

EXECUTIVE SUMMARY

Stagnant tax collection and wide variation from budget estimates	Collection of Land revenue and building tax remained virtually stagnant during 2006-07 to 2010-11. Further, the revenue collection during 2010-11 was 63.92 <i>per cent</i> less than the budget estimates.
Internal audit	The Internal Audit Wing (IAW) audits about 22 out of 120 units every year and at this rate it may not be able to cover all the units even once in five years. Further, only 2.01 <i>per cent</i> of the outstanding internal audit observations were cleared during 2010-11 which indicates poor response to the IAW observations.
Very low recovery by the Department	During the period 2006-07 to 2009-10 we pointed out underassessment of building tax, short levy of lease rent etc. with revenue implication of ₹ 349.37 crore in 399 cases. Of these, the Department/Government accepted audit observations in 161 cases involving ₹ 9.63 crore but recovered only ₹ 2.32 crore in 127 cases.
Results of audit	<p>In 2010-11 we test checked the records of 61 units relating to land revenue and building tax and detected underassessment of tax and other irregularities involving ₹ 19.34 crore in 38 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 5.62 crore in 110 cases during the year 2010-11. The Department realised an amount of ₹ 84.27 lakh in 62 cases during the year 2010-11.</p>
What we have highlighted in this Chapter	<p>In this Chapter we present illustrative cases of ₹ 3.72 crore selected from observations noticed during our test check of records relating to assessment and collection of building tax in <i>Taluk</i> offices where we found that the provisions of the Acts /Rules were not complied with.</p> <p>It is a matter of concern that similar non compliances were pointed out by us repeatedly in the Audit Reports for the past several years, but the irregularities still persist and remain undetected till an audit is conducted.</p>
Our conclusion	We recommend that the IAW needs to be strengthened on a priority basis so that all the units covered by them over a 2-3 year cycle. Further, an action plan may be drawnup to settle the high number of outstanding internal audit observations and to recover underassessments pointed out by us.

CHAPTER - VI : LAND REVENUE AND BUILDING TAX

6.1 Tax administration

The Revenue Department is under the control of the Additional Chief Secretary at the Government level and the Land Revenue Commissioner is the head of the Department. The revenue collection of the Department includes collection of basic tax, plantation tax, lease rent and building tax. The Department realises arrears of public revenue under the Kerala Revenue Recovery Act with interest and cost of process prescribed.

6.2 Trend of receipts

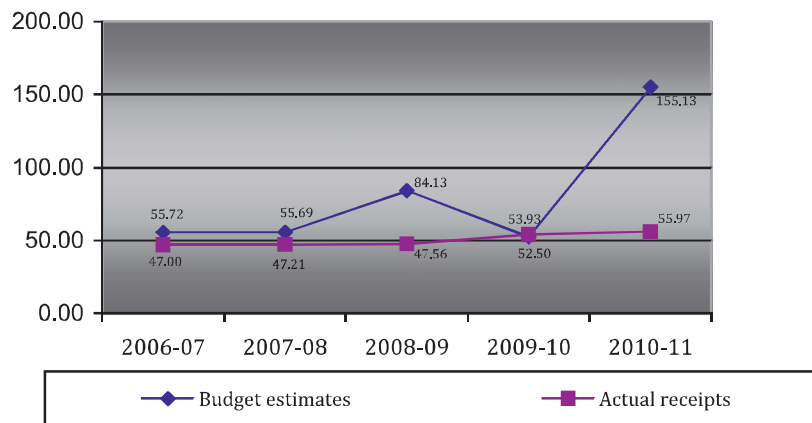
Actual receipts from land revenue and building tax during the last five years (2006-07 to 2010-11) along with the budget estimates during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts	Percentage of growth
2006-07	55.72	47.00	(-) 8.72	(-) 15.65	11,941.82	0.39	7.11
2007-08	55.69	47.21	(-) 8.48	(-) 15.23	13,668.95	0.35	- [▼]
2008-09	84.13	47.56	(-) 36.57	(-) 43.47	15,990.18	0.30	- [▼]
2009-10	52.50	53.93	(+) 1.43	(+) 2.72	17,625.02	0.31	13.39
2010-11	155.13	55.97	(-) 99.16	(-) 63.92	21,721.69	0.26	3.78

[▼] Not appreciable

Budget estimates and actual receipts



We noticed that the actual receipts fell short of the budget estimates during 2006-07 to 2010-11, except during 2009-10. The shortfall was particularly high during 2010-11 at 63.92 per cent below budget estimates. We are of the view that revenue collection has remained almost static during 2006-07 to 2010-11 and the Department may identify ways to augment revenue. The budget estimate for 2010-11 was raised to ₹ 155.13 crore anticipating additional revenue of ₹ 100 crore from receipts under the Kerala Conservation of Paddy Land and Wet Land Act, 2008, but practically nothing was realised from this source. The Government may examine the reason for non-receipt of revenue from this head.

6.3 Impact of audit

Revenue impact

During the last four years, we pointed out underassessment of building tax, short levy of lease rent, short realisation of collection charges, non-levy of luxury tax etc., with revenue implication of ₹ 349.37 crore in 399 paragraphs. Of these, the Department/Government accepted audit observations involving ₹ 9.63 crore and had since recovered ₹ 2.32 crore. The details are shown in the following table:

(₹ in lakh)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2006-07	91	323.00	28	47.58	28	35.91
2007-08	113	330.00	83	607.05	50	102.00
2008-09 Vol. I (Review)	91	32,562.00	16	222.05	16	35.04
2009-10	104	1,722.00	34	86.55	33	59.34
Total	399	34,937.00	161	963.23	127	232.29

Thus, against the accepted cases involving ₹ 963.23 lakh, the Department had recovered ₹ 232.29 lakh which was 24.11 *per cent*. However, out of the accepted cases involving ₹ 222.05 lakh relating to 2008-09, the Department could recover only ₹ 35.04 lakh which was 15.98 *per cent*.

6.4 Working of internal audit wing

The Internal Audit Wing (IAW) of the Land Revenue Commissionerate is supervised by the Senior Finance Officer under the control of the Commissioner of Land Revenue. The audit of *Taluk* offices, Revenue Divisional Offices and Revenue Recovery Offices are conducted in a period of two to three years. The IAW is manned by one senior superintendent, three junior superintendent and six clerks. Every year about 22 units were taken up for audit which is not sufficient to cover 120 units even in five years. The Department stated that shortage of staff and ceiling on TA restricted the selection of units. During 2010-11 the Department had cleared only 405 paragraphs out of 20,143 paragraphs which is

only 2.01 *per cent* of the outstanding objections. During the previous years also the clearance was marginal. Thus, the functioning of IAW was not effective.

We recommend that the functioning of the IAW may be strengthened by deploying more staff if necessary so that all units could be audited over a reasonable period and targets fixed for timely clearance of outstanding paras.

6.5 Results of audit

We test checked the records of 61 units relating to land revenue and building tax. We detected underassessment of tax and other irregularities involving ₹ 19.34 crore in 38 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Underassessment and loss under building tax	30	1.74
2	Underassessment and loss under other items	8	17.60
	Total	38	19.34

The Department accepted underassessment and other deficiencies of ₹ 5.62 crore in 110 cases during the year 2010-11. The Department realised an amount of ₹ 84.27 lakh in 62 cases during the year 2010-11.

A few illustrative audit observations involving ₹ 3.72 crore are mentioned in the following paragraphs.

6.6 Audit observations

We scrutinised the records of various Taluk Offices and found several cases of non-compliance of the provisions of the Rules for Assignment of Land within Municipal and Corporation Areas 1995 (RALMCO) and Kerala Revenue Recovery Rules 1968, (KRR Rules), Kerala Building Tax Rules (KBT) and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Tahsildars are pointed out in audit each year, but not only do the irregularities persist these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit.

6.7 Non-compliance of provisions of Acts/Rules

The provisions of the KBT Act/Rules, RALMCO and KRR Rules require:-

- i) levy of lease rent on land assigned to various persons at the prescribed rates;*
- ii) levy of collection charges on the amount recovered under RR Act; and*
- iii) assessment of building tax and luxury tax at prescribed rates.*

We noticed that the Tahsildars did not observe some of the above provisions at the time of levying tax. This resulted in short levy of lease rent/building tax/collection charges of ₹ 3.72 crore as mentioned in the paragraphs 6.7.1 to 6.7.6.

6.7.1 Non-levy of luxury tax

(18 Taluk offices¹, between April 2010 and February 2011)

The Kerala Building Tax Act, 1975 as amended by the Finance Act, 1999 prescribes that luxury tax at the rate of ₹ 2000 is leviable each year on all residential buildings having a plinth area of 278.7 square metres or more and completed on or after April 1999. The Act further stipulates that luxury tax is to be paid in advance on or before 31 March every year.

We noticed from the building assessment register that luxury tax was not demanded/realised on 2,975 residential buildings having plinth area exceeding 278.7 square metres which were completed after April 1999. This resulted in short collection of luxury tax amounting to ₹ 1.69 crore.

After we pointed out the matter to the Department between April 2010 and February 2011, in five² cases Tahsildars stated that action would be

¹ Taluk Offices: Alathur, Aluva, Chavakkad, Chirayinkeezhu, Devikulam, Ernad, Kanayannur, Kottarakkara, Kozhenchery, Nedumangad, Ottappalam, Palakkad, Perinthalmanna, Thalappilly, Thalassery, Thiruvalla, Thiruvananthapuram and Thrissur.

² Taluk Offices: Alathur, Aluva, Chirayinkeezhu, Perinthalmanna and Thiruvalla

taken to realise the luxury tax and in eight³ cases *Tahsildars* stated that directions would be given to the village officers to realise the luxury tax due. In five⁴ cases *Tahsildars* replied that the matter would be examined. Further developments on the recovery have not been received (December 2011).

We reported the matter to the Government in March 2011. We have not received any further information from them (December 2011).

6.7.2 Non-assessment of building tax

(Five *Taluk* offices⁵; between March 2010 and January 2011)

Under the Kerala Building Tax Act and the Kerala Building Tax (Plinth Area) Rules, 1992 made thereunder, every village officer shall transmit to the assessing authority, within 5 days of the expiry of each month, a monthly list of buildings liable to assessment, together with extracts from the building application register of the local authority within whose area the buildings included in the list are situated.

We cross verified the building tax assessment records of five *taluk* offices with the registers containing building numbers maintained by the local authority for property tax and found that 295 buildings completed between April 2006 and March 2010 were

not assessed to building tax. This resulted in non assessment of building tax of ₹ 93.88 lakh.

After we pointed out the matter to the Department between March 2010 and January 2011 the Department stated that the cases would be examined.

We reported the matter to the Government in March 2011; we have not received any further information (December 2011).

6.7.3 Non-collection of security deposit from the assignee

(*Taluk* office, Udumbanchola; February 2010)

Rule 18(2) of the Kerala Land Assignment Rules, 1964 provides that the assignee shall, in addition to the rent payable under Rule 18(1) deposit with the Government in advance an amount equal to one year's rent as security deposit.

We scrutinised the records of *Taluk* office, Udumbanchola and found that lease rent of 149.1053 ha. of land amounting to ₹ 1.66 crore demanded from Agency for Non-Conventional Energy and Rural Technology

(ANERT) for the period 2005-06 to 2007-08 was not paid. We noticed that the

³ *Taluk* Offices: Devikulam, Ernad, Kanayannur, Kottarakkara, Kozhenchery, Nedumangad, Thalassery and Thiruvananthapuram

⁴ *Taluk* Offices: Chavakkad, Ottappalam, Palakkad, Thalappilly and Thrissur.

⁵ *Taluk* Offices: Aluva, Ernad, Ottapalam, Thalassery and Thiruvananthapuram

land was leased out despite the fact that the security deposit of ₹ 55.24 lakh was not paid. Further, the lessee had not paid lease rent of ₹ 1.66 crore for the period 2005-06 to 2007-08 and demand for 2008-09 and 2009-10 for lease rent has not been raised. This resulted in non-deposit of security deposit of ₹ 55.24 lakh and non-recovery of lease rent of ₹ 1.66 crore.

We pointed out the case to the Department (April 2010) and to the Government in May 2011. We have not received further information (December 2011).

6.7.4 Non-levy of building tax

(*Taluk* office, Kannur; March 2011)

Section 5(6) of the Kerala Building Tax Act, 1975 stipulates that the assessee or the owner of the building shall pay the building tax assessed. Owner includes a person entitled to receive the rent of the building.

We noticed from the building tax assessment register that the *Tahsildar*, Kannur assessed the building tax assessment of a building having plinth area of 23492 m² for ₹ 42.01 lakh. The assessment was in the name of

the Secretary of the Kannur Municipality. The Municipality was exempted from levy of tax under Section 3(1) (a) of the Act. The building was in the possession of the contractor who constructed the building under Build, Operate and Transfer (BOT) basis. He was entitled to receive rent of the building for 29 years and 3 months and hence was the owner of the building as per the definition of 'owner' and was liable to pay building tax. The municipality failed to bring these facts to the notice of the *Tahsildar* for assessing building tax. The *Taluk* office also did not take efforts to identify the correct owner of the building for levying tax. The irregular assessment of building tax on the Municipality instead of on the owner resulted in non levy of tax of ₹ 42.01 lakh.

After we pointed out (March 2011) the omission, the *Tahsildar* Kannur stated that the matter would be examined. We reported (April 2011) the case to the Government. We have not received reply from them (December 2011).

We recommend that the Government may modify the KBT Act to ensure that the buildings constructed on BOT basis by the municipalities are not eligible for exemption under section 3(1).

6.7.5 Short-assessment of building tax

(Four *Taluk* offices⁶; between August 2010 and February 2011)

The Kerala Building Tax Act, 1975, provides for levy of building tax at the rate specified in the Schedule to the Act on every building, constructed on or after 10 February 1992 and plinth area of which exceeds 100 sq. m. in the case of residential buildings and 50 sq. m. in the case of other buildings. As per Circular⁷ instruction given by Secretary, Local Self Government (N) Department in April 2002 Plinth area of structures appurtenant to the building for more beneficial enjoyment of the main building should be added to the plinth area for assessment.

We noticed from the building tax assessment register that in *taluk* office Nedumangad and Kozhencheri, while finalising the assessments of three commercial buildings and a hospital complex, the buildings appurtenant to the main buildings were assessed as separate units. In *taluk* offices Palakkad and Kottayam, tax was assessed for an area less than the actual plinth area of the completed portion of seven buildings. Further, in *taluk* office Palakkad, a building used for non-residential purpose was assessed to tax at the rate applicable to buildings used for residential purpose. These lapses in assessments resulted in short levy of tax of ₹ 8.90 lakh.

After we pointed out the matter to the Department between August 2010 and February 2011, the Department stated that steps would be taken to realise the amount. We have not received further information (December 2011).

We reported the matter to the Government in March 2011. We have not received further information (December 2011).

⁶ *Taluk* Offices: Kottayam, Kozhencheri, Nedumangad and Palakkad.

⁷ No. 2184/N3/2002 LSG dated 5 April 2002 from LSG (N) Department.

6.7.6 Non-levy of interest

(Five *Taluk* offices⁸; between June 2010 and February 2011)

The Kerala Building Tax Act 1975 as amended by the Finance Act, 1999, stipulates that luxury tax at the rate of ₹ 2,000 is leviable each year on all residential buildings having a plinth area of 278.7 square metres or more and completed on or after 1 April 1999. The Act further stipulates that the luxury tax is to be collected in advance on or before 31 March every year. Section 19 of the Act provides that when luxury tax is not paid on the due date, the arrear of tax shall bear interest at the rate of six *per cent* per annum from the date of default.

We noticed from the luxury tax register that the Department did not levy interest on belated payment of luxury tax in 942 cases in five *taluk* offices. This resulted in non-levy of interest of ₹ 3.45 lakh.

After we pointed out the matter to the Department between June 2010 and February 2011, the Department stated that directions were issued to the Village Officers concerned to collect the interest from the

concerned assesseees.

We reported the matter to the Government in March 2011. We have not received further information from them (December 2011).

⁸ *Taluk* Offices: Ernad, Kasargod, Kottarakkara, Kottayam and Thiruvananthapuram.