



## Dimensions – 18<sup>th</sup> Edition

### Notification:

#### 1. Levy of Kerala Flood Cess w.e.f. July 1, 2019<sup>1</sup>

##### Background

Article 279A(4)(f) of the Constitution of India has empowered the GST Council to enable any State Government to levy cess for additional mobilisation of financial resources to meet the exigencies of a national calamity / disaster. The GST Council and the State Government of Kerala have exercised such powers for levying ‘Kerala Flood Cess’ (‘Cess’ or ‘KFC’) in order to redevelop Kerala on account of the devastating floods affecting the State in August 2018.

In this regard, vide the Kerala Finance Bill, 2019, the Kerala State Government had already introduced provisions regarding the levy of KFC for a period of two years on the intra-state supply of goods or services, or both.

##### Effective date, Applicability and Compliance

##### Effective date:

Initially, the Kerala State Government proposed to levy the KFC effective from June 1, 2019. However, due to the issue concerned with valuation for the purpose of levying GST, as clarified by bulletin number 659 dated May 29, 2019, the State Government has postponed the effective date to July 1, 2019.

##### Applicability and compliance:

- No cess shall be leviable on the following supply categories:
  - Supplies made by a registered person under a composition levy scheme;

<sup>1</sup> Notification No. G.O.(P) No.79/2019/Taxes and G.O.(P) No.80/2019/Taxes, dated May 25, 2019 as amended by G.O.(P) No.81/2019/Taxes and G.O.(P) No.82/2019/Taxes, dated May 31, 2019



- Supplies of goods or services or both, exempt under Kerala Goods and Services Tax Act, 2017 ('KGST Act'); and
- Supplies made by one registered person to another registered person.
- The Cess shall be payable on the value of supply, as determined under Section 15 of the KGST Act.
- The value of Cess shall be disclosed separately in the invoice issued by the supplier.
- The supplier shall be liable to file a monthly return via the KFC-A online form (on website 'www.keralataxes.gov.in'), along with payment of Cess on or before the due date for filling the GSTR-3B return.
- In order to e-file the return and payment of Cess, a one-time 'user ID and password' shall be generated from the portal.
- The details of intra-state outward supplies made to unregistered persons shall be matched with the corresponding details, as reported in form GSTR-1.
- No refund shall be granted in respect of the Cess paid along with the returns.

**KFC rates:**

The applicable rates of Cess are captured in the table below:

Sr. No.	Category of supply	Rate of Cess
1.	Goods which are taxable @ 0.125% SGST	NIL
2.	Goods which are taxable @ 1.5% SGST	0.25%
3.	Goods which are taxable @ 2.5% SGST	NIL
4.	Goods which are taxable @ 6% SGST	1%
5.	Goods which are taxable @ 9% SGST	
6.	Goods which are taxable @ 14% SGST	
7.	Supply of services	

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Comments /  
Observations**

- The filing of KFC return, i.e. KFC-A, will result in an additional compliance burden for taxpayers in the state of Kerala.
- The imposition of KFC by the Kerala State Government is an inaugural step towards levying tax over and above GST. In the event of calamity / disaster, other States may also levy such cess in the future.
- It is worth appreciating that the interpretational issue around considering KFC to form part of value of supply for purposes of levying GST was detected beforehand, thus saving the businesses from another round of representation and litigation.
- While the effective date for levying KFC has been postponed, the industry is advised to make preparations itself in order to comply with the KFC provisions, including but not limited to the readiness of IT systems / accounting software, invoice templates and report customization for preparing returns etc.
- One can expect clarity on the aforesaid valuation issue in the upcoming GST council meeting.



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