures with regard to tax collection are 78 % in 2010-11 which declined to 48 % in 2011-12. It reveals that compounded dealers have shown higher rate of growth in tax compared to the increase in turnover, as increase in tax was mandatory under compounding system w.e.f. 1-4-2011. The effective tax rate for the compounding and for all the dealers reveals that it varies between of 1.6 % to 1.63 %, while the same is on the higher side for non-compounded dealers, which is between 3.7% to 3.9%.

Table No. 14

Tax Vs Effective Rate for gold/Jewellery
(Dealers having ₹ 1 Crore and above annual turnover)

Year	Total Annual Turnover (₹ In Crores)	Total Annual Tax (₹ In Crores)	Effective Rate (%) (Annual Tax / Annual Turnover)
Non-compounded dealers			
2009-10	881	33	3.70
2010-11	1578 (79%)	58 (78%)	3.68
2011-12	2218 (41%)	85 (48%)	3.86
Compounded dealers			
2009-10	7379	99	1.35
2010-11	11225 (52%)	120 (21%)	1.07
2011-12	13540 (21%)	171 (43%)	1.26
Total dealers			
2009-10	8260	132	1.60
2010-11	12803 (55%)	177 (35%)	1.39
2011-12	15758 (23%)	257 (44%)	1.63

(Source: Calculated from the data supplied by the Commercial Taxes Department, Govt. of Kerala)
Figures in the brackets denote percentage increase over previous year.

Change in Price vis-à-vis Turnover and Tax

The movements of price, turnover and tax for the period 2011-12 are indexed by taking the 2010-11 as base year. The figure reveals that for the non-compounded dealers the turnover and tax for the years 2011-12 have increased more than proportionate to price (**Figure -1**) But in the case of compounded dealers, even though the tax has increased more disproportionately, the turnover shows only a sluggish growth when compared to price. (**Figure - 2**) This may be due to fact that under the compounded scheme dealers are committed to pay a higher percentage of tax based on the tax paid in the previous year without considering their current turnover or price. This also substantiates the Trade Associations plea that the current rates in the compounding scheme force them to pay more tax than the corresponding increase in the volume of sales. The same trend is also evident in the figures of total dealers as the share of compounded dealers is predominant in the turnover and tax of all the dealers put together. (**Figure -3**)

Change in price vis-à-vis Turnover & Tax

Figure 1

Non-Compounded dealers

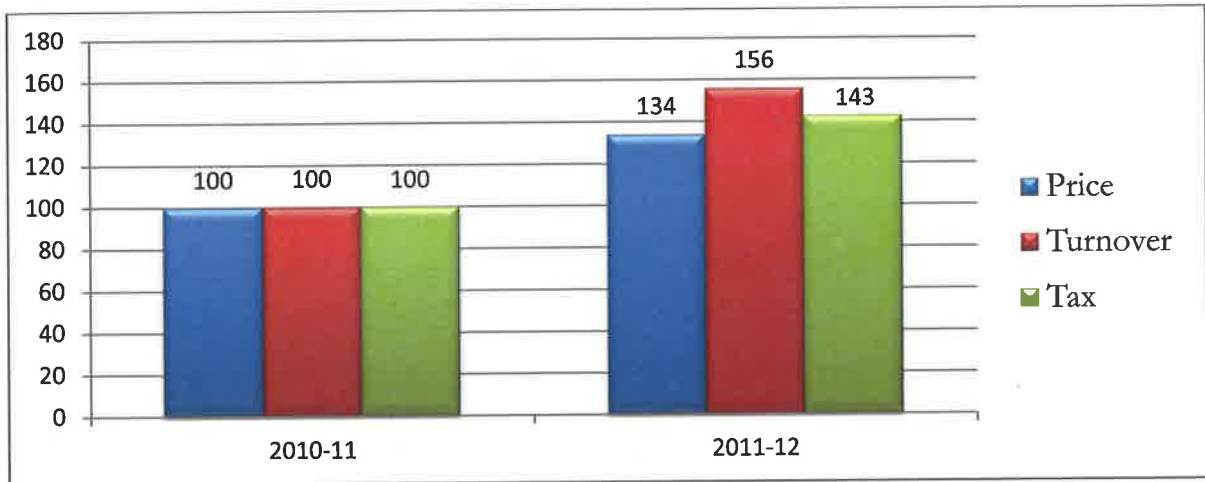


Figure 2

Compounded Dealers

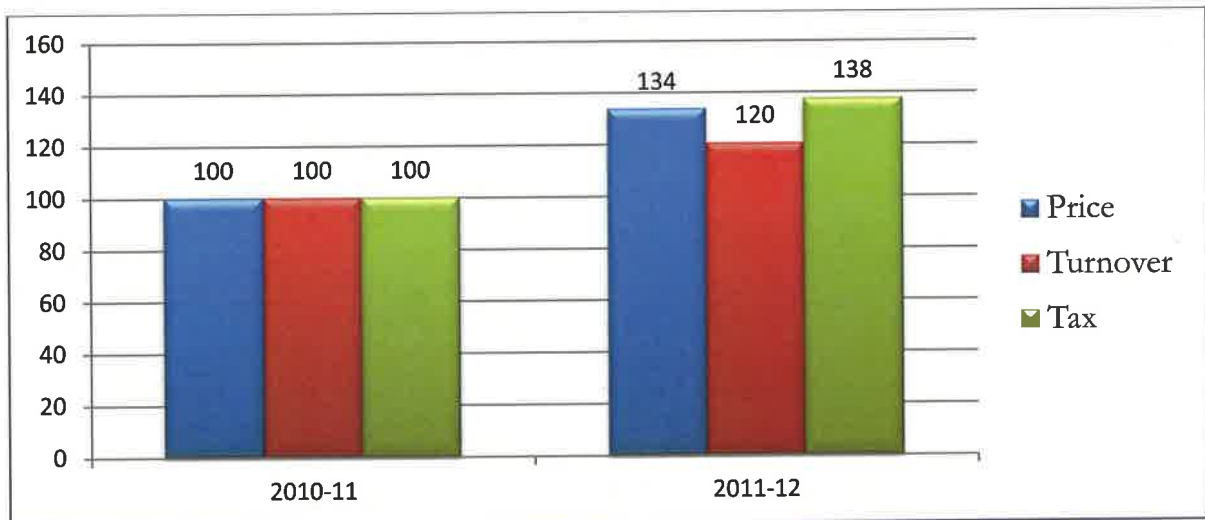
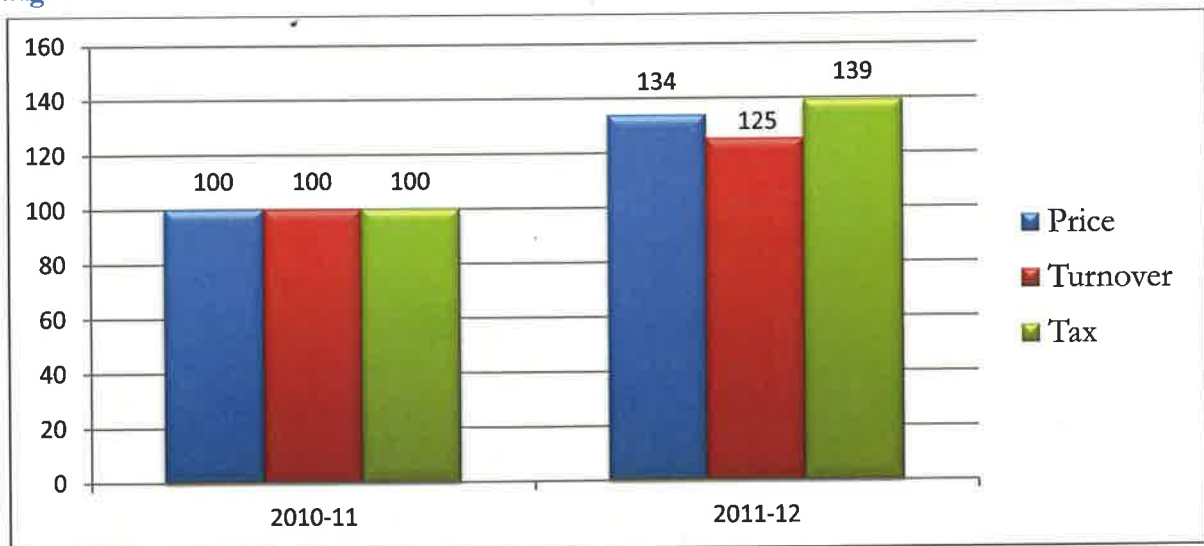


Figure 3

Total Dealers



Turnover deflated by price

The turnover from gold/jewellery that was reported during the past four years is deflated by the price Index (Table No.15). The turnover by its absolute terms has more than doubled during the period. On deflating the turnover with the price index, it is seen that almost all the growth in turnover is mainly due to price increase, and values have hardly shown any increase since 2010-11. It is surprising that in such a high profile sector the growth in the volume of trade in the yellow metal during the past four years is almost insignificant. Therefore if the growth in tax revenue is discounted by the price increase, the real growth rate will be insignificant

Table No.15

Index of Trade Turnover and Price of Gold in Kerala

Year	Total Turnover (₹ in cr)	Turnover index (2009-10=100)	Price of Gold ₹/10gms	Index of price (2009-10=100)	Turnover deflated by price index
2009-10	8745	100.0	15756.09	100	8745
2010-11	13325	152.4	19227.08	122	10922.13
2011-12	16679	190.7	25723.66	163	10232.52
2012-13	18456	211.0	30124.00	191	9662.83

(Source: Calculated from the data supplied by the Commercial Taxes Department, Govt. of Kerala and RBI)

Summary of Findings

- 1. Gold Price:** The price of gold does better when equity markets do not do well. The price of gold showed a sharp increase since 2008-09 i.e., the initial years of global financial crisis and recession. The average annual growth rate for gold price for the past four years is recorded as 23.79%.
- 2. Tax Revenue from Gold/Jewellery:** Tax revenue started increasing only because of a high rate of 4% coupled with the compounding scheme. This is evident from the year 2006-07 onwards. The revenue for the past four years (2008-09 to 2011-12) reveals an average annual rate of growth of 24.2% in tax revenue
- 3. Pattern of registered dealers (Compounded Vs Non-compounded):** The data for the last four years reveals that the number of small and marginal dealers in gold/jewellery trade under the non-compounding category constitute on an average 83% of the total dealers, whereas it is around only 55% under the compounding category. The number and share of the compounded category of dealers have steadily risen indicating that compounding has been attractive to the dealers till 2011-12.

4. **Pattern of Turnover (Compounded Vs Non-compounded):** The overall analysis of the turnover pattern reveals that around 90% of turnover is reported from the compounding category, and out of this, the above ₹1 Crore category of dealers has the lion's share.
5. **Pattern of Tax Revenue (Compounded Vs Non-compounded):** The analysis indicates that around 68% of the total revenue from gold/jewellery comes from the compounded dealers. Out of this, around 91% of the revenue is contributed by dealers in the turnover bracket 'Above ₹ 1 crore'. The dealers under the other three turnover categories contributed only around 9% of the revenue during the last four years
6. **Skewed towards compounded category:** The above findings reveal that the number, turnover and tax revenue of gold/jewellery is skewed towards the compounded category. This shows that the non-compounded category remains un-attractive due to higher tax rate.
7. **Tax Vs Effective Rate (Compounded Vs Non-compounded):** The analysis of the total annual tax indicates visibly high tax revenue with upward trend in respect of compounding dealers. It reveals that compounded dealers have shown higher rate of growth in tax compared to the increase in turnover, as increase in tax was mandatory under compounding system w.e.f. 1-4-2011.
8. **Change in Price vis-à-vis Turnover and Tax (Compounded Vs Non-compounded):** The turnover and tax for the year 2011-12 for the non-compounded dealers have increased proportionately in comparison with the price. But in the case of compounded dealers, even though the tax has increased more than proportionate, the turnover shows only a sluggish growth when compared to price. This indicates that the current rates under the compounding scheme force the dealers to pay more tax disproportionate to their turnover.
9. **Turnover deflated by price:** On deflating the turnover with price index, it is seen that the growth in turnover is mainly due to price increase, and turnover has hardly shown any increase since 2010-11.

Subject Committee Observations and Study Findings

1. The first observation made by the Subject Committee *that the rate of tax of gold/jewellery in Kerala is high when compared to other states including the neighbouring states of Kerala resulting in evasion of tax in this sector* is endorsed.
2. The Second observation of the Subject Committee that *the tax revenue from gold/jewellery has not increased in spite of the increase in the rate of tax on gold/jewellery* cannot be endorsed since the tax revenue especially under the compounding scheme shows an upward trend.

3. The Third observation of the Subject Committee that *records show that there has not been a corresponding increase in the turnover and tax of gold/jewellery when compared with the increase in the price of gold/jewellery during 2011-12. Whether this is due to the shift in trade to the neighbouring states where the rate of tax of gold/jewellery is 1% or due to tax evasion prevalent in Kerala?* This observation is partially endorsed. The data for the past four years show that tax revenue in their absolute terms has increased in tune with the increase in the price of gold/jewellery. However the turnover of the compounded dealers has shown a sluggish growth as per the records. This may be due to the shift of around 20% of the trade to the border districts of neighbouring states and improper tax compliance resulting from unaccounted sales. Moreover, under the compounding system the dealers are compelled to pay higher tax based on the tax paid during the previous years. On enquiry with the officials and tax practitioners it is understood that most of the dealers under the compounding system determine their current year's tax liability based on the tax paid during the past years and accordingly the turnover figures are calibrated for the purpose of the return submission.

Trade Associations Plea Vs Projected Revenue Losses

According to the various associations of jewellery traders, the competition in gold trade in Kerala is very high coupled with a constant increase in the number of players every year. According to them, compounding becomes unviable after a few years, as the mandatory annual rate of increase in tax for different rates works out to more than the actual rate of increase in business. Tough competition among the existing dealers and the entry of new firms every year had a dampening effect upon the turnover of each player. In this situation, the present structure of higher compounding rates becomes unviable. In this context, the plea of the associations is that the rate of tax be brought down to the national level of 1%. In this juncture it is worthwhile to assess the revenue loss if 1% rate is introduced for gold/jewellery dealers' w.e.f 1-4-2013.

Projected Revenue Loss if rate of tax is reduced to 1% w.e.f 1-4-2013

The data from CTD relating to the actual turnover and tax collection for 2012-13 up to November 2012 (i.e., for 8 months) is taken as base data for estimating the revenue loss for 2013-14 if the rate of tax is reduced to 1%. **Table No.16** shows the calculation and projection of such revenue loss. From the data for 8 months, turnover and tax are estimated for the twelve month period of 2012-13. Based on our analysis an annual growth rate of 20% is assumed for both turnover and tax, and the figures are projected for 2013-14. This exercise is followed separately for both the compounded and non-compounded categories and the revenue loss if 1% rate is applied.

The Table No.16 shows that when a growth rate of 20% for tax and a tax rate of 5% are assumed for 2013-14, the tax revenue from non-compounded dealers is expected to rise to ₹ 155.66 crores. If 1% of tax is applied on the projected turnover of the non compounded dealers, then the tax revenue will be ₹ 36 crores resulting in a revenue loss of ₹ 119.06 crores. Similarly, in the case of compounded dealers, a 20% increase in turnover and tax results in a tax revenue of ₹ 330.43 crores from this category in 2013-14.. But if the tax rate of 1% is applied, the tax revenue from this group will be ₹ 295.61 crores resulting in a loss of ₹ 34.82 crores. **The total projected loss from both categories - compounded and non compounded dealers - works out to ₹ 153.88 crores when the tax rate of 1% is applied on their turnover.** It is pertinent to note here that once the rate of tax is reduced to 1% from the existing rate of 5% the present compounding scheme becomes irrelevant since the dealers will enjoy more tax advantage under the scheduled rate. Therefore under the 1% rate of tax the compounding scheme becomes irrelevant. The revenue loss calculated above is under the presumption that the dealers presently under the compounded scheme will go back to the general rate of 1% with their present turnover. If there is downward trend in actual turnover, the revenue loss will be more than of ₹153.89 crores.

Projected Revenue Loss if rate of tax is reduced to 2% / 3% / 4% along with the existing compounding scheme

The effective rate as per the provision under the present compounding scheme is 1.25% of the annual turnover and hence the compounding scheme assures a fixed growth in tax and turnover. The dealers who opted for this scheme have no choice but to report the mandatory growth in their tax and turnover in the coming years. In this juncture, reducing the general rate from the present rate of 5% to 2% will also make the present compounding scheme less attractive (like reducing it to 1% rate as discussed above) and most of the dealers may opt out from the compounding net for a comfortable and lesser turnover and tax burden in the coming years. Nevertheless, a conservative estimate of revenue loss under 2% rate is projected as ₹ 82.47 crores. (Refer Table No.17) This is under the presumption that dealers presently under the compounded category will remain in the scheme and the present tax is assured.

If the rate of tax is reduced to 3% /4% then the present compounding scheme will be attractive to existing and new entrants to the scheme. In this case, two alternative calculations are given (Table Nos. 18 &19) to indicate the revenue loss. Under 3%, the revenue loss will be ₹45.87 crores, whereas under the 4% rate the revenue loss will be only ₹9.27 crores.

Table No. 16

Projected Revenue Loss if rate of tax is reduced to 1%

Particulars	2012-13 (Actual up to Nov 2012)*	2012-13 (Estimated for 12 months)**	2013-14 (Projected at 20% annual growth)***
	₹ In Crores		
Non-Compounded Dealers			
Turnover	2034	3050.00	3660.00
Tax Revenue (at 5% rate)	86.48	129.72	155.66
Tax Revenue (at 1% rate) #	NA	NA	36.60
Revenue Loss	NA	NA	119.06
Compounded Dealers			
Turnover	16423	24634.00	29560.80
Tax Revenue (as per the existing compounding scheme)	183.57	275.36	330.43
Tax Revenue (at 1% rate)#	NA	NA	295.61
Revenue Loss	NA	NA	34.82
Total Dealers			
Turnover	18456	27684.00	33220.80
Tax Revenue (at 5% rate & as per the existing compounding scheme)	270.05	405.08	486.10
Tax @ 1% #	NA	NA	332.21
Total Revenue Loss at 1%	NA	NA	153.88

*Source: Commercial Taxes Department, Government of Kerala

** Estimated for 12 months based on the actual collection for 8 months (i.e. up to Nov.2012).

*** Average annual growth is calculated as 20%

1 % of the turnover

Table No.17

Projected Revenue Loss if rate of tax is reduced to 2% with the present compounding system

Particulars	2012-13 (Actual up to Nov 2012)*	2012-13 (Estimated for 12 months)**	2013-14 (Projected at 20% annual growth)***
	₹ In Crores		
Non-Compounded Dealers			
Turnover	2034	3050.00	3660.00
Tax Revenue (at 5% rate)	86.48	129.72	155.66
Tax Revenue (at 2 % rate) #	NA	NA	73.20
Revenue Loss	NA	NA	82.46
Compounded Dealers			
Turnover	16423	24634.00	29560.80
Tax Revenue (as per the existing compounding scheme)	183.57	275.36	330.43
Tax Revenue (as per the existing compounding scheme)	NA	NA	330.43
Revenue Loss	NA	NA	0.00
Total Dealers			
Turnover	18456	27684.00	33220.80
Tax Revenue (at 5% rate & as per the existing compounding scheme)	270.05	405.08	486.10
Tax Revenue (at 2% rate & as per the existing compounding scheme)	NA	NA	403.63
Total Revenue Loss	NA	NA	82.46

*Source: Commercial Taxes Department, Government of Kerala

** Estimated for 12 months based on the actual collection for 8 months (ie. up to Nov.2012).

*** Average annual growth is calculated as 20%

2 % of the turnover

Table No. 18

Projected Revenue Loss if rate of tax is reduced to 3 % with the present compounding system

Particulars	2012-13 (Actual up to Nov 2012)*	2012-13 (Estimated for 12 months)**	2013-14 (Projected at 20% annual growth)***
	₹ In Crores		
Non-Compounded Dealers			
Turnover	2034	3050.00	3660.00
Tax Revenue (at 5% rate)	86.48	129.72	155.66
Tax Revenue (at 3% rate)	NA	NA	109.80
Revenue Loss	NA	NA	45.86
Compounded Dealers			
Turnover	16423	24634.00	29560.80
Tax Revenue (as per the existing compounding scheme)	183.57	275.36	330.43
Tax Revenue (as per the existing compounding scheme)	NA	NA	330.43
Revenue Loss	NA	NA	0.00
Total Dealers			
Turnover	18456	27684.00	33220.80
Tax Revenue (at 5% rate & as per the existing compounding scheme)	270.05	405.08	486.10
Tax Revenue (at 3 % rate & as per the existing compounding scheme)	NA	NA	440.23
Total Revenue Loss	NA	NA	45.86

*Source: Commercial Taxes Department, Government of Kerala

** Estimated for 12 months based on the actual collection for 8 months (ie., up to Nov.2012).

*** Average annual growth is calculated as 20%

3 % of the turnover

Table No.19

Projected Revenue Loss if rate of tax is reduced to 4 % with the present compounding system

Particulars	2012-13 (Actual up to Nov 2012)*	2012-13 (Estimated for 12 months)**	2013-14 (Projected at 20% annual growth)***
	₹ In Crores		
Non-Compounded Dealers			
Turnover	2034	3050.00	3660.00
Tax Revenue (at 5% rate)	86.48	129.72	155.66
Tax Revenue (at 4% rate) #	NA	NA	146.40
Revenue Loss	NA	NA	9.26
Compounded Dealers			
Turnover	16423	24634.00	29560.80
Tax Revenue (as per the existing compounding scheme)	183.57	275.36	330.43
Tax Revenue (as per the existing compounding scheme)	NA	NA	330.43
Revenue Loss	NA	NA	0.00
Total Dealers			
Turnover	18456	27684.00	33220.80
Tax Revenue (at 5% rate & as per the existing compounding scheme)	270.05	405.08	486.10
Tax Revenue (at 4% rate & as per the existing compounding scheme)	NA	NA	476.83
Total Revenue Loss	NA	NA	9.26

*Source: Commercial Taxes Department, Government of Kerala

** Estimated for 12 months based on the actual collection for 8 months (ie., up to Nov.2012).

*** Average annual growth is calculated as 20%. # 4 % of the turnover

Table No: 20

Projected Revenue Loss under different Rates

Proposed Rate	Projected Revenue Loss (₹ In Crores)		
	From Non-Compounded Dealers	From Compounded Dealers	From Total Dealers
1%	119.06	34.82	153.88
2%	82.46	NA*	82.46
3%	45.86	NA*	45.86
4%	9.26	NA*	9.26

(Source: From Table No. 16 to 19)

* Not Applicable since the present effective rate under compounding scheme is 1.25%

Study Team's View

In the backdrop of the demands made by trading community, there are only two options 1) to reduce tax rate from 5 to 1 per cent in tune with national consensus, or 2) to restructure the present compounding system so as to link it with the rates of growth in price and turnover.

Based on the analysis of data relating to turnover, tax collection and price of gold/jewellery, the study team recommends choosing **Option (2)**: that is to restructure the present compounding system so as to link the effective tax rate with turnover/price to ensure normal growth in revenue from this sector to the exchequer. The study team, considering the revenue dimension, also suggests that till the introduction of Goods and Service Tax, the rate of tax of gold/jewellery in the schedule may be retained at 5% under the scheduled rate with an attractive compounding scheme. This will enable the dealers to maintain a normal level of growth in their turnover and tax liability. This will also minimize the chance for suppression of turnover and thus, tax evasion.

The following areas were considered while re-structuring the present compounding system

- 1. Factoring in Price trends in the compounding provision:** The doubling of the turnover of gold during the last four years is largely on account of the rapid increase in price; there has almost been no increase in volume in real terms. The tax revenue from this sector has also grown in consonance with price. Gold dealers have not raised their voice against compounding as the rates of compounding were less than the increase in price. But the low price rise in 2012-13 and the burden of compounding have led them to make repeated submissions to Government. Whenever the rate of increase in the price of gold is higher than the rate of increase applicable for compounding, it works to the favour of the dealer. But when the price movement becomes flatter, compounding, especially for the big dealers, becomes a drain on their profit. So, if the dealers have to be encouraged to continue with compounding system, the rate of increase applicable to compounding should be in alignment with the change in price of gold.
- 2. Minimum modification in the present compounding procedure and methodology:** Dealers often complain that yearly amendments in the compounding procedures and methodology jeopardize the uniform pattern of calculation of their turnover/tax base for compounding. This forced some of the dealers to opt out or to suffer loss under the compounding scheme. Similarly the tax officials also complain about the yearly changes in the procedure leading to complications in assessment and proliferation of audit queries by Comptroller and Auditor General of India. The ideal compounding system would be one which has a consistent methodology for calculation of turnover/tax base at least for a period of 3 to 5 years with changes only in the rates. Therefore, taking this as a cue, a restructured rate system in the compounding that follows the existing methodology is suggested to ensure smooth continuity and better compliance.

3. **Attracting unregistered dealers.** According to the Gold Dealers' Associations, there is a significant presence of unregistered gold dealers all over the state. Due to low operation costs and proximity to/rapport with the customers, they have captured a significant portion of the middle class market, by providing lower quality gold that is customized to the needs of the clients. This has cut into the business of established gold traders. According to the Association, the tax administration, instead of putting a check on these unregistered dealers, is focusing only on the registered dealers and forcing them to pay higher tax. At the Government level immediate steps should be initiated to bring such unregistered dealers under the umbrella of registration. The Association of Gold Dealers is ready to provide details in this connection and cooperate with any initiative of the tax administration in this regard. Unofficial sources put the number of such unregistered dealers around 2000 in Kerala. The taxing structure of the proposed amendments in the compounding system is redesigned to prompt them to voluntarily opt for registration.
4. **To facilitate sustainability of small and marginal dealers:** Among the registered dealers, it is the small and marginal dealers who constitute around 80 per cent, contributing only less than 10 per cent of the revenue. This section of dealers finds it most difficult to cope with the present rate of 5% as well as with the existing system of compounding. It is imperative that, the compounding system should be made simple and acceptable to this section of dealers especially to those having an annual turnover of less than ₹10 Lakhs. Moreover, any simplification in the system of compounding to address this section of dealers is not going to affect revenue in a significant manner. Therefore an Annual Fixed Tax (AFT) payable on a quarterly basis is proposed as tax for this category of dealers.

Annual Fixed Tax (AFT) for the dealers having below ₹10 Lakhs turnover (both for compounded and non-compounded dealers)

Table No.21 explains that in 2012-13 there are total 3749 dealers with below ₹10 lakhs turnover under the compounding and non-compounding categories. They constitute almost 70 per cent of the total registered dealers. However altogether they contribute only less than 2 % of the total revenue to the exchequer.

Introducing AFT to these dealers under the compounding scheme will bring the following benefits.

1. **Hassle-free administration.** The assessing officers are relieved from detailed scrutiny of their returns which in any case fetches only 2% of the revenue. By this method the officials can concentrate on big dealers for effective assessment and more revenue. This method will minimize paper work and also queries from Comptroller and Auditor General of India.
2. **Lesser burden to Small and Marginal Dealers:** Most of the dealers under this category are self-employed and belonging to traditional gold smith community.

Moreover, these small artisan-entrepreneurs have been engaged in this trade for a long time and through generations. Our survey showed that many of them are already in the process of shifting their trade/activity, either to other employments or as employees of big branded firms. In the proposed method their tax as well as tax compliance burden will be reduced considerably and they will be relieved from cumbersome tax compliance procedures.

3. **Minimum loss to exchequer and maximum benefits to the public.** Table No.22 explains the proposed Annual Fixed Tax (AFT) based on the Table No.21. The revenue losses are calculated based on the collected revenue during 2011-12. If ₹5000 is fixed as AFT then the maximum revenue loss to Government is ₹3.88 crores. Whereas, it is ₹ 2.15 crores only if the annual Tax is fixed as ₹10000 (1% of ₹10 Lakhs). This annual tax, by helping the small dealers, will also indirectly benefit the ordinary public who constitute the majority of their customer base

Table No.21

**Per-Capita Tax Revenue from dealers having below 10 lakhs turnover
[Total Dealers (Compounded and Non-compounded)]**

No.	Particulars	2009-10	2010-11	2011-12	2012-13
1	No. of Dealers having below 10 lakhs turnover	3818	3616	3460	3749
2	No. of Total Dealers	5354	5321	5418	5353
3	Percentage of Dealers having below 10 lakhs turnover on total dealers	71	68	64	70
4	Tax revenue from dealers having below 10 lakhs turnover (₹ In Crores)	5.94	5.91	5.61	5.85
5	Tax revenue from Total Dealers (₹ In Crores)	157.59	203.66	283.64	270.05
6	Percentage of Tax Revenue from Dealers having below 10 lakhs turnover on total dealers	4	3	2	2
7	Per capita Tax revenue from dealers having below 10 lakhs turnover (In Rupees)	15558	16344	16214	15604

(Source: Calculated from the data supplied by the Commercial Taxes Department, Govt. of Kerala)

Table No.22

Proposal - Annual Fixed Tax under compounding Scheme

Options	Annual Fixed Tax	Expected Tax	Expected Revenue Loss	Total Tax Collected during 2011-12
I	₹,5000	1.73	3.88	5.61
II	₹10,000	3.46	2.15	5.61
III	₹15,000	5.19	0.42	5.61

(Source: Calculated from Table No. 21)

Section D
PROPOSED RESTRUCTURING IN THE COMPOUNDING RATE

The following compounding rates are suggested with the intention of protecting revenue and to factor in price-fluctuation. The rates are fixed considering the evasion-prone nature of the commodity and the prevalence of under reporting of turnover in the industry.

The existing compounding scheme is as given below.

EXISTING RATES OF THE COMPOUNDING SCHEME

No	Annual Turnover during the preceding year	For the new entrants for the first year of the compounding scheme*	For the dealers already in the compounding scheme and for the new entrants for the subsequent period
1	1 crore and above	150% of the base tax	125% of the preceding year tax OR 1.25 % of annual turnover whichever is higher
2	40 lakhs to 1 crore	135% of the base tax	115% of the preceding year tax OR 1.25 % of annual turnover whichever is higher
3	10 lakhs to 40 lakhs	120% of the base tax	105% of the preceding year tax OR 1.25 % of annual turnover whichever is higher
4	Below 10 lakhs	115% of the base tax	100% of the preceding year tax OR 1.25 % of annual turnover whichever is higher

*The tax is calculated as the highest tax paid/payable by the dealer as per the KVAT Act 2003 for the year during any of the three consecutive years preceding that to which the compounding option relates.

The proposed changes in the rates of the compounding provision are as follows:

PROPOSED COMPOUNDING SCHEME W.E.F 1-4-2013

No.	Annual Turnover during the preceding year	For the new entrants for the first year of the compounding scheme*	For the dealers already in the compounding scheme and for the new entrants for the subsequent period
1	1 crore and above	130% of the base tax	120% of the preceding year tax OR 1.20 % of annual turnover whichever is higher
2	40 lakhs to 1 crore	125% of the base tax	110% of the preceding year tax OR 1.10 % of annual turnover whichever is higher
3	10 lakhs to 40 lakhs	110% of the base tax	105% of the preceding year tax OR 1.05 % of annual turnover whichever is higher
4	Below 10 lakhs	₹ 10,000 / ₹5000 as Annual Fixed Tax (AFT) to be paid in four instalments (four quarters)	

*The base tax is calculated as the highest tax paid/payable by the dealer as per the KVAT Act 2003 for the year during any of the three consecutive years preceding that to which the compounding option relates.

For dealers belonging to the first three categories, a reduction in the rate of tax of 10 per cent is proposed for the new entrants. For the existing dealers a reduction in the rate of tax of 5 per cent is proposed (except for ₹10 lakhs to 40 Lakhs category). This is done, taking into account the fluctuating trends in price and turnover, and the nature of competition in the trade, which have made the existing rate unviable for the dealers to continue within the compounding system.

For dealers belonging to the last category (less than 10 lakhs turnover), an annual fixed rate is proposed. If the Annual Fixed Tax (AFT) of ₹ 10,000 is implemented, the revenue loss will be ₹2.15 crores and it will be ₹3.88 crores if fixed at ₹ 5,000. Even if the AFT is fixed at ₹ 5000, the resultant revenue foregone will be negligible, while it will be of benefit to almost 80 % of the dealers.

The above proposed compounding rates when compared with the existing rates may result in a revenue loss of around ₹ 15 crores (mainly from the category of ₹1 crore and above dealers) during 2013-14 if implemented. This is estimated based on the total revenue collected from gold/jewellery during 2012-13. Nonetheless, it is expected that due to the attraction of the proposed reduced rates the existing dealers will remain and also more and more non-compounded dealers may switch over to the new compounding scheme. This may, by a very conservative estimate, compensate the projected revenue loss of ₹15 crores.

Along with the above revised rates proposed under the compounding scheme, the present scheduled rate of 5 percent has to be continued. Such a package will attract new dealers to the compounding system, and incentivize the dealers who have presently opted for compounding. With a maximum effective rate of 1.2 %, this package will also ensure minimum trade diversion and a normal growth in revenue from gold/jewellery.

Section E

Administrative Interventions and Anti –Evasion Measures

Some suggestions to augment tax revenue and plug tax evasion in gold trade sector of Kerala

(a) Minor amendments for better clarity in the existing compounding provisions are suggested.

1. Clarity in definition of turnover under the Section 8(f)

At present the term ‘turnover’ of goods under this clause is ambiguous; for instance, some dealers are not excluding their export and inter-state sales while calculating turnover under this section. In order to avoid such misinterpretation of the term ‘turnover’ and to plug evasion through this misinterpretation, an explanation defining turnover is suggested to be included in the section 8(f) at appropriate place. The proposed insertion is

“Explanation: For the purpose of this clause turnover means turnover of goods coming under Kerala Value Added Tax Act, 2003 excluding turnover of export and interstate sale”

2. Clarity in definition of branches under the section 8(f)

At present some of the dealers who have branches submit return without including such branches by calling them as ‘manufacturing units’, ‘polishing unit’, etc and not a sale unit. This may be true in the case of some dealers. In order to clarify the term ‘branch’ and to avoid such misinterpretations and evasion, it is suggested to give a clear definition for the branches under this section 8(f) at the appropriate place.

The proposed insertion is

“Explanation: For the purpose of this clause branch does not include any place of business which exclusively conducts job work, manufacturing on job work basis and polishing activity, and where no buying and/or selling of goods are carried out”

(b) Some anti-evasion tools and methods

1. Online Invoice: It is proposed to introduce “electronic invoice” in the case of gold and jewellery dealers having an annual turnover of ₹ 10 cr. and above. The software for the electronic invoice may be developed by the Department of Commercial Taxes, and linked with their main server. The invoice shall capture data relating to the stock handled by the dealer on transaction basis for a month, for the purpose of calculating monthly returns. The analysis of this data will facilitate tracking of trends in business, tax revenue and market with reference to the national and international scenarios. If the dealer is indulging in issuing estimate slips or manual bills, penalty measures may be initiated. Incentives may be given to the best tax payers.

- 2. Tracking of dealers having the annual turnover of ₹ 1 crore and above:** Taking into consideration the well accepted and fair principles of stock in trade analysis, a dealer in gold and silver jewellery is expected to return the annual business turnover of 4 to 6 times of the total stock in trade handled annually. The methodology is that the trend analysis is related to the quantity of gold sold by him. A direct comparison of business growth can be calculated systematically rather than conventionally accepting the tax growth based on the sales turnover reported by a dealer. While doing the trend analysis, the final calculation of total quantity of new ornaments in the shelf that is meant for sale can be effectively done.
- 3. Effective detection of Substitution:** In the gold trade, “substitution” is a common method of suppression of actual sales. A new gold ornament of substantial value will be sold to the customer without raising relative invoice. Immediately after the sale, to match with the stock position as per books of accounts of the dealer, very same quantity of new gold ornament will be substituted in the inventory in order to defeat the very purpose of an immediate shop inspection by the authorities. To establish a tax evasion of this nature with strong evidence in a court of law is a difficult task. In this process of substitution, a dealer may not be in a position to substitute the very same pattern sold to a customer. (eg. Traditional Travancore stone embedded necklaces substitution with regular type of gold bangles) Here in this case, total weight of the business establishment may match with the book stock. But if we cross check with the species war verification arrival of Traditional Travancore stones in the jewellery inventory, the embedded necklaces will be accounted. Whereas, it's consequential sale will not be reflected in the accounts. At the same time stock may tally. To cap this type of tax fraud, it is suggested that a species war inventory of arrival and disposal of gold ornaments weighing 50 grams and above in the shops having annual turnover of ₹ 1 cr. is proposed. Suitable amendments in the KVAT Rules may be made.
- 4. Test purchase and offence detections:** Occasional “Test Purchase” may be carried out in all major shops. If offences are detected, a detailed inspection may be initiated.
- 5. Advertisement overhead on Gross Profit Ratio:** A trend analysis of overhead expenditure like advertisement charges, rent of the building, salary to employees etc. with particular reference to the gross profit of the business may be calculated every year. The average gross profit of the dealers in gold business in Kerala is estimated to be around 20%. The gross profit should have some nexus with the business expenditure especially with advertisement expenses.
- 6. Tracking the unaccounted supply through air and train:** Track the unaccounted supply of new gold ornaments by the dealers based in Mumbai and their agents from different districts in Kerala. This task is to be executed prudently by the intelligence wing of the Commercial Taxes Department. Their general modus operandi is that bulk quantity is carried in person by air and rail.

7. Verification of the process house/manufacturing unit: The current trend is that major dealers maintain their own manufacturing units or process houses popularly known as the 'Repairing centre' of the main shop. It is here that old gold ornaments are melted and converted into purified form of gold for molding new gold ornaments. Supply source of old gold ornaments and new gold needs to be systematically investigated for better tax compliance.

(c) Re-engineering the existing data mining cell of CTD

For continuous analysis of the trends of price, turnover and tax of evasion prone commodities like gold/jewellery etc. the present data mining cell in CTD needs to be reengineered in the following manner.

- ❖ A core team consisting of personnel who are experienced and specialized in taxation of gold/jewelry is to be identified, trained and redeployed.
- ❖ GIFT can work in tandem with the Cell by offering inputs for analysis and interpretation of relevant data and trends.
- ❖ The cell should continuously monitor the dealer-wise, officer-wise, circle-wise district-wise and state level data and submit a quarterly report to the Commissioner for timely action and correction.

This will help to plug the evasion of tax from these commodities to a great extent. Alternatively, the analysis of select evasion-prone commodities may be entrusted to the GIFT with continuous data flow.

Sectt. 37. 3/66/2011/20 Lakh. GPM. © Govt. of Kerala

Dine



GOVERNMENT OF KERALA

നമ്പർ. 18028/ബി1/2012/നി.വ

11/9/12

നികുതി (ബി) വകുപ്പ്
തിരുവനന്തപുരം
തീയതി, 23/08/2012

ഗവൺമെന്റ് സെക്രട്ടറി

339
3/9/12



ഡയറക്ടർ

ഗുലാത്തി ഇൻസ്റ്റിറ്റ്യൂട്ട് ഓഫ് ഫിനാൻസ്
& ടാക്സേഷൻ
തിരുവനന്തപുരം

സർ,

വിഷയം:- നികുതി വകുപ്പ് - പതിമൂന്നാം കേരള നിയമസഭ - സബ്ജക്ട് കമ്മിറ്റി VIII (സാമ്പത്തിക കാര്യങ്ങൾ) - കേരളത്തിലെ സ്വർണ്ണ വ്യാപാര മേഖലയിലെ നികുതി ചലന സംബന്ധിച്ച പഠനം - ചുമതലപ്പെടുത്തുന്നത് - സംബന്ധിച്ച്.
സൂചന:- കേരള നിയമസഭ - സബ്ജക്ട് കമ്മിറ്റി VII (സാമ്പത്തിക കാര്യങ്ങൾ)- ന്റെ 12/07/2012 ലെ യോഗ നടപടിക്കുറിപ്പിന്റെ പ്രസക്ത ഭാഗം.

സൂചനയുടെ പകർപ്പ് ഇതോടൊപ്പം ഉള്ളടക്കം ചെയ്യുന്നു. സംസ്ഥാനത്തെ സ്വർണ്ണ വ്യാപാര മേഖലയിൽ നിലവിലുള്ള നികുതി വരുമാനം കൂട്ടുന്നതിനും നികുതി വെട്ടിപ്പ് തടയുന്നതിനുമായി പുതിയ നികുതി ചലന ഏർപ്പെടുത്തുന്നതിനുള്ള നിർദ്ദേശങ്ങൾ സംബന്ധിച്ച് പഠനം നടത്തി റിപ്പോർട്ട് അടിയന്തിരമായി ലഭ്യമാക്കാൻ അഭ്യർത്ഥിക്കുന്നു. ഈ പഠനത്തിനാവശ്യമായ സാങ്കേതിക സഹായം ലഭ്യമാക്കുന്നതിന് വാണിജ്യ നികുതി വകുപ്പ് കമ്മീഷണർക്ക് നിർദ്ദേശം നൽകിയിട്ടുണ്ട്.

വിശ്വസ്തതയോടെ,
സജീവ്. ഇ.പി,
അണ്ടർ സെക്രട്ടറി
ഗവൺമെന്റ് സെക്രട്ടറിയ്ക്ക് വേണ്ടി.

അംഗീകാരത്തോടെ

സെക്ഷൻ ഓഫീസർ.

കേരള നിയമസഭ

സബ്ജക്ട് കമ്മിറ്റി VIII (സാമ്പത്തികകാര്യങ്ങൾ)

12.07.2012-ലെ യോഗനടപടിക്കുറിപ്പിന്റെ പ്രസക്തഭാഗം

തുടർന്ന് സമിതി കേരളത്തിലെ സ്വർണ്ണവ്യാപാര മേഖലയിലെ നികുതി ഘടന, വരുമാനം, വാർഷിക വിറ്റുവരവ് എന്നിവ സംബന്ധിച്ച് വിശദമായി ചർച്ച ചെയ്തു. ഇന്ത്യയിലെ മറ്റ് സംസ്ഥാനങ്ങളെ അപേക്ഷിച്ച് കേരളത്തിൽ സ്വർണ്ണത്തിന്മേലുള്ള നികുതി നിരക്ക് കൂടുതലാണെന്നും ആയതിനാൽ നികുതി വെട്ടിപ്പ് വ്യാപകമാണെന്നും, നികുതി നിരക്ക് വർദ്ധിപ്പിച്ചെങ്കിലും ഗവൺമെന്റിന് വരുമാനം കൂടുന്നില്ലെന്നും സമിതി വിലയിരുത്തി. കഴിഞ്ഞ ഒരു വർഷം കൊണ്ട് സ്വർണ്ണത്തിനുണ്ടായിരിക്കുന്ന വിലവർദ്ധനവിന് ആനുപാതികമായി ടേൺ ഓവറിലും ഇതിൽ നിന്നുള്ള നികുതി വരുമാനത്തിലും വർദ്ധനവ് ഉണ്ടായിട്ടില്ലെന്നാണ് കണക്കുകൾ കാണിക്കുന്നതെന്നും അയൽ സംസ്ഥാനങ്ങളിൽ നികുതി 1% ആയതിനാൽ കേരളത്തിലെ സ്വർണ്ണ വ്യാപാരം അയൽ സംസ്ഥാനങ്ങളിലേക്ക് മാറിയതോ, നികുതി വെട്ടിപ്പോ ഇതിനു കാരണമാകാമെന്നും ഇത് സംബന്ധിച്ച് അടിയന്തിരമായി ഒരു പഠനം നടത്തേണ്ടതാണെന്നും ഈയിനത്തിൽ ഇപ്പോൾ കിട്ടുന്ന വരുമാനത്തേക്കാൾ കൂടുതൽ വരുമാനം ലഭിക്കുവാൻ ഈ ശൃംഖല കൂടുതൽ ശക്തിപ്പെടുത്തേണ്ടതാണെന്നും സമിതി തുടർന്നഭിപ്രായപ്പെട്ടു.

ആയതിനാൽ സംസ്ഥാനത്തെ സ്വർണ്ണ വ്യാപാരത്തിൽ നിന്നുള്ള നികുതി വരുമാനം കുറയുന്നത് സംബന്ധിച്ച് വസ്തുനിഷ്ഠവും വിശദവുമായ പഠനം നടത്തേണ്ടതാണെന്നും ഇതിനായി അയൽ സംസ്ഥാനങ്ങളിലെ സ്വർണ്ണത്തിന്മേലുള്ള നികുതി നിരക്കും ഘടനയും നികുതി ഈടാക്കുന്ന രീതിയും, കേരളത്തിൽ സ്വർണ്ണത്തിന് കഴിഞ്ഞ വർഷങ്ങളിലെ വിലവർദ്ധനവിന് അനുസരിച്ച് ടേൺ ഓവറിലും നികുതി വരുമാനത്തിലും ഉണ്ടായ വർദ്ധനവ്, മുൻകാലങ്ങളിലെ അപേക്ഷിച്ച് ആനുപാതികമായി ടേൺ ഓവറിലും നികുതി വരുമാനത്തിലും വർദ്ധനവ് വന്നില്ലെങ്കിൽ ഇതിനുകാരണം സ്വർണ്ണവ്യാപാരം സംസ്ഥാനത്ത് നിലനിർത്തി നികുതി വരുമാനം കൂട്ടുന്നതിനും നികുതി വെട്ടിപ്പ് ഒഴിവാക്കുന്നതിനും പുതിയ നികുതി ഘടനയ്ക്കുള്ള നിർദ്ദേശങ്ങൾ എന്നിവ സംബന്ധിച്ച് ഗൂലാത്തി ഇൻസ്റ്റിറ്റ്യൂട്ട് ഓഫ് ടാക്സേഷനു കീഴിൽ പഠനം നടത്തി റിപ്പോർട്ട് ലഭ്യമാക്കുവാൻ നികുതി വകുപ്പിനോട് ആവശ്യപ്പെടുവാൻ സമിതി തീരുമാനിച്ചു.

എസ്.കെ. (എൻ.ആർ.)

Deepa V
DEEPA. V
Section Officer

Kerala Value Added Tax Act 2003
Abstract
Tax on Gold/Jewellery etc
Provisions during 2012-13

Schedule

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Second Schedule

Rate 1%

[See Section 6(1) (a)]

1. Bullions
2. xxxxx (*Omitted by The Kerala Finance Act 2006 (Act 22 of 2006) w.e.f 1-7-2006*)
3. Pearls, natural or cultured.
4. Precious Stones
5. Semi Precious Stones

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Third Schedule

Rate 5%

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51A. Gold, Silver and Platinum Ornaments new and old

Compounding Provision

Section 8

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[Section 8(f) initially inserted by the Finance Act 2006 (Act 22 of 2006) w.e.f 1-7-2006 and subsequently substituted by the Kerala Finance Act, 2008 (Act 21 of 2008) w.e.f. 1-4-2008]

(i) Any dealer in ornaments or wares or articles of gold, silver or platinum group metals including bullion and diamond may at his option, instead of paying tax in respect of such goods in accordance with the provisions of section 6, pay tax at, -

- (a) **One hundred and fifteen per cent**, in case their annual turnover for the above goods for the preceding year was rupees ten lakhs or below;
- (b) **One hundred and twenty per cent**, in case their annual turnover for the above goods for the preceding year was above rupees ten lakhs and up to rupees forty lakhs;
- (c) **One hundred and thirty five per cent**, in case their annual turnover for the above goods for the preceding year was above rupees forty lakhs and up to rupees one crore; and at
- (d) **One hundred and fifty per cent**, in case their annual turnover for the above goods for the preceding year exceeded rupees one crore;

of the highest tax payable by him as conceded in the return or accounts, or tax paid by him under this Act, whichever is higher, for a year during any of the three consecutive years preceding that to which such option relates.

[Section 8(f)(i) substituted by the Kerala Finance Act 2009(Act 13 of 2009) w.e.f 1-4-2009]

Explanation 1 – where a dealer had not transacted any business for the last three years consecutively, the highest tax paid or payable for the year during the year or years he transacted business shall be considered for the above purpose.

Explanation 2 – Where during any such preceding year, the dealer had not transacted business for any period in that financial year the tax payable for the twelve months shall be calculated proportionately on the basis of the tax payable or the turnover conceded, as the case may be, for the period during which such dealer had transacted business

[Explanation 2 substituted by the Kerala Finance Act 2009(Act 13 of 2009) w.e.f 1-4-2009]

Explanation 3 – Dealers opting for payment of tax under this clause shall pay compounded tax in respect of all their branches existing in the year to which the option relates *[The word “previous to the year in which the option relates” substituted by the Kerala Finance Act 2009 (Act 13 of 2009). w.e.f 1-4-2009]*

Explanation 4 – Where a dealer has not opted to pay compounded tax with respect to new branch opened in 2008-09, the compounded tax payable for such branch for the year 2008-09 shall be notionally fixed as the average of the compounded tax paid for the principal place and branches in that year and if the new branch opened is the first branch, the compounded tax payable for it shall be the same as that payable for the principal place of business.

[Explanation 4 substituted by the Kerala Finance Act 2009(Act 13 of 2009) w.e.f 1-4-2009]

Explanation 5 – Where a dealer opens a new branch in the current year, the additional compounded tax payable under this clause in respect of such branch shall be the average of the tax payable by him in respect of his principal place of business and all branches.

[The last sentence of the Explanation 5 omitted by the Kerala Finance Act, 2009 (Act 13 of 2009) w.e.f. 1-4-2009. The omitted sentence was “Such dealers will be permitted to continue to pay compounded tax under this clause even if they do not opt for paying tax under this clause for the new branch”]

Explanation 6 – Where a dealer has opted for payment of tax under this clause for the first time in 2011-12 and has commenced business only in 2010-11 and the tax payable as per return or account during 2010-11 is less than the output tax payable, then the tax payable for 2010-11 shall be notionally re-determined on the basis of output tax for determining the tax liability for 2011-12.

[Explanation 6 substituted by the Kerala Finance Act 2009(Act 13 of 2009) w.e.f 1-4-2009]

[Years mentioned in the Explanation 6 substituted by the Kerala Finance Act 2011(Act 16 of 2011) w.e.f 1-4-2011]

Explanation 7 – Tax payable as conceded in the accounts includes the tax payable on suppressed turnover subsequently detected also.

[Explanation 7 inserted by the Kerala Finance Act 2009(Act 13 of 2009) w.e.f 1-4-2009]

Explanation 8 – Where a dealer who had opted and paid tax under this clause during previous years with respect to a branch that had remained closed during the whole of the year 2009-10, for the purpose of determining the compounded tax payable for 2010-2011, the tax paid in respect of that branch shall not be reckoned

[Explanation 8 inserted by the Kerala Finance Act 2010(Act 10 of 2009) w.e.f 1-4-2010]

Explanation 9 - For the removal of doubts, it is clarified that for the purpose of this clause, “articles of gold, silver or platinum group metals” shall also include bullion.

[Explanation 9 inserted by the Kerala Finance Act 2011(Act 16 of 2009) w.e.f 1-4-2011]

Provided that dealer who opts for payment of tax under this clause may collect tax at the rate not exceeding 1.25 per cent for the commodity, but where the tax so collected during the year is in excess of the tax payable for the year under this clause, the tax collected in excess shall be paid over to the Government in addition to tax payable under this clause.

[Proviso substituted by The Kerala Finance Act, 2011 (Act 16 of 2011), w.e.f 1-4-2011]

(ia) Notwithstanding anything contained in this clause, a dealer shall not be allowed to opt for the payment of tax under this clause unless he has conducted business up to a full year as on the first day of April of the year to which the option relates.

[Sub-clause (ia) inserted by The Kerala Finance Act, 2011 (Act 16 of 2011) w.e.f 1-4-2011]

(ii) The assessing authority, for valid and sufficient reasons, such as shifting of place of business, *[holding of stock exceeding double the quantity held in the previous year omitted by The Kerala Finance Act, 2011(Act 16 of 2011) w.e.f 1-4-2011]* furnishing of false information, suppression of relevant information, failure to furnish such information demanded, may refuse permission to pay tax under this section and cancel the permission if any granted.

Provided that no orders under this sub-clause shall be issued without giving the dealer an opportunity of being heard and without prior approval of the District Deputy Commissioner

(iii) Notwithstanding anything contained in sections 55 or 60 of this Act, orders under sub-clause (ii) shall be appealable only to the Appellate Tribunals.

(iv) In case where permission has been cancelled, the amount, if any paid based on the permission, shall be apportioned against the output tax due of the dealer.

[(v) where a dealer had paid tax under this clause for the previous year, the tax payable for the succeeding year under this clause shall be calculated at the rates mentioned in item (i) or (ii) below, whichever is higher –

- (i) (a) at the **same amount of tax paid** during the previous year, in case their turnover for the above goods for the preceding year was rupees ten lakh or below;
- (b) at **one hundred and five per cent** of such tax paid during the previous year, in case their turnover for the above goods for the preceding year was above rupees ten lakh and up to rupees forty lakh;
- (c) at **one hundred and fifteen per cent** of such tax paid during the previous year, in case their turnover for the above goods for the preceding year was above rupees forty lakh and up to rupees one crore; and
- (d) at **one hundred and twenty five per cent** of such tax paid during the previous year, in case their turnover for the above goods for the preceding year exceeded rupees one crore.

Provided that the tax payable under this sub-clause by the dealers covered under Explanation 6 of this clause shall be at the appropriate percentage of tax mentioned in (a), (b), (c) or (d) above, of the tax re-determined under the said Explanation.

(ii) 1.25% of the turnover of sales of the goods covered under this clause, for the previous year].

**[Sub-clause (v) substituted by the Kerala Finance Act, 2011 (Act 16 of 2011)
w.e.f. 1-4-2011]**

(vi) [xxxx]

[Clause (vi) omitted by the Kerala finance Act, 2011 (Act 16 of 2011), w.e.f 1-4-2010. The omitted clause (vi) as inserted by the Kerala Finance Act, 2010 (Act 10 of 2010) w.e.f 1-4-2010 read as “Where a dealer who opts for compounding under this clause has been transacting business under a brand name, the compounded tax payable under this clause shall not be less than the compounded tax payable had the business been run as a branch of the franchisee or of other franchisees”]

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