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PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1329-L.—26th August, 2004.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act X of 2004

**THE WEST BENGAL ADDITIONAL TAX AND ONE-TIME TAX ON
MOTOR VEHICLES (AMENDMENT) ACT, 2004.**

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Kolkata Gazette, Extraordinary*, of the 26th August, 2004.]

An Act to amend the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989.

WHEREAS it is expedient to amend the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989, for the purposes and in the manner hereinafter appearing;

West Ben. Act
XIX of 1989.

It is hereby enacted in the Fifty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and
commencement.

1. (1) This Act may be called the West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 2004.
- (2) It shall be deemed to have come into force on the 9th day of June, 2004.

The West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 2004.

(Sections 2-4.)

Amendment of
section 2 of West
Ben. Act XIX of
1989.

2. In section 2 of the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989 (hereinafter referred to as the principal Act),—

(a) for clause (d2), the following clause shall be substituted:—

(d2) “life-time tax” means the tax imposed on motor cycle or motor cycle combination under the Act and leviable for the entire life-time of such motor cycle or motor cycle combination, as the case may be;’;

(b) for clause (i), the following clause shall be substituted:—

(i) “one-time tax” means the tax imposed under the Act—

(A) on motor cycle or motor cycle combination for a period of fifteen years from the date of its registration before the commencement of the West Bengal Additional Tax and One-time Tax on Motor Vehicles (Second Amendment) Act, 2003; and

(B) on motor car and omnibus as specified in Schedule IV for a period of five years from the date of its registration;’;

(c) after clause (g), the following clause shall be inserted:—

(gl) “notification” means a notification published in the *Official Gazette*;’.

West Ben. Act
XX of 2003.

Amendment of
section 3.

3. In sub-section (2) of section 3 of the principal Act, for clause (c), the following clause shall be substituted:—

(c) Where a transport vehicle registered in any State other than West Bengal is found to be plying within West Bengal without valid permit or without payment of additional tax payable under this Act, the duration of such plying shall, notwithstanding anything contained in this section or elsewhere in this Act, be reckoned as the duration for a period of seventeen weeks retrospectively from the date of interception and such transport vehicle shall be liable to pay additional tax at the rates specified in item (c) of serial No. 4 under the sub-heading “B. Vehicles for carrying passengers for hire or reward.” or, as the case may be, in serial No. 2 under the sub-heading “C. Goods carriages and those owned by motor training schools”, of heading “Description of Motor Vehicles and Rate of Additional Tax”, in Schedule I, for a period of seventeen weeks retrospectively from the date of every interception of the transport vehicle together with a fine of an equivalent sum.’.

Amendment of
section 9A.

4. In section 9A of the principal Act,—

(1) in sub-section (1), for the first proviso, the following proviso shall be substituted:—

“Provided that the owner of a motor cycle registered after the 25th day of November, 1991, shall be liable to pay the difference of the rate of life-time tax payable as specified in Schedule III, and the one-time tax already paid, and if the difference amount is not paid within such period as may be notified by the State Government, a penalty at the rate specified under clause (b) of sub-section (2) of section 10, shall be charged;”;

(2) for sub-section (2), the following sub-section shall be substituted:—

“(2) If life-time tax in respect of a motor cycle has already been paid under sub-section (1) and the said motor cycle is removed from

The West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 2004.

(Sections 5, 6.)

West Bengal on change of address or the registration of the same has been cancelled or it is destroyed or rendered permanently incapable of being used under section 55 of the Motor Vehicles Act, 1988, the owner of the said motor cycle shall be entitled to claim refund at the rate specified in Part II of Schedule III.”;

59 of 1988.

(3) after sub-section (2), the following sub-sections shall be inserted:—

“(3) No further tax need be paid under this Act, or the West Bengal Motor Vehicles Tax Act, 1979, for such motor cycle, once such life-time tax or the difference of tax has been paid under sub-section (1).

West Ben. Act IX of 1979.

(4) Where a Taxing Officer is satisfied, that the owner of a motor cycle has paid the one-time tax or the life-time tax but the vehicle has become temporarily unusable and that the certificate of registration and the tax token under section 14 of the Act have been duly surrendered or that the motor cycle has not been used or kept for use for a complete calendar month, he shall, on claim by the owner of the motor-cycle, refund or remit for each such calendar month 1/360th of the life-time tax or 1/180th of the one-time tax, as the case may be, for such motor cycle.”.

Amendment of section 9B.

5. In section 9B, for sub-section (5), the following sub-section shall be substituted:—

“(5) (a) If one-time tax in respect of a motor vehicle has already been paid under sub-section (2) or sub-section (3), as the case may be, and if the said motor vehicle is removed from West Bengal on change of address or the registration of the same has been cancelled or it is destroyed or rendered permanently incapable of being used under section 55 of the Motor Vehicles Act, 1988, the owner of the said motor vehicle shall be entitled to claim refund at the rate specified in Part II of Schedule IV.

(b) Where a Taxing Officer is satisfied that any such motor vehicle for which one-time tax has been paid and that it has become temporarily unusable and the certificate of registration along with the tax token under section 14 have been surrendered or that such motor vehicle has not been used or kept for use for a complete calendar month, he shall, on claim by the owner of the motor vehicle, refund or remit for each such calendar month in respect of such motor vehicle 1/60th of the one-time tax for such motor vehicle.”.

Substitution of new section for section 10.

6. For section 10 of the principal Act, the following section shall be substituted:—

“Mode of payment. 10. (1) The Registered Owner of a motor vehicle as specified in Schedules I, III or IV or the person legally in possession of such motor vehicle shall be liable to make payment of the additional tax or life-time tax or one-time tax, as the case may be, in the manner as may be prescribed by the State Government.

(2) When the Registered Owner of a motor vehicle or the person legally in possession of a motor vehicle as aforesaid fails to make payment of the additional tax or life-time tax or one-time tax as may be due by the date on which it becomes payable, he shall be liable, to make payment of the tax along with the penalty in the manner as follows:—

(a) there shall be a grace period for 15 days for payment of the additional tax or life-time tax or one-time tax from the date on which it becomes payable;

The West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 2004.

(Section 6.)

(b) the registered owner of a motor cycle or motor cycle combination or the person legally in possession of the motor vehicle, as the case may be, shall, for the delay for payment of additional tax or life-time tax, be liable to pay penalty at the following rate:—

(i) for the delay up to 15 days after the expiry of the day on which the additional tax or life-time tax becomes payable	Nil
(ii) for the delay from 16th to 45th day after the expiry of the day on which the additional tax or life-time tax becomes payable	25% of the tax payable
(iii) for the delay from 46th to 75th day after the expiry of the day on which the additional tax or life-time tax becomes payable	50% of the tax payable
(iv) for the delay for more than 75 days after the expiry of the day on which the additional tax or life-time tax becomes payable	The amount equal to the amount of tax payable

(c) the registered owner of the motor vehicle or the person legally in possession of the motor vehicles, as the case may be, shall, for the delay for payment of one-time tax shall be liable to pay penalty at the following rate:—

(i) for the delay in payment of such one-time tax up to one year from the date when such one-time tax becomes payable—	
(a) for the delay up to 15 days after the expiry of the day on which the one-time tax becomes payable	Nil
(b) for the delay from 16th to 45th day after the expiry of the day on which the one-time tax becomes payable	$\frac{1}{20}$ th part of the one-time tax payable
(c) for the delay from 46th to 75th day after the expiry of the day on which one-time tax becomes payable	$\frac{1}{10}$ th part of the one-time tax payable
(d) for the delay for more than 75 days after the expiry of the day on which one-time tax becomes payable	$\frac{1}{5}$ th part of the one-time tax payable
(ii) for the delay in payment of such one-time tax beyond one year and up to two years from the date when such one-time tax becomes payable	$\frac{2}{5}$ th part of the one-time tax payable
(iii) for the delay in payment of such one-time tax beyond two years and up to three years from the date when such one-time tax becomes payable	$\frac{3}{5}$ th part of the one-time tax payable
(iv) for the delay in payment of such one-time tax beyond three years and up to four years from the date when such one-time tax becomes payable	$\frac{4}{5}$ th part of the one-time tax payable
(v) for the delay in payment of such one-time tax beyond four years from the date when such one-time tax becomes payable	The amount equal to the amount of one-time tax payable.”.

*The West Bengal Additional Tax and One-time Tax on
Motor Vehicles (Amendment) Act, 2004.*

(Section 7.)

Substitution of
new section for
section 21.

7. For section 21 of the principal Act, the following section shall be substituted:—

“Refund or remission of tax. 21. (1) Every person who is entitled to claim refund of additional tax under sub-section (2) of section 8, or life-time tax under sub-section (2) of section 9A or one-time tax under sub-section (5) of section 9B, shall make such claim in plain paper to the Taxing Officer concerned, and such application shall be accompanied by supporting evidence to show that certificate of registration and tax token were surrendered or that the motor vehicle was permanently removed from West Bengal on change of address or that the registration of the vehicle was cancelled, as the case may be.

(2) Where a Taxing Officer is satisfied that the certificate of registration and the tax token under section 14 of the Act, in respect of a motor vehicle has been surrendered or that a motor vehicle has not been used or kept for use for a complete calendar month, he shall, on claim by the owner of the motor vehicle, refund or remit for each such calendar month $\frac{1}{12}$ th of additional tax or $\frac{1}{360}$ th of life-time tax or $\frac{1}{180}$ th or $\frac{1}{60}$ th of one-time tax, as the case may be:

Provided that where a motor vehicle for the transport of goods or a motor vehicle for the carriage of passengers for hire or reward or otherwise, has not been used for any period in West Bengal by reason of its being removed and kept outside West Bengal during such period, the Taxing Officer shall not refund or remit any sum in respect of such motor vehicle for any period during which the motor vehicle is removed and kept outside West Bengal.

(3) Where an excess of additional tax or life-time tax or one-time tax has been paid for any period on account of over assessment by the Taxing Officer or otherwise, the amount paid in excess of the amount payable under the Act shall be refunded in the manner, as may be prescribed.

(4) Where, after the payment of additional tax or life-time tax or one-time tax in respect of a motor vehicle, it is found that such motor vehicle is not subject to any additional tax or life-time tax or one-time tax under the Act, the additional tax or life-time tax or one-time tax so paid shall be refunded by the Taxing Officer in the manner as may be prescribed:

Provided that such refund or remission for such period shall be made by the Taxing Officer under the appropriate head of account subject to the condition that provisions of rule 95 of the West Bengal Treasury Rules, Volume I, shall be followed authorizing such refund or remission and such refund or remission shall be recorded in the revenue register of the Taxing Officer against the original entry of credit in the Books of Accounts:

Provided further that notwithstanding anything to the contrary contained in this sub-section, the State Government may, if it thinks fit and necessary so to do, by notification, prescribe guidelines for such refund or remission.

(5) Any amount to be refunded or remitted under sub-section (1) may, at the option of the person entitled to the refund or remit of such amount, be adjusted towards the additional tax or life-time tax or one-time tax, as the case may be, for any subsequent period:

Provided that if any amount being the penalty due from the person entitled to the refund or remit remains outstanding, the amount to be refunded or remitted shall first be adjusted towards the outstanding dues, and the balance, if any, shall be refunded.”.

The West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Act, 2004.

(Sections 8, 9.)

Amendment of Schedule I.

8. In the heading ‘Description of Motor Vehicles and rate of Additional Tax’ under the Schedule I of the principal Act,—

(1) in the sub-heading ‘B. Vehicles for carrying passengers for hire or reward:’ after sub-item (i) of item (c) in serial No. 3, the following proviso shall be inserted:—

“Provided that for the three hilly sub-divisions of the district of Darjeeling, the amount of such tax shall be Rs. 1500/-.”;

(2) for the sub-heading “C. Goods-carriages and those owned by motor training schools” and the entries relating thereto, the following sub-heading and the entries relating thereto shall be substituted:—

“C. Goods carriages and those owned by motor training schools—

(1) 50% of the annual tax payable under the West Bengal Motor Vehicles Tax Act, 1979 in respect of vehicles registered in the State of West Bengal;

(2) 80% of the annual tax payable under the West Bengal Motor Vehicles Tax Act, 1979, in respect of vehicles registered in any State other than the State of West Bengal till allotment of a new registration made by the appropriate transport authority in West Bengal.”.

West Ben. Act IX of 1979.

Amendment of Schedule III.

9. In Schedule III of the principal Act, for Part II, the following Part shall be substituted:—

“PART II

Rate of refund for motor cycle and motor cycle combination in cases where removal or cancellation of registration taken place after registration under section 9A.

Sl. No.	Life-time tax on motor cycle	Up to 80 cc	Above 80 cc	Above 170 cc	Above 250 cc
(1)	(2)	(3)	(4)	(5)	(6)
		Rs.	Rs.	Rs.	Rs.
1.	New up to 1 year	1460	2925	4375	5835
2.	Between 1 and 2 years	1360	2725	4065	5420
3.	Between 2 and 3 years	1260	2525	3755	5000
4.	Between 3 and 4 years	1160	2325	3445	4585
5.	Between 4 and 5 years	1050	2125	3135	4170
6.	Between 5 and 6 years	960	1925	2825	3755
7.	Between 6 and 7 years	830	1675	2485	3330
8.	Between 7 and 8 years	725	1475	2165	2900
9.	Between 8 and 9 years	625	1250	1850	2475
10.	Between 9 and 10 years	525	1050	1540	2060
11.	Between 10 and 11 years	425	850	1230	1645
12.	Between 11 and 12 years	325	650	920	1230
13.	Between 12 and 15 years	225	450	610	815
14.	After 15 years	125	250	390	585 .”.

*The West Bengal Additional Tax and One-time Tax on
Motor Vehicles (Amendment) Act, 2004.*

(Section 10.)

Amendment of
Schedule IV.

10. In Schedule IV of the principal Act, for Part I, the following Part shall be substituted:—

“PART I

One-time tax for a period of five years on motor cars and omnibuses
(not being transport vehicles)

Sl. No.	Description of motor vehicles	Engine/seating capacity	One-time tax payable
(1)	(2)	(3)	(4)
Rs.			
(1)	Motor cars owned by individual or societies registered under the West Bengal Societies Registration Act, 1961 or any organization having exemption from income- tax.	(a) Engine capacity up to 900 cc (b) Engine capacity beyond 900 cc up to 1490 cc (c) Engine capacity beyond 1490 cc up to 2000 cc (d) Engine capacity beyond 2000 cc	8550.00 9900.00 15300.00 20000.00
(2)	Motor cars owned by others	(a) Engine capacity up to 900 cc (b) Engine capacity beyond 900 cc up to 1490 cc (c) Engine capacity beyond 1490 cc up to 2000 cc (d) Engine capacity beyond 2000 cc	9900.00 11250.00 18000.00 22000.00
(3)	Omnibus registered as Non-Transport Vehicle	(a) With seating capacity up to 10 (b) With seating capacity beyond 10	13950.00 13950.00 for 10 seats <i>plus</i> Rs. 1000.00 for every additional seat beyond 10:

*The West Bengal Additional Tax and One-time Tax on
Motor Vehicles (Amendment) Act, 2004.*

(Section 11.)

Provided that a special tax at the following rates shall be required to be paid as one-time tax in respect of a motor vehicle of the description in serials (1), (2) and (3), if such motor vehicle is air-conditioned:—

Engine/seating capacity	One-time tax payable
(i) engine capacity up to 900 cc	Rs. 4000
(ii) engine capacity above 900 cc up to 1490 cc	Rs. 7500
(iii) engine capacity above 1490 cc up to 2000 cc	Rs. 10000
(iv) engine capacity above 2000 cc	Rs. 12500 .”.

Repeal and saving.

11. (1) The West Bengal Additional Tax and One-time Tax on Motor Vehicles (Amendment) Ordinance, 2004, is hereby repealed.

West Ben. Ord. II of 2004.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been validly done or taken under the principal Act.

By order of the Governor,

S. K. NANDY,
Secy. to the Govt. of West Bengal,
Law Department.