

**BOMBAY MOTOR VEHICLES (TAXATION OF PASSENGERS)
ACT, 1958**

67 of 1958

[]

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Levy of taxes on passengers carried by stage carriages
- 3A. Levy of additional tax on passengers carried by stage carriages
4. Submission of returns
5. Tax to be paid every month into Government treasury
6. Procedure where no returns are submitted, etc.
7. Fares escaping assessment
8. Penalty for non-payment of tax
9. Recovery of tax etc.
- 9A. Liability of operator to pay interest
- 9AA. Refund of excess payment
10. Restrictions on the use of stage carriages in certain cases. No stage carriage shall be used on any public road in the State
11. Appeal against demand
12. Maintenance of accounts and registers
13. Power to order production of accounts
14. Powers of entry and inspection
15. Offences and penalties and competent court
16. Offences by companies
17. Composition of offences
18. Officers to be public servants
19. Bar of certain proceedings
20. Limitation for suits and prosecutions
21. Power to exempt certain passengers, from payment of tax
22. Power to make rules

SCHEDULE 1 :- SCHEDULE

**BOMBAY MOTOR VEHICLES (TAXATION OF PASSENGERS)
ACT, 1958**

67 of 1958

[]

An Act to provide for the levy of a tax on passengers carried in

certain classes of public service vehicles in the State of Bombay. Whereas it is expedient to provide for the levy of tax on passengers carried in certain classes of public service vehicles in the State of Bombay: It is hereby enacted in the Ninth Year of the Republic of India as follows:

1. Short title, extent and commencement :-

(1) This Act may be called the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958.

(2) It extends to the whole of the ¹ [State of Gujarat].

(3) This section shall come into force at once, and the rest of the Act shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

1. Substituted by Gujarat A.O. 1960.

2. Definitions :-

In this Act, unless the context otherwise requires,

(1) "fleet owner" means an operator holding a permit for one hundred or more stage carriages;

(2) "month" means a calendar month;

(3) "municipal area" means an area specified in the Schedule;

¹[(3A) "new capital area" means the area comprised in the new capital within the meaning of clause (c) of section 2 of the Gujarat New Capital (Periphery) Control Act, 1960; (Gujarat X of 1960)]

²[(4) "operator" means any person whose name is entered in the permit as the holder thereof and where stage carriage is used or caused or allowed to be used without a permit includes a person in whose name that vehicle is registered under the Motor Vehicles Act, 1939 (IV of 1939) or any person having the possession or control of such vehicle; and 'to operate' shall be construed accordingly;]

(5) "prescribed" means prescribed by rules made under this Act;

(6) "permit" means a permit granted or countersigned under the Motor Vehicles Act, 1939 (IV of 1939) authorising the use of a motor vehicle as a stage carriage or contract carriage in any part of the State;

(7) "stage carriage" means a motor vehicle carrying or adapted to

carry more than six persons excluding the driver, which carries passengers for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey, and includes such a carriage ³ [x x x] when used as a contract carriage within the meaning of the Motor Vehicles Act, 1939 (IV of-1939);

(8) "tax" means the tax referred to in section 3:

(9) "Tax Officer" means such officer as the State Government may, by notification in the Official Gazette, appoint to be the Tax Officer for the whole State or for any area or areas for the purposes of this Act, and the State Government may appoint more than one officer as Tax Officers for the whole State or for any area;

(10) The words and expressions used but not defined in this Act shall have the meaning assigned to them in the Motor Vehicles Act, 1939 (IV of 1939) and the rules made thereunder.

1. Clause (3A) was ins. by Gujarat 18 of 1969.

2. Clause (4) was sub. by Gujarat 19 of 1982.

3. The words "or other omnibus" were deleted by Gujarat 19 of 1982.

3. Levy of taxes on passengers carried by stage carriages :-

¹[(1) On the commencement of the Bombay Motor Vehicles (Taxation of Passengers) (Gujarat Amendment) Act, 1963, (Gujarat XV of 1963) there shall be levied and paid to the State Government, a tax on all passengers carried by stage carriage at such rate as would yield an amount equal to ²[seventeen and one half] of the inclusive amount of fares payable to the operator of a stage carriage:

³[Provided that where such stage carriage lies exclusively within the new capital area or a municipal area or exclusively on such routes serving the new capital area or a municipal area and also areas

Provided further that subject to such conditions as the State Government may, by notification in the Official Gazette, determine in this behalf, no such tax shall be leviable on any student ⁴ [in respect of journeys not more than two per day and from an educational institution or any other place attended by him in the bona fide prosecution of his studies or for undergoing any training

in compliance with the requirements of such educational institution].

Explanation.-The Explanation which was added by the President's Act No. 10 of 1971 has ceased to have effect on 30th November, 1972.

(2) After calculating the total amount of tax payable under sub-section (1) out of the total amount received by an operator during each month on account of inclusive fares in respect of the stage carriage or stage carriages held by him under a permit, the total amount of tax shall wherever necessary be rounded off to the nearest naya paisa, fractions of half a naya paisa and over being counted as one and less than half being disregarded.

1. Sub-section (1) was sub. by Gujarat 15 of 1963.
2. Substituted by Gujarat 1 of 1991 w.e.f. 1-11-1990.
3. The first proviso was sub. by Gujarat 18 of 1969.
4. Substituted by Gujarat 26 of 1964.

3A. Levy of additional tax on passengers carried by stage carriages :-

This section which was Inserted by the President's Act, 1971 (Gujarat 10 of 1971) has ceased to have effect on the expiry of its term of one year on 30th November, 1972.

4. Submission of returns :-

(1) In respect of the stage carriage or stage carriages held by him, the operator shall deliver or cause to be delivered to the Tax Officer or to such prescribed officer as the Tax Officer may specify a return in the prescribed form and manner either daily or at such intervals as may be prescribed:

Provided that different rules may be prescribed for the purpose of this sub-section in relation to fleet-owner from those in relation to other operators.

(2) When any return is received by a prescribed officer he shall forward it to the Tax Officer within the prescribed period and in the prescribed manner.

5. Tax to be paid every month into Government treasury :-

The tax payable during any month in accordance with the returns submitted under section 4 shall be paid into a Government treasury¹ [or in such other manner as may be prescribed] by the operator

and the receipt evidencing such payment forwarded to the Tax Officers, on or before such date or dates of the month immediately succeeding as may be prescribed in the case of fleet owners and other operators.

1. Inserted by Gujarat 13 of 1965.

6. Procedure where no returns are submitted, etc. :-

In the following cases that is to say:

(a) where no return have been submitted by the operator in respect of any stage carriage for any month or portion thereof, or

(b) where the returns submitted by the operator in respect of any stage carriage for any month or portion thereof appears to the Tax Officer to be incorrect or incomplete the Tax Officer shall, after giving the operator a reasonable opportunity in case (a) of making his representation, if any, and in case (b) of establishing the correctness and completeness of the returns submitted by him, determine the sum payable to the State Government by the operator by way of tax during such month or portion thereof:

Provided that the sum so determined shall not exceed the maximum tax which would have been payable to the State Government if the stage carriage had carried its full complement of passengers during such month or portion thereof,

7. Fares escaping assessment :-

If, for any reason, the whole or any portion of the tax leviable under this Act for any month has escaped assessment, the Tax Officer may, at any time within, but not beyond one year from the expiry of that month, assess the tax which has escaped assessment, after issuing a notice to the operator and making such inquiry as the officer may consider necessary.

8. Penalty for non-payment of tax :-

Where the whole or any portion of the tax payable to the State Government in respect of any stage carriage for any month or portion thereof in pursuance of sections, 5, 6 and 7 has not been paid to it in time, the Tax Officer may, in his discretion, levy in addition to the tax so payable, a penalty not exceeding 25 percent of the maximum tax which would have been payable to the State Government if the stage carriage had carried its full complement of passengers during such month or portion thereof.

9. Recovery of tax etc. :-

(1) In the cases referred to in sections 6, 7 and 8 the Tax Officer shall serve on the operator a notice of demand for the sums payable to the State Government and the sums specified in such notice may be recovered from the operator as arrears of land revenue.

(2) Where the sums specified in the notice of demand are not paid within fifteen days from the date on which the notice was served on the operator, the stage carriage in respect of which the tax is due and its accessories may be distrained and sold under the appropriate law relating to the recovery of arrears of land revenue whether or not such vehicle or accessories are in the possession or control of the operator:

Provided that no distraint shall be made in pursuance of this sub-section except at the instance or with the consent of the State Government or such officer as may be authorised by the State Government in this behalf.

(3) Distraints under sub-section (2) may also be made by such officers or class of officers as the State Government may, by general or special order, direct and the officer making any such distraint shall forward the proceedings thereof together with the distrained articles to the Collector for further action under sub-section (2).

9A. Liability of operator to pay interest :-

(1) Where the whole or portion of the tax payable to the State Government in respect of any stage carriage in pursuance of section 5, section 6 or section 7 has not been paid in time, the operator shall be liable to pay to the State Government simple interest at twelve percent per annum

(a) on the outstanding sum of the tax payable in pursuance of section 5, from the date prescribed under that section for the payment of such tax, and

(b) on the outstanding sum of the tax payable in pursuance of section 6 or section 7, from the day next after the expiry of the period of fifteen days referred to in sub-section (2) of section 9, until the date of such payment:

Provided that the amount of Interest payable under this sub-section shall in no case be less than five rupees.

(2) Where the whole or any portion of interest payable to the State Government in pursuance of sub-section (1) has not been paid, the Tax Officer shall serve on the operator a notice of demand for the amount of interest payable to the State Government.

(3) If the amount of interest specified in the notice of demand served under sub-section (2) is not paid to the State Government within fifteen days from the date on which such notice is served, the amount of interest shall be recoverable from the operator as arrears of land revenue.

(4) Notwithstanding anything contained in sub-section (3), the provision of sub-sections (2) and (3) of section 9 shall, so far as may be, apply in respect of the recovery of the amount of Interest specified in the notice of demand served under sub-section (2) as they apply in respect of recovery of the tax.]

9AA. Refund of excess payment :-

] .-The Tax Officer shall refund to an operator in such manner as may be prescribed ¹[the amount of tax, penalty and interest (if any)] paid by such operator in excess of the amount due from him. The refund may be either by cash payment or, at the option of the operator by deduction of such excess from ²[the amount of tax, penalty and interest (if any)] due in respect of any other period:

Provided that, the Tax Officer shall first apply such excess towards the recovery of any amount due in respect of which notice ³ [under sub-section (1) of section 9 or, as the case may be, under sub-section (2) of section 9A] has been served on the operator, and shall then refund the balance (if any)].

1. These words and brackets were sub. for the words "the amount of tax and penalty (if any)" by Gujarat 6 of 1977.

2. These words and brackets were sub. for the words "the amount of tax and penalty (if any)" by Gujarat 6 of 1977.

3. These words were sub. for the words, "under sub-section (1) of section 9" by Guj 6 of 1977.

10. Restrictions on the use of stage carriages in certain cases. No stage carriage shall be used on any public road in the State :-

(a) in case any ¹[tax, penalty or interest] payable in respect thereof remains unpaid for more than fifteen days after the notice of demand referred to in ²[section 9 or section 9A] has been served

on the operator, until such ³ [tax penalty or interest] is paid, or

(b) in case returns required by section 4 have not been submitted, if daily returns are required, for more than seven days, and if returns at less frequent intervals have been prescribed, for such number of times and during such period as may be prescribed, until the returns are submitted:

Provided that the Tax Officer may, if the operator proves to his satisfaction that the failure to submit the returns referred to in clause (b) was not deliberate, exempt the stage carriage from the operation of that clause.

1. These words were sub. for the words "tax or penalty" by Gujarat 6 of 1977.

2. These words, were sub. for the word and figure "or under section 9" by Gujarat 6 of 1977.

3. These words were sub. for the words "tax or penalty" by Gujarat 6 of 1977.

11. Appeal against demand :-

(1) Any operator objecting to a notice of demand served on him under section 9 ¹ [or under section 9A] may, within thirty days of the service thereof, appeal to the prescribed authority:

Provided that no appeal shall be entertained unless it is accompanied by satisfactory proof of the payment of the tax admitted by the appellant to be due.

(2) The prescribed authority may, after giving the appellant an opportunity of being heard, pass such orders on the appeal as it thinks fit.

1. These words, figure and letter were inserted for the words "or under section 9" by Gujarat 6 of 1977.

12. Maintenance of accounts and registers :-

Every operator shall keep and maintain accounts and registers in such forms as may be prescribed in respect of stage carriages and the fares collected in respect of passengers travelling therein.

13. Power to order production of accounts :-

The authority prescribed under sub-section (1) of section 11 or the Tax Officer or any officer empowered in this behalf by the State Government, may by order require any operator to produce such accounts, registers and documents, and to furnish information

relating to the stage carriages or the fares collected in respect of passengers travelling therein, as may be specified in the order.

14. Powers of entry and inspection :-

(1) Any Officer authorised by the State Government in this behalf may at all reasonable times enter into, inspect and search any stage carriage and any place ordinarily used by the operator for garaging such vehicle or keeping accounts of the business, for the purpose of seeing or verifying whether the provisions of this Act or any rules made thereunder are being complied with.

(2) All searches made under sub-section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973, (2 of 1973).

15. Offences and penalties and competent court :-

(1) Any person who

(a) being an operator, submits or allows to be submitted an incorrect or incomplete return under section 4 or falls to submit a return as required under that section: or

(b) being an operator, fraudulently evades or allows to be evaded, the payment of any tax due from him: or

(c) being an operator, fraudulently makes or allows to be made any wrong entry in, or fraudulently omits or allows to be omitted any entry from, any statement submitted, or any accounts or register maintained by him; or

(d) willfully acts in contravention of any of the provisions of this Act or any rules made thereunder or any lawful orders passed in accordance therewith;

(2) No offence punishable under this Act shall be inquired into or tried by any court inferior to that of ¹ [x x x] a Magistrate of the second class.

1. The words "a Presidency Magistrate or" were deleted by the Gujarat A.O. 1960.

16. Offences by companies :-

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to the company

for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section,

(a) "company" means a body corporate, and includes a firm or other association of individuals, and

(b) "director" in relation to a firm means a partner in the firm.

17. Composition of offences :-

(1) The Tax Officer may, either before or after the institution of proceedings for any offence punishable under section 15, accept from any person charged with such offence by way of composition of the offence, where the offence charged consists of the evasion of the tax, a sum of money not exceeding double the amount of the tax recoverable, in addition to the amount of tax so recoverable; and in other cases, a sum of money not exceeding two hundred and fifty rupees.

(2) On payment of such sum as may be determined by the Tax Officer, under sub-section (1), no further proceedings shall be taken against the accused person in respect of the same offence.

18. Officers to be public servants :-

All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

19. Bar of certain proceedings :-

(1) No prosecution or other proceeding shall be instituted in a Criminal Court without the previous sanction of the State Government, against any Officer or servant of the Government, for any act done or purporting to be done under this Act.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

20. Limitation for suits and prosecutions :-

No suit or other proceeding shall be instituted against the State and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within one year from the date of the act complained of.

21. Power to exempt certain passengers, from payment of tax :-

The State Government may, by notification in the Official Gazette, exempt totally or partially from payment of tax the passengers carried in stage carriages on such inter-State route as may be specified in the notification or carried by stage carriages operating in furtherance of any educational, medical, philanthropic or other object.

22. Power to make rules :-

(1) The State Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for

(a) the officer to receive returns under section 4 and the intervals, if any, at which returns under that section shall be submitted and the period within which and the manner in which such officer shall forward the return to the Tax Officer:

(b) the maintenance of accounts and registers and the submission of returns and statements by operators:

(c) the manner of serving notices of demand under this Act;

(d) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act;

(e) the authority to which an appeal may be preferred under subsection (1) of section 11;

(f) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act.

(g) any other matter which is required or allowed by this Act to be prescribed.

(3) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication for a period of not less than one month.

(4) All rules made under this section shall be published in the Official Gazette and shall, unless some later date is appointed, come into force on the date of such publication.

SCHEDULE 1

SCHEDULE

<p>(See Section 2) Area within the jurisdiction of- (1) a Corporation constituted under [x x x] the Bombay Provincial Municipal Corporations Act, 1949 (Bom LIX of 1949) [x x x], or (2) a municipality constituted or deemed to be constituted under the Gujarat Municipalities Act, 1963] (XXXIV of 1964) (3) a Cantonment Board constituted under the Cantonments Act, 1924 (II of 1924).</p>
