

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative

West Bengal Act XIX of 1989

**THE WEST BENGAL ADDITIONAL TAX AND
ONE-TIME TAX ON MOTOR VEHICLES
ACT, 1989.**

[Passed by the West Bengal Legislature.]

[Assent of the President of India was first published in the
Calcutta Gazette, Extraordinary, of the 16th September, 1989.]

[16th September, 1989.]

An Act to provide for the imposition and levy of additional tax and one-time tax on motor vehicles in the State of West Bengal.

WHEREAS it is necessary, in the public interest, to provide for the imposition and levy of additional tax and one-time tax on motor vehicles in the State of West Bengal;

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

1. (1) This Act may be called the West Bengal Additional Tax and One-time Tax on Motor Vehicles Act, 1989.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of West Bengal.

(3) It shall be deemed to have come into force on the 1st day of April, 1989.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “additional tax” means the tax imposed under this Act and leviable in respect of motor vehicles as shown in Schedule I;

(b) “bus of a company” means the bus or omnibus registered as a private service vehicle or as a contract carriage and owned by a company registered under the Companies Act, 1956 or by any firm (proprietorship or partnership) or any society or any corporate body or any trust or any educational institution or any organisation, whether registered or not:

Provided that a motor vehicle not registered in the name of any individual shall be deemed to be owned by a company, firm, society, corporate body, trust, educational institution or organisation;

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(Section 2.)

- (c) "De luxe bus" means an omnibus as conforms to the specifications and standards laid down for tourist vehicles under the Motor Vehicles Act, 1939, not covered by any tourist permit (All Bengal or All India), or any other bus that may be specified as such by the State Government from time to time; 4 of 1939.
- (d) "Express bus" means an omnibus plying under a contract carriage permit, or under a stage-carriage permit or special stage carriage permit with a limited or selected number of stages commonly known as Express bus or Limited Service bus;
- (e) "motor car" means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor-cycle or invalid carriage;
- (f) "motor cycle" means a motor cycle as defined in the Motor Vehicles Act, 1939;
- (g) "motor vehicle" means the motor vehicle as defined in the Motor Vehicles Act, 1939;
- (h) "omnibus" means an omnibus as defined in the Motor Vehicles Act, 1939;
- (i) "one-time tax" means the tax imposed under this Act and leviable in respect of motor vehicles as shown in Schedule II;
- (j) "permit" means the permit as defined in the Motor Vehicles Act, 1939;
- (k) "prescribed" means prescribed by rules made under this Act;
- (l) "Taxing Officer" means a Taxing Officer as defined in the West Bengal Motor Vehicles Tax Act, 1979;
- (m) "Tourist bus" means a bus or an omnibus registered or plying as a contract carriage and covered by a tourist permit under the Motor Vehicles Act, 1939 and includes a tourist omnibus; West Ben. Act IX of 1979.
- (n) "tractor" means a motor vehicle which is not itself constructed to carry any load (other than equipment used for the purpose of propulsion), but does not include a road-roller or a tractor used solely for agricultural purposes;
- (o) "trailer" means any vehicle drawn or intended to be drawn by a motor vehicle;
- (p) all other words and expressions used in this Act but not defined shall have same meaning as in the Motor Vehicles Act, 1939.

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(Sections 3-5.)

3. (1) Every owner of a registered motor vehicle or every person, who owns or keeps in his possession or control any motor vehicle as described in Schedule I, shall pay the additional tax at the rate specified therein against such vehicle:

Additional
Tax.

Provided that in the case of a motor vehicle registered outside West Bengal, whether temporarily under section 25 of the Motor Vehicles Act, 1939 or otherwise and which is used or kept for use in West Bengal temporarily, additional tax shall be payable for every week or part thereof for which the motor vehicle is so used or kept for use in West Bengal, at the rate of one-fifty second part of the additional tax payable for the year.

(2) The State Government may, by notification in the *Official Gazette* from time to time, increase the rate of tax specified in Schedule I.

(3) The State Government may exempt any motor vehicle if it thinks it necessary and expedient so to do, and may specially exempt any motor vehicle belonging to the Government of India or any State transport undertaking carried on by the State Government or any motor vehicle which is exempted from the provisions of the West Bengal Motor Vehicles Tax Act, 1979.

4. Every owner of a motor vehicle as described in Schedule I and registered in any State other than West Bengal and plying in West Bengal shall pay the additional tax at the rate specified in Schedule I, notwithstanding anything contained in any Inter-State Reciprocal Transport Agreement under sub-section (3B) of section 63 of the Motor Vehicles Act, 1939.

Payment of
additional
tax by owner
of a motor
vehicle
registered in
other State
and plying
in West
Bengal.

5. (1) Every owner of a motor vehicle registered in West Bengal or on change of address to West Bengal, who is liable to pay additional tax under section 3, shall pay such tax at the rate specified in Schedule I, to the Taxing Officer having jurisdiction.

Payment of
additional
tax by motor
vehicle
registered
in West
Bengal.

(2) In the case of a motor vehicle temporarily registered under section 25 of the Motor Vehicles Act, 1939, which is subject to additional tax under section 3, shall pay only one-twelfth of such tax payable for the year in respect of such vehicle.

(3) The additional tax payable under section 3 shall be paid for the year and in advance by the person liable to pay such tax within such period as may be determined by the Taxing Officer or by the State Government by order from time to time, provided that in the case of transport vehicles, the Taxing Officer shall allow payment of additional tax for quarterly periods of three calendar months in the manner determined by him. Such tax shall not exceed a quarter of the tax payable for the year. A rebate of five per cent. shall be allowed if the tax is paid for the year in advance.

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(Sections 6-9.)

(4) The additional tax as leviable under section 4 shall be realised by the permit issuing authority while granting the permit for areas falling within West Bengal and shall endorse the fact of having realised the due additional tax on the permit and remit the proceeds to the State Transport Authority, West Bengal, by a Bank Draft on any Nationalised Bank having its branch in Calcutta.

(5) The additional tax leviable under section 3 and section 4 shall be computed on the basis of the annual rate of tax as shown in Schedule I and such tax for any period of every week or any part thereof shall be one-fifty second of the annual additional tax.

Realisation
of addi-
tional tax.

6. The additional tax leviable under section 4 shall be realised by the authority where under any law for the time being in force such authority has to countersign the permit, and in such case the tax shall be leviable for the entire duration for which the countersignature subsists.

Computation
of addi-
tional tax.

7. The additional tax leviable under section 4 shall be computed on an annual basis and shall be payable to the authority concerned before the date on which the tax becomes payable, that is, the date on which the validity of the countersignature commences.

Payment of
additional
tax on
conversion
of motor
vehicle.

8. (1) Whenever a motor vehicle of any description is converted to a motor vehicle of other description referred to in Schedule I, the motor vehicle as so converted shall be subject to additional tax as leviable under this Act with effect from the date on which such conversion takes place.

(2) Whenever a motor vehicle ceases to be a motor vehicle of any description referred to in Schedule I, such portion of the additional tax shall be refundable on claim within fifteen days of such conversion as may seem to the taxing authority to be refundable, calculation being made on the basis of the period for which the vehicle bore the description of the motor vehicle referred to in Schedule I to come within the purview of additional tax under this Act.

(3) No additional tax under this Act shall be payable in respect of a motor vehicle for the period for which such additional tax has already been paid by any person.

One-time
tax.

9. (1) A one-time tax in lieu of annual tax as leviable under the West Bengal Motore Vehicles Tax Act, 1979, shall be leviable on motor cycles as shown in Schedule II at the rate specified therein.

West Ben.
Act IX of
1979.

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(Section 10.)

(2) With effect from the date of commencement of this Act, the owner of any motor cycle being less than fifteen years old, when applying for first registration or assignment of fresh registration mark or change of address on removal of the motor cycle from another State other than West Bengal, shall pay one-time tax as specified in Schedule II in lieu of any tax payable under the West Bengal Motor Vehicles Tax Act, 1979.

West Ben.
Act IX of
1979.

(3) The owner of any motor cycle being less than fifteen years old, which is already registered in West Bengal and the tax in respect of which is being paid annually under the West Bengal Motor Vehicles Tax Act, 1979, shall, from the date of commencement of this Act, pay one-time tax at the rate specified in Schedule II in lieu of the annual tax under that Act on the expiry of the period for which the annual tax under that Act has been paid.

(4) The owner of any motor cycle of the description referred to in sub-section (2) or sub-section (3), which is more than fifteen years old, shall pay the annual tax, in lieu of one-time tax, under the West Bengal Motor Vehicles Tax Act, 1979.

(5) The State Government may require the manufacturer or the dealer of motor cycles to furnish to it the names and addresses of the purchasers of motor cycles with effect from such date as may be determined by the State Government by notification published in the *Official Gazette*.

(6) If one-time tax in respect of a motor cycle has already been paid under sub-section (2) or sub-section (3), and if the said motor cycle is removed from West Bengal on change of address or on cancellation of registration, the owner of such motor cycle shall be entitled to claim refund at the rate specified in Part II of Schedule II.

(7) The one-time tax payable under sub-section (2) or sub-section (3) shall be paid for the year for which it is due and in advance by the person liable to pay the tax within such period as may be determined by the Taxing Officer or the State Government by order from time to time.

10. (1) The registered owner of a motor vehicles as specified in Schedule I or Schedule II or the person legally in possession of such motor vehicle shall be liable to make payment of the additional tax or one-time tax, as the case may be, in the manner prescribed.

Mode of
payment.

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(Sections 11, 12.)

(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 one-time tax as may be due by the date on which it becomes payable, he shall be liable, beyond the grace period mentioned hereinafter in this sub-section, to make payment of the tax in the manner as follows:—

- (a) there shall be a grace period for fifteen days for payment of the additional tax or one-time tax from the date on which it becomes payable;
- (b) after the period as aforesaid is over, delay for every fifteen days or part thereof shall render the registered owner of the motor vehicle or the person legally in possession of the motor vehicle, as the case may be, liable to pay penalty at the rate of ten *per cent.* of the total amount of additional tax or one-time tax payable for every fifteen days' delay or part thereof.

Seizure of
motor
vehicle.

11. (1) Where, in respect of any motor vehicle, it is detected that the additional tax under section 3 or section 4 or one-time tax under section 9 is leviable but the owner of such motor vehicle has failed to make payment of such tax in accordance with the foregoing provisions of this Act, the motor vehicle shall be liable to seizure by the authority defecting the default and the total tax together with the penalty under clause (b) of sub-section (2) of section 10 shall be recoverable from such owner.

(2) The authority to seize any motor vehicle under sub-section (1) of this section shall be the Taxing Officer or the Motor Vehicles Inspector or any officer authorised by him, or any Executive Magistrate, or any Police Officer not below the rank of a Sub-Inspector of police, or any officer authorised by a court having jurisdiction.

Notice of
seizure.

12. (1) Upon the seizure of a motor vehicle under sub-section (1) of section 11, the officer, other than the police officer, who seizes the motor vehicle shall issue a notice upon the owner through the driver of the motor vehicle to make payment to the Taxing Officer of the area in which the motor vehicle has been seized, of the dues calculated at the rate specified in clause (b) of sub-section (2) of section 10 within fifteen days from the date of issue of the notice.

(2) where the driver leaves the motor vehicle, the officer who seizes the motor vehicle shall issue a notice in the prescribed form to the owner of the motor vehicle by registered post with acknowledgement due, calling upon him to pay the dues calculated at the rate specified in clause (b) of sub-section (2) of section 10 together with a further penalty equivalent to ten *per cent.* of the amount so calculated to the Taxing Officer within whose area the vehicle has been seized.

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(Section 12.)

(3) Where the officer who seizes the vehicle, is a Police Officer of the area where the vehicle has been seized, the Officer seizing the vehicle shall immediately send a report with all the particulars to the Taxing Officer of the area in which the vehicle has been seized.

(4) Upon receipt of the report under sub-section (3), the Taxing Officer shall proceed in accordance with the provisions of sub-section (1) or sub-section (2) of this section, as the case may be.

(5) As soon as a motor vehicle is seized in accordance with the provisions of section 11, the authority which seizes the motor vehicle shall issue a seizure list and bring the motor vehicle to the nearest police-station where the officer-in-charge, upon receipt of the report of seizure, shall take the motor vehicle into custody after preparation of an inventory, in triplicate, in the presence of the officer seizing the motor vehicle and the driver or the owner of the motor vehicle, if available, or, in their absence, in the presence of two disinterested persons of the locality as may be available. The officer-in-charge of the police-station, the officer who seized the motor vehicle, and the driver or the owner of the motor vehicle or the witnesses, as the case may be, shall sign the inventory and the officer-in-charge of the police-station shall issue one copy of the inventory to the officer who seized the motor vehicle and one copy to the driver or the owner of the motor vehicle, if available, and shall retain one copy or, in the absence of the driver or the owner of the motor vehicle, two copies and shall issue a receipt in the prescribed form.

(6) If the owner fails to make payment of any dues within one month of the demand, the motor vehicle shall be liable to be sold in auction by the Taxing Officer or the District Magistrate in whose jurisdiction the vehicle has been seized or the Director, Public Vehicles Department, if the motor vehicle is seized within the jurisdiction of the Calcutta Metropolitan district.

(7) If the driver leaves the motor vehicle as soon as it is seized and the owner is not immediately available and his address cannot be ascertained despite enquiry from the registering authority, the notice of demand together with the particulars of the motor vehicle shall be published in at least two newspapers having wide circulation, of which one must be in Bengali, specifying therein the date on which the motor vehicle shall be sold in auction in the event of failure of the owner to make payment of the dues. In such case, the date of auction shall not be earlier than three months from the date on which the seizure is made.

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(Sections 13-17.)

(8) If in any auction under sub-section (2), the price realised falls short of the dues, the balance shall be recoverable from the owner of the motor vehicle, as if it is a public demand under the Bengal Public Demands Recovery Act, 1913. If the price obtained at the auction is higher than the dues together with the incidental cost as may be assessed by the officer conducting the auction, the excess shall be payable to the registered owner of the motor vehicle. If the owner is not available on notice, the amount shall remain in deposit for three years from the date on which it is refundable and shall thereafter be forfeited to the State.

Ben. Act III
of 1913.

Disposal of
commodi-
ties.

13. (1) Whenever a motor vehicle is seized under this Act and is found to contain perishable commodities and the owner is not readily available or does not take back the motor vehicle after making payment of the dues by such time that the commodities do not get deteriorated or perished, the Taxing Officer within whose jurisdiction the motor vehicle has been seized shall dispose of the same by public auction after publicity in the locality and the markets nearby.

(2) Whenever a motor vehicle is seized under this Act and is found to contain non-perishable commodities and the owner does not take back the motor vehicle after making payment of the dues within one month of the demand, the said commodities shall be disposed of in the same manner and by the same authority as referred to in sub-section (6) or sub-section (7) or sub-section (8) of section 12, as the case may be.

Issue of
receipt.

14. Every owner of a motor vehicle shall be granted a receipt by the Taxing Officer, on his making payment of the additional tax or one-time tax, as the case may be, together with the penalties, if any, in the prescribed form and the fact of payment shall be endorsed on the tax token issued under the West Bengal Motor Vehicles Tax Act, 1979.

West Ben.
Act IX of
1979.

Release of
motor
vehicle.

15. No court shall release a motor vehicle seized under this Act unless the person in whose favour the motor vehicle is released, furnishes bank guarantee equivalent to one and half times the demand with an undertaking to make payment of the demand within four weeks from the date on which the vehicle is released.

Declaration.

16. (1) Every person, who is liable to pay additional tax or one-time tax in respect of a motor vehicle under this Act, shall fill up and sign a declaration in the prescribed form stating the prescribed particulars and shall deliver the declaration as so filled up and signed to the Taxing Officer and shall pay to the Taxing Officer the additional tax or one-time tax to which he appears to be liable, upon such declaration, to pay in respect of such motor vehicle.

(2) Any person who submits a false or incorrect declaration under sub-section (1) shall, on conviction, be punishable with fine which may extend to five hundred rupees.

Endorse-
ment on tax
token.

17. The Taxing Officer shall, at the time of granting a receipt for the additional tax, make an endorsement in the tax token on that behalf.

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(Sections 18-24.)

18. If the additional tax payable in respect of any motor vehicle remains unpaid by any person liable for the payment thereof and such person, before paying the additional tax, transfers the ownership of such motor vehicle or ceases to be in possession or control of such motor vehicle, the person to whom the ownership of the motor vehicle has been transferred or the person who is in possession or control of such motor vehicle, shall be liable to pay the said additional tax:

Payment of additional tax in case of transfer of ownership of motor vehicle.

Provided that nothing contained in this section shall be deemed to affect the liability to pay the said additional tax on the person who has transferred the ownership or has ceased to be in possession or control of the motor vehicle.

19. Notwithstanding anything contained in the Motor Vehicles Act, 1939, if the additional tax or one-time tax due in respect of a transport vehicle is not paid within the due period, the permit shall be invalid from the date of expiry of the said period till the tax is actually realised.

Permit to be invalid.

20. Any person liable to pay additional tax or one-time tax under this Act shall not use or allow the use of any motor vehicle where he has reason to believe that the endorsement on tax token, additional tax or one-time tax receipt and permit have been forged, tampered with or fraudulently obtained.

Bar to use of motor vehicle.

21. Every person, who is entitled to claim refund under sub-section (2) of section 8 or sub-section (6) of section 9, shall make such claim in such form and manner and before such authority as may be prescribed.

Refund.

22. (1) Any person aggrieved by an order made by a Taxing Officer under this Act may prefer an appeal against such order before such authority, in such manner, within such time, and on payment of such fees, as may be prescribed.

Appeal.

(2) An appeal under sub-section (1) shall be heard by the appellate authority in such manner as may be prescribed and the decision of the appellate authority on such appeal shall be final:

Provided that no order shall be passed by the appellate authority without giving the appellant an opportunity of being heard.

23. Whoever contravenes any provision of this Act or of any rules or orders made thereunder shall, if no penalty is provided for such contravention, be punishable for the first offence, with fine which may extend to three hundred rupees and for any subsequent offence, with fine which may extend to five hundred rupees.

Penalty.

24. (1) The State Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which may be, or are required to be, prescribed by rules.

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SCHEDULE I

(See sections 3 and 4.)

Description of motor vehicles and rate of additional tax

A. Motor vehicles for carrying passengers not plying for hire:

Description of motor vehicles	Annual rate of additional tax
(1) Motor cars kept for personal use and registered in personal name.	50% of the tax which is payable under the West Bengal Motor Vehicle Tax Act, 1979.
(2) Motor cars owned by any society, partnership firm, proprietaryship firm, corporate body, whether registered or not, educational institution, organisation and trust (excluding those owned by companies registered under the Companies Act, 1956) for carrying employees or other passengers or used otherwise except for hire or reward.	Rs. 500
(3) Jeeps, omnibuses with seating capacity of 20 or below.	50% of the tax which is payable under the West Bengal Motor Vehicle Tax Act, 1979.

B. Motor vehicles (for carrying passengers) plying for hire:

Description of motor vehicles	Annual rate of additional tax
1. (a) De luxe Bus	Rs. 4000
(b) Tourist Bus	Rs. 4000
(c) Express Bus	Rs. 4000
(d) Bus of a company	Rs. 4000

2. Motor vehicles registered in any State other than West Bengal and plying within West Bengal:—

All omnibuses under inter-State permits, temporary or permanent or otherwise, issued by the Regional Transport Authority or the State Transport Authority of a State other than the State of West Bengal, and plying as Express bus, Tourist bus, De luxe bus or ordinary bus, whether under a stage carriage permit or a contract carriage permit.	Rs. 5000 <i>per annum</i> or 1/52nd part thereof for every week, as the case may be.
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C. Motor vehicles for transport of goods:

Description of motor vehicles	Annual rate of addi- tional tax
(1) Motor vehicles registered in any State other than the State of West Bengal and plying within the State of West Bengal:—	
All trucks under Inter-State permits, temporary or permanent or otherwise, issued by the Regional Transport Authority or the State Transport Authority of a State other than the State of West Bengal and plying in West Bengal:	
(i) Truck with registered laden weight up to 15000 kilograms	Rs. 1500 <i>per annum</i> or 1/52nd part thereof for every week.
(ii) Truck with registered laden weight above 15000 kilograms up to 16200 kilograms	Rs. 2000 <i>per annum</i> or 1/52nd part thereof for every week.
(iii) Truck with registered laden weight above 16200 kilograms (including articulated trailer)	Rs. 2000 plus Rs. 500 for every 250 kilogrammes or part thereof <i>per annum</i> (or 1/52nd part thereof for every week).

SCHEDULE II

(See section 9.)

PART I

One-time tax on motor cycle and motor cycle combinations

(less than 15 years old)

Stage of registration	Motor cycle	Motor cycle combinations
	(Rs.)	(Rs.)
1. New—up to 1 year	450	600
2. Between 1 and 2 years	420	560
3. Between 2 and 3 years	390	520
4. Between 3 and 4 years	360	480
5. Between 4 and 5 years	330	440
6. Between 5 and 6 years	300	400
7. Between 6 and 7 years	270	360
8. Between 7 and 8 years	240	320
9. Between 8 and 9 years	210	280
10. Between 9 and 10 years	180	240
11. Between 10 and 11 years	150	200
12. Between 11 and 12 years	120	160
13. Between 12 and 13 years	90	120
14. Between 13 and 14 years	60	80
15. More than 14 years	45	60

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PART II

**Rate of refund for motor cycle and motor cycle combinations in cases where
removal or cancellation of registration takes place after registration.**

(less than 15 years old)

Stage of registration			Motor cycle	Motor cycle combinations
			(Rs.)	(Rs.)
1.	Within 1 year		420	560
2.	Between 1 and 2 years		390	520
3.	Between 2 and 3 years		360	480
4.	Between 3 and 4 years		330	440
5.	Between 4 and 5 years		300	400
6.	Between 5 and 6 years		270	360
7.	Between 6 and 7 years		240	320
8.	Between 7 and 8 years		210	280
9.	Between 8 and 9 years		180	240
10.	Between 9 and 10 years		150	200
11.	Between 10 and 11 years		120	160
12.	Between 11 and 12 years		90	120
13.	Between 12 and 13 years		60	80
14.	After 13 years		Nil	Nil.