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may be filed as a Separate Compilation.

PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 31st March, 2002 is hereby published for general information.

V. M. KOTHARE,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 9 OF 2002.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 31st March, 2002.

AN ACT

further to amend the Bombay Motor Vehicles Tax Act, 1958
and to validate imposition and collection of tax on
designated omnibuses.

It is hereby enacted in the Fifty-third Year of the Republic of India
as follows :-

1. (1) This Act may be called the Bombay Motor Vehicles Tax
(Gujarat Amendment and Validation) Act, 2002.

Short title and
commencement.

(2) This section and sections 2 and 3, sub-clause (a) of clause (1) of
section 4 and sections 5, 6, 8 and 9 except sub-section (2) thereof, and
section 10 shall come into force at once, and section 4 except sub-clause (a)
of clause (1) thereof, section 7 and sub-section (2) of section 9 shall be
deemed to have come into force on the 17th August, 2001.

2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred
to as "the principal Act"), in section 3, sub-section (3) shall be deleted.

Amendment of
section 3 of Bom.
LXV of 1958.

3. In the principal Act, section 3A shall be deleted.

Deletion of
section 3A of
Bom. LXV of
1958.

Bom. LXV of
1958.

Amendment of
section 4 of Bom.
LXV of 1958.

4. In the principal Act, in section 4,—
- (1) in sub-section (1AA), in the table,—
- (a) in entry (a), in column 1, the words and letter “under the heading A. Motor vehicles fitted solely with pneumatic tyres” shall be deleted;
- (b) for entry (b), the following entry shall be substituted, namely:—
- | | |
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| “(b) designated omnibuses specified in clauses IVAA and IVAAA in Part I of the First Schedule. | Annually or in monthly instalments of one-twelfth of the annual rate.”; |
|--|---|
- (2) after sub-section (1AA), the following sub-section shall be inserted, namely:—
- “(1AAA) Notwithstanding anything contained in entry (b), in the table below sub-section (1AA)—
- (a) the amount of tax leviable on designated omnibus brought for use in the State for a temporary period not exceeding seven days shall be four per cent. of the annual rate of tax per passenger which the designated omnibus is licensed to carry;
- (b) where such designated omnibus is to be used or kept for use in the State for a period exceeding seven days, the tax shall be leviable on such vehicle at the rate of one-twelfth of the annual rate of tax for each month or part thereof.”;
- (3) the following *Explanation* shall be added at the end, namely:—
- “*Explanation*.—For the purposes of this section, sub-section (6) of section 9 and clause IV in Part-I of the First Schedule, the expression “designated omnibus” means an omnibus which is used or kept for use in the State exclusively as contract carriage and includes a sleeper designated omnibus.”.

Amendment of
section 9 of Bom.
LXV of 1958.

5. In the principal Act, in section 9, after sub-section (5), the following sub-section shall be added, namely:—
- “(6) Where a registered owner or any person in possession or control of a designated omnibus has paid tax at the annual rate or in monthly instalments of one-twelfth of the annual rate in respect of that designated omnibus and proves to the satisfaction of the Taxation Authority that,—
- (a) that designated omnibus has not been used or kept for use for a continuous period of not less than one month (hereinafter referred to as “the period of non-use”), or
- (b) that designated omnibus has been taken out of the State for a continuous period of not less than fifteen days in a month —

- (i) in the case of (a), such owner or person shall be entitled to refund of an amount at the rate of one-twelfth of the annual rate of tax paid for each complete month of the period of non-use, and
- (ii) in the case of (b), such owner or person shall be entitled to refund of an amount equal to one day's tax of the monthly installment of tax paid for each day of the period for which the designated omnibus is taken out of the State."

6. In the principal Act, in section 18,—

**Amendment of
section 18 of
Bom. LXV of
1958.**

(1) after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1A) Where a registered owner or any person in possession or control of a motor vehicle who is required not to use or to keep for use such vehicle for a specified period in accordance with a declaration given by him to the Taxation Authority uses or keeps for use such vehicle at any time during such period, the Taxation Authority may levy in addition to the tax leviable on the vehicle for the period for which the vehicle was used or kept for use a penalty equal to twice the amount of tax so leviable.

(1B) Where penalty is leviable under both sub-sections (1) and (1A), it shall be levied under sub-section (1A) and not under sub-section (1).";

- (2) in sub-section (2), after the words, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or sub-section (1A)" shall be inserted.

7. In the principal Act, in the First Schedule, in Part-I,—

**Amendment of
First Schedule of
Bom. LXV of
1958.**

- (1) in clause IV, in the heading, the words "other than designated omnibuses" shall be added at the end;
- (2) after clause IV-AA, the following clause shall be inserted, namely:—

"TV-AAA. Omnibuses which are used or kept for use exclusively as contract carriages (hereinafter in this clause referred to as "the designated omnibuses")—

- | | | |
|---------|---|---|
| (a) (i) | Ordinary designated omnibuses licensed to carry not more than twenty passengers | 3800 for every passenger which the vehicle is so licensed to carry. |
| (ii) | Ordinary designated omnibuses licensed to carry more than twenty passengers | 6000 for every passenger which the vehicle is so licensed to carry. |
| (b) (i) | Luxury or tourist designated omnibuses | 6500 for every passenger which the vehicle is so |

- | | | |
|------|--|---|
| | licensed to carry not more than twenty passengers | licensed to carry. |
| (ii) | Luxury or tourist designated omnibuses licensed to carry more than twenty passengers | 9000 for every passenger which the vehicle is so licensed to carry.”; |

(3) after *Explanation 1A*, the following explanation shall be inserted, namely:--

"Explanation 1AA.--For the purpose of clause IV-AAA "Luxury designated omnibus" means any omnibus having seating lay out of two and two or one and three or one and two or one and one on either side with a gang way of any width in between though any one row of seats in such omnibus may consist of more than four seats."

Validation of
imposition and
collection of tax
on designated
omnibuses.

8. (1) Notwithstanding any judgement, decree or order of any court, tax imposed, assessed or collected or purporting to have been imposed, assessed or collected under the principal Act, on designated omnibuses during the period beginning with 1st day of April, 1991 and ending on the 16th day of August, 2001, shall be deemed to have been validly imposed, assessed or collected in accordance with law as if at all material times when such tax was imposed, assessed or collected, the principal Act as amended by sections 2, 3, and 4 except sub-clause (a) of clause (1) thereof and section 7 of this Act and section 9 had been in force and accordingly—

- (a) no suit or other proceeding shall be maintained or continued in any court for the refund of any tax paid in respect of designated omnibus under the principal Act,
- (b) no court shall enforce a decree or order directing the refund of any tax paid in respect of designated omnibus under the principal Act,
- (c) any tax imposed or assessed in respect of designated omnibus under the principal Act during the period beginning from the 1st day of April, 1991 and ending on the 16th day of August, 2001 but not collected before 17th day of August, 2001 may be recovered (after assessment of tax where necessary) in the manner provided in the principal Act.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person—

- (a) from questioning in accordance with the provisions of the principal Act and rules made thereunder the assessment of tax on designated omnibus for any period, or
- (b) from claiming refund of any tax paid by him on designated omnibuses in excess of the amount due from him under the principal Act and the rules made thereunder.

9. (1) Subject to the other provisions of the principal Act as amended by this Act - **Levy of tax on designated omnibuses.**

- (a) on and from 1st day of April, 1991 till the 31st day of July, 1995 there shall be deemed to have been levied and collected on all designated omnibuses which were used or kept for use in the State during the said period a tax at the rates specified in the table below:-

TABLE

	Description of designated omnibuses	Annual rate of tax
1	Ordinary designated omnibuses	Rs.1500 for every passenger which the vehicle was licensed to carry.
2	Luxury or tourist designated omnibuses	Rs.2700 for every passenger which the vehicle was licensed to carry.

- (b) (i) on and from 1st day of August, 1995 till the 31st day of March, 2000 there shall be deemed to have been levied and collected on all designated omnibuses which were used or kept for use in the State during the said period, a tax at the rates specified in the table below:-

TABLE

	Description of designated omnibuses	Annual rate of tax
1	(a) Ordinary designated omnibuses licensed to carry not more than twenty passengers	Rs.2000 for every passenger which the vehicle was licensed to carry.
	(b) Ordinary designated omnibuses licensed to carry more than twenty passengers	Rs.3000 for every passenger which the vehicle was licensed to carry.
2	Luxury or tourist designated omnibuses licensed to carry more than twenty passengers	Rs.4000 for every passenger which the vehicle was licensed to carry.

(ii) there shall be deemed to have been levied and collected on all luxury or tourist omnibuses used or kept for use in the State and licensed to carry not more than twenty passengers a tax --

- (a) during the period commencing on and from 1st day of August, 1995 and ending on the 31st day of March, 1996 at the annual rate of Rs. 3600 for every passenger which the vehicle was licensed to carry, and
- (b) during the period commencing on and from 1st day of April, 1996 and ending on the 31st day of March, 2000 at the

- annual rate of Rs. 3000 for every passenger which the vehicle was licensed to carry;
- (c) on and from 1st day of April, 2000 till the 24th day of October, 2000, there shall be deemed to have been levied and collected on all designated omnibuses which were used or kept for use in the State during the said period, a tax at the rates specified in the table below:-

TABLE

	Description of designated omnibuses	Annual rate of tax
1	(a) Ordinary designated omnibuses licensed to carry not more than twenty passengers	Rs.3000 for every passenger which the vehicle was licensed to carry.
	(b) Ordinary designated omnibuses licensed to carry more than twenty passengers	Rs.4500 for every passenger which the vehicle was licensed to carry.
2	(a) Luxury or tourist designated omnibuses licensed to carry not more than twenty passengers	Rs.4500 for every passenger which the vehicle was licensed to carry.
	(b) Luxury or tourist designated omnibuses licensed to carry more than twenty passengers	Rs.6000 for every passenger which the vehicle was licensed to carry.

- (d) on and from 25th day of October, 2000 till the 16th day of August, 2001 there shall be deemed to have been levied and collected on all designated omnibuses which were used or kept for use in the State during the said period, a tax at the rates specified in the table below:-

TABLE

	Description of designated omnibuses	Annual rate of tax
1	(a) Ordinary designated omnibuses licensed to carry not more than twenty passengers	Rs.2700 for every passenger which the vehicle was licensed to carry.
	(b) Ordinary designated omnibuses licensed to carry more than twenty passengers	Rs.4050 for every passenger which the vehicle was licensed to carry.
2	(a) Luxury or tourist designated omnibuses licensed to carry not more than twenty passengers	Rs.4500 for every passenger which the vehicle was licensed to carry.
	(b) Luxury or tourist designated omnibuses licensed to carry more than twenty passengers	Rs.6000 for every passenger which the vehicle was licensed to carry.

(2) Subject to the other provisions of the principal Act as amended by this Act there shall be levied and collected on all designated omnibuses used or kept for use in the State, a tax at the rates specified in the table below till the rates are fixed by the State Government, by notification in the *Official Gazette*, under section 3 of the principal Act as amended by this Act:-

T A B L E

	Description of designated omnibuses	Annual rate of tax
1	(a) Ordinary designated omnibuses licensed to carry not more than twenty passengers	Rs.2700 for every passenger which the vehicle is licensed to carry.
	(b) Ordinary designated omnibuses licensed to carry more than twenty passengers	Rs.3600 for every passenger which the vehicle is licensed to carry.
2	(a) Luxury or tourist designated omnibuses licensed to carry not more than twenty passengers	Rs.4500 for every passenger which the vehicle is licensed to carry.
	(b) Luxury or tourist designated omnibuses licensed to carry more than twenty passengers	Rs.6000 for every passenger which the vehicle is licensed to carry.

Explanation I. - For the purposes of this section and section 10 "designated omnibus" means an omnibus which is used or kept for use in the State exclusively as contract carriage;

Explanation II. - For the purposes of this section "Luxury designated omnibus" means any omnibus having seating layout of two and two or one and three or one and two or one and one on either side with a gangway of any width in between though any one row of seats in such omnibus may consist of more than four seats.

10. Any amount of tax paid on designated omnibuses under section 3 of the principal Act read with clause IV in Part-I of the First Schedule thereof in respect of the period commencing from the 17th day of August, 2001 and ending on the date of the first publication of the Bombay Motor Vehicles Tax (Gujarat Amendment and Validation) Act, 2002 in the *Official Gazette* or part of such period shall be reckoned as the amount of tax paid on such designated omnibuses in respect of the said period or part thereof under sub-section (2) of section 9.

Adjustment of the amount of tax paid on designated omnibuses under section 3 of the principal Act.

Guj. 9 of 2002.