

EY Tax Alert

Kerala Government announces levy and collection of Flood Cess from 1 June 2019

Tax Alerts cover significant tax news, developments and changes in legislation that affect Indian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor.

Executive summary

This Tax Alert summarizes recent notifications ^[1] issued by the Government of Kerala notifying 1 June 2019 as the date from which Kerala Flood Cess (Cess) shall be levied and collected. It has also prescribed Kerala Flood Cess Rules, 2019 (Rules).

The manner for levy and collection of Cess as prescribed in the rules is as follows:

- ▶ Cess shall be levied on taxable value of intra-state supplies of goods or services made by taxable person (other than composition dealer) to an unregistered person.
- ▶ The Cess collected shall be shown separately in the invoice and paid to the Government along with the return specified for said purpose.
- ▶ The taxable person liable to pay Cess shall file monthly return in Form No. KFC-A on or before the due date for filing of GSTR-3B, disclosing details of outward supplies of goods or services made to unregistered person. The same shall match with the corresponding details in Form GSTR-1.

The above rules shall be effective from 1 June 2019.

^[1] G.O.(P) No.79/2019/Taxes and G.O.(P) No.80/2019/Taxes both dated 25 May 2019.

Background

- ▶ Clause 14 of the Kerala Finance Bill, 2019² provided for levy of Kerala Flood Cess (Cess) for the period of 2 years.
- ▶ The levy of Cess is for the purpose of providing reconstruction, rehabilitation and compensation needs which had arisen due to the massive flood occurred in the state.
- ▶ In terms of the provisions of the Finance Bill, the Kerala Government has now notified the appointed date for levy and collection of Cess and have also prescribed the manner of furnishing of return, collection and payment of Cess.

Notifications

Appointed date³

The Government of Kerala has appointed 1 June 2019 as the date from which Cess shall be levied and collected.

Rules for levy and collection of Kerala Flood Cess⁴

- ▶ The Cess shall be levied on intra-state supplies of goods or services made by taxable person (other than composition dealer) to an unregistered person.
- ▶ It shall be collected on the taxable value of supplies of following goods or services for which rate is specified in notification issued under section 9(1) of the Kerala Goods and Services Tax (KGST) Act, 2017:

| Sl. No | Category of Supply | Rate of Cess |
|--------|---|--------------|
| 1 | Supplies of goods for which tax rate is fixed at 0.125 % | Nil |
| 2 | Supplies of goods for which tax rate is fixed at 1.5 % | 0.25% |
| 3 | Supplies of goods for which tax rate is fixed at 2.5 % | Nil |
| 4 | Supplies of services for which tax rate is fixed at 2.5 % | 1% |
| 5 | Supplies of goods or services for which tax rate is fixed at 6%, 9% and 14% | 1% |

- ▶ The Cess collected shall be shown separately in the invoice and paid along with the return.
- ▶ The taxable person liable to pay Cess shall file a monthly return in Form No. KFC-A on or before the due date for filing of GSTR-3B as specified under Rule 61 of KGST Rules, 2017.
- ▶ The return shall be filed electronically through the official portal⁵ and e-payment of the Cess shall be made along

with the return. One-time user ID and password will be generated on the portal for the same.

- ▶ The details of outward supplies of goods or services attracting Cess, made to unregistered person, shall be mentioned in the return specified.
- ▶ The above details shall match with the corresponding details of outward supply of goods or services as per GSTR-1.
- ▶ The Cess paid along with the returns will not be refunded.
- ▶ Various provisions of the KGST Act and Central Goods and Services Tax Act, 2017, and the rules made thereunder shall, as far as may be, mutatis mutandis, apply, in relation to the levy and collection of Cess as they apply in relation to the levy and collection of tax on the intra-state supplies under the said Act or the rules made thereunder.
- ▶ The above rules shall be effective from 1 June 2019.

Comments

Levy of Kerala Flood Cess seems to have triggered the issue of not just the circular reference in computing the amount of Cess, but also whether such Cess would form part of the value of supply for the purpose of determining the Central and State GST liability. Necessary clarification from the Government in this regard, as had been done in a similar situation earlier, will help trade and industry in proper compliance with the provisions of the law and avoid any litigation.

Taxpayers covered under the levy of Cess will need to gear up for appropriate changes in their system to implement the new levy from 1 June and the related compliance.

² Bill No 185 of fourteenth Kerala legislative assembly
³ G.O.(P) No.79/2019/Taxes 9387 dated 25 May 2019

⁴ G.O.(P) No.80/2019/Taxes 9388 dated 25 May 2019
⁵ www.keralataxes.gov.in

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