



सत्यमेव जयते

# STATE REVENUE AUDIT MANUAL

## PART III (VEHICLE TAX)

ISSUED BY THE PRINCIPAL ACCOUNTANT GENERAL(AUDIT), KERALA



## PREFACE

The Manual is meant to provide general directions and detailed instructions regarding the audit checks to be exercised by the field parties on the levy, assessment, collection and allocation of the revenue of the Motor Vehicles Department. The instructions in the Manual are only supplementary to those contained in the Codes and Manuals issued by the Comptroller and Auditor General of India and other Authorities.

The provisions of this Manual shall not be quoted as authority in any correspondence outside this office.

SRA(HQrs) Section dealing with Vehicle Tax Receipts Audit is responsible for keeping the Manual up-to-date by issue of correction slips

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## SECTION I

### GENERAL

#### CHAPTER 1

#### INTRODUCTION

- 1.1. Audit of the receipts of the Motor Vehicles Department pertaining to the period from 1-4- 1971 has been taken up in accordance with the provisions of Section 16 of the Comptroller and Auditor General's (Duties, Powers and conditions of Service Act, 1971) (Central Act 6 of 1971).
- 1.2. General principles governing the audit of receipts are contained in Chapter 3 of Section II of the Comptroller and Auditor General's Manual of Standing Orders (Tech). Audit of receipts often involves interpretation of the related statutes and rules, notifications and orders issued thereunder. In interpreting the laws, rules, notifications etc. the following points have to be borne in mind:-

Where a particular term that has been defined in the Act, that definition is to be followed. In the absence of any such definition, definition if any, in enactments which are *parimateria* may be followed. For example in interpreting terms not defined in the Kerala Motor Vehicle Taxation Act, 1976 definition in the Motor Vehicles Act, 1988 can be followed. If the terms have not been defined in the acts which are *parimateria*, definitions in the General Clauses Act are to be taken as the guide line.

Fiscal enactments are to be construed precisely according to the language used. "In taxations we have to look clearly at what is stated; there is no room for any intendment. There is no equity about a tax; there is no presumption as to a tax; you read nothing in; you imply nothing; but you look fairly at what is said and that is the tax". (Eape Brandy Syndicate VS CIR. 12. TC, 358, 367).

"There is no equity about a tax" does not mean that a tax is necessarily unfair but that considerations of equity need not necessarily enter into the interpretation of the words of Act.



If a particular section lends itself to two or more interpretations, interpretation consistent with other sections of the Act may be taken. If a section has doubtful or ambiguous meaning it must be resolved in favour of the tax-payer.

Since the laws under which revenue is collected provide for judicial remedy or judicial interpretation, the activity of audit should be limited to those matters which are not subject to judicial process.

This manual is intended primarily to lay down certain guide lines for the revenue audit parties, auditing the offices of the Vehicle Tax Department. For the efficient discharges of their duties, members of audit parties should be thoroughly conversant with the procedure of levy, collection, remittances, refunds etc. of tax adopted by the Motor Vehicles Department and also with the relevant statutes, rules and case laws.

In the absence of specific orders and except when repugnant to the subject or context instruction in the Outside Audit Department Manual shall apply *mutatis mutandis* to the audit of receipts.

## CHAPTER 2

### **HISTORICAL AND LEGISLATIVE BACKGROUND**

- 2.1. In India motor vehicles first appeared on road in the provincial towns of Bengal, Bombay, Madras, Punjab and United Provinces during the first decade of twentieth century. Local Acts were then in force in the British Indian Provinces to regulate and control motor vehicles. Subsequently a Central Act for the entire British India viz., Indian Motor Vehicles Act of 1914 was introduced with effect from 1<sup>st</sup> April 1915. This Act laid down the broad principles and authorised the Provincial Governments to prescribe the required rules. This Act was mainly intended to regulate and control motor traffic in India. It was not a piece of tax legislation and continued to be in force till first July, 1939 when the Motor Vehicles Act (Act IV of 1939) was introduced. By the enactment of Motor Vehicle Act 1988 (No. 59 of 1888) w.e.f 1.7.89, the Motor Vehicle Act 1939 was



repealed. Though a number of amendments have been made subsequently, the main skeleton of the Principal Act No. 59 of 1988 is retained even now.

- 2.2. The motor Vehicles Act, 1939 (Act IV of 1939) was brought into force in all States in India on a uniform basis from 1<sup>st</sup> April, 1951 by the Part B States (Laws) Act, 1951 (Act 3 of 1951). Prior to that date, the native states in India had their own Motor Vehicles Acts and Rules.
- 2.3. The earliest legislation relating to motor vehicles in the former Travancore State was the Motor Vehicles Regulation VII of 1087 (M.E.) which was based on the Madras Act I of 1907. Subsequently repealing the earlier Regulations, The Travancore Motor Vehicles Regulation (Regulation VI of 1094 M.E.) was introduced. This 1094 (M.E.) Regulation was repealed by the Travancore Motor Vehicles Act, 1117 (Act No.1 of 1117 (M.E.)) No.1 introduced as a consequence to the British Indian Motor Vehicles Act of 1939. This Act I of 1117 (M.E.) was in force in the former Travancore State till it was replaced by the Travancore – Cochin Motor Vehicles Act, 1125 (M.E.)
- 2.4. In the former Cochin State, the Cochin Motor Vehicles Act, 1116 (M.E.) was in force at the time of formation of the State of Travancore – Cochin on 1<sup>st</sup> July, 1949. In the Cochin area this act continued till the Travancore-Cochin Motor Vehicles Act, 1125 (Act X of 1125 M.E.) was brought into force with effect from 5<sup>th</sup> January 1950, repealing all earlier Acts.
- 2.5. The Travancore-Cochin Motor Vehicles Act of 1125 remained in force in the Travancore-Cochin State till the end of March, 1951, when the Motor Vehicles Act, 1939 (Central Act) was extended to the Travancore-Cochin State also with effect from 1<sup>st</sup> April, 1951. However Chapter VII of Travancore – Cochin Motor Vehicles Act (Act X of 1125 M.E.) relating to insurance of motor vehicles against third party risks continued to be in force instead of the corresponding Chapter VIII of the Motor Vehicles Act IV of 1939 till 15-4-1973. As per notification No.27 T (6) 71 dated 28-3-73 of the Government of India, Chapter VIII of the Motor Vehicles Act, 1939 was made applicable to the State of Kerala with effect from 16<sup>th</sup> April, 1973.



- 2.6. The present Kerala State came into existence with effect from 1<sup>st</sup> November, 1956, comprising certain areas of the former Travancore-Cochin state and Malabar district of Madras State. The Motor Vehicles Act (Act IV of 1939) was in force in the Malabar district of Madras State right from the introduction of the Act in 1939. The provisions relating to insurance of motor vehicles against third party risks contained in Chapter VII of the Travancore-Cochin Motor Vehicles Act, 1125(M.E.) were made applicable to the Malabar area transferred from the former Madras State also, with effect from 15<sup>th</sup> July 1960 in place of the corresponding provisions in Chapter VIII of the Motor Vehicles Act, 1939. This was given effect to by the Motor Vehicles (Amendment) Act 1960 (Act 5 of 1960).
- 2.7. The system of levying tax on motor vehicles is now followed in all the States in India and is mainly intended to meet the expenditure for construction and maintenance of public roads which are extensively used by motor vehicles. In India the Motor Vehicles Tax was first introduced in the United Province of British India in 1923.
- 2.8. In the former Travancore State vehicle tax was first introduced by the Travancore Vehicles Taxation Act, 1121 (M.E.) (Act I of 1121) and in the former Cochin State by the Cochin Vehicles Taxation Act, 1121 M.E. (Act XIII of 1121 M.E.). After the formation of Travancore-Cochin State on first July, 1949 the Travancore-Cochin Vehicles Taxation Act, 1950 (Act XIV of 1950) was brought into force from the first day of April, 1950, repealing the Vehicles Taxation Act in force in the component States of Travancore and Cochin. At the time of formation of Kerala State the Madras Motor Vehicles Taxation Act, 1931 (Madras Act III of 1931) was in force in Malabar district of the former Madras State. These two statutes continued to be in force in the respective areas even after the formation of the Kerala State until 1<sup>st</sup> July, 1963 when they were repealed by the Kerala Motor Vehicles Taxation Act, 1963.
- 2.9. Compared to the levy of vehicle tax the levy of tax on passengers and goods is of recent origin. The levy of tax on passengers and goods transported by road was first introduced by the Government of Bihar in the year 1950.



- 2.10. On the first of November, 1956 the date of formation of Kerala State, there was no system of levying tax on passengers and goods in the erstwhile Travancore-Cochin State while the Madras Motor Vehicles (Taxation of passengers and Goods) Act, 1952 was in force in the Malabar area. This position continued till the introduction of Kerala Motor Vehicles (Taxation of passengers and Goods) Act, 1963, (Act 25 of 1963) with effect from the 1<sup>st</sup> of July 1963. In order to equate the aggregate of tax levied as vehicle tax and tax on passengers and goods, in respect of stage carriages and goods vehicles in the Malabar area, the vehicle tax levied on similar vehicles in the Travancore-Cochin area was suitably enhanced till the introduction of the Act 25 of 1963.

The Kerala Motor Vehicles (Taxation) Act, 1963 and the Kerala Motor Vehicles (Taxation of Passengers and Goods) Act, 1963 remained in force till 30.9.1975. The two Acts were consolidated to enable the levy of a single tax in respect of motor vehicles by an ordinance called the Kerala Motor Vehicles Ordinance, 1975 (Ordinance no.7 of 1975) promulgated by the Governor, to take effect from 1.10.1975. The ordinance has been replaced by Kerala Motor Vehicles Taxation Act, 1976

- 2.11. Articles 265 of the Constitution provides that no tax shall be levied or collected except under the authority of law and hence levy and collection of vehicle tax are governed by the Acts passed by the Parliament/State Legislatures. Under the constitution the following are within the legislative Jurisdiction of the States:-

1. Taxes on goods and passengers carried by road or Inland water ways.
2. Taxes on vehicles whether mechanically propelled or not suitable for use on roads, including traincars subject to the provisions of entry 35 of list III.  
(Items 56 of list II-7<sup>th</sup> Schedule

“Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied” is an item with concurrent legislative jurisdiction for the Union and the States (item 35 of list III – 7<sup>th</sup> Schedule). (Kerala Motor Vehicles Taxation Act, 1976 which is in force from 1.10.1975 is an Act passed by Legislature under powers vested with them as per items 56 and 57 of list II – 7<sup>th</sup> Schedule). Motor Vehicles Act, 1939 (Act IV of 1939) and Motor



Vehicle Act 1988 (No.59 of 1988) should be deemed to be Act passed by Parliament under powers vested in them as per item 35 of the concurrent list.

- 2.12. The basic features of the enactments relating to taxation, which were in force up to 30.9.1975 viz. Kerala Motor Vehicles Taxation Act, 1963 and Kerala Motor Vehicles (T.P.G) Act, 1963, and the assessment and collection procedure under those enactments are given in Chapters 6 to 9 in Section III and Section IV. The position from 1.10.1975 in the light of Kerala M.V.T Act, 1976 (which is deemed to have come into force from 1.10.1975) is given in Chapters 10 and 11 in Section V.

### CHAPTER 3

#### DEPARTMENTAL SET UP

1. Till 1958 administration of laws relating to Motor Vehicles was the responsibility of the Police Department in the Travancore – Cochin area. A traffic and taxation branch was attending to this work in that department. In the Malabar area there was separate Regional Transport Officer in charge of this work. With effect from 1<sup>st</sup> July, 1958 a separate Motor Vehicles Department was formed for the administration of Acts relating to taxation of motor vehicles and regulation of motor traffic.

2 (i) The Transport Commissioner is the head of the Motor Vehicles Department. He is also the Chairman of the State Transport Authority, constituted by the State Government under Section 68 of the Motor Vehicles Act, 1988.

Every State Transport Authority is to have jurisdiction throughout the State and is to exercise and discharge following functions and powers;

- (a) to co-ordinate and regulate the activities and policies of the Regional Transport Authorities of the State;
- (b) to perform the duties of a Regional Transport Authority where there is no such authority and if it things fit or if so required by a Regional Transport Authority to perform those duties in respect of any route common to two or more regions;



- (c) to settle all disputes and decide all matters on which difference of opinion arises between Regional Transport Authorities; and
- (d) to discharge such other functions as may be prescribed.

The Transport Commissioner is assisted by a Joint Transport Commissioner and Senior Deputy Transport Commissioners. One Sr. Dy. Transport Commissioner functions also as Secretary, State Transport Authority.

- (ii) At the District/Regional level there are 18 Regional Transport Officers. The Regional Transport Officer of each district/region is the Secretary to the Regional Transport Authority of that District/Region constituted under section 68 of the Motor Vehicles Act, 1988. In discharge of his duties, each Regional Transport Officer is assisted by a Joint Regional Transport Officer, Motor Vehicle Inspectors, Asst. Motor Vehicles Inspectors and Ministerial staff. The District Collector of each district is the Chairman of the Regional Transport authority. The Regional Transport Authority is to exercise and discharge through out its area, the powers and functions conferred by or under the Motor Vehicles Act, 1988.

- (iii) At the Taluk level there are Sub Regional Transport Offices headed by a Joint Regional Transport Officer who is assisted by a Motor Vehicle Inspector, Asst. Motor Vehicles Inspectors and Ministerial staff. Joint Regional Transport Officer is to exercise and discharge functions within his jurisdiction.

In addition there are 18 Check Posts located in the borders with the neighbouring States of Tamil Nadu and Karnataka.

- (iv) A separate unit under an officer of the rank of Regional Transport Officer with Headquarters at Thiruvananthapuram has been constituted in September 1975 to be in charge of the nationalized sector. He is responsible for the proper enforcement of the laws relating to Motor Vehicles and all connected issues in respect of the Nationalised sector.

3.3. In addition, there are four zonal offices headed by a Deputy Transport Commissioner for the better enforcement of the laws relating to Motor Vehicles. Their headquarters and jurisdiction are as follows.



| Headquarters          | Jurisdiction (Region)                                                                                                                                                              |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Trivandrum (SZ)       | <ol style="list-style-type: none"> <li>1. KSRTC</li> <li>2. Thiruvananthapuram</li> <li>3. Attingal</li> <li>4. Kollam</li> <li>5. Pathanamthitta</li> <li>6. Alappuzha</li> </ol> |
| Ernakulam (CZ II law) | <ol style="list-style-type: none"> <li>1. Kottayam</li> <li>2. Idukki</li> <li>3. Ernakulam</li> <li>4. Muvattupuzha</li> </ol>                                                    |
| Thrissur (CZ I)       | <ol style="list-style-type: none"> <li>1. Palakkad</li> <li>2. Thrissur</li> <li>3. Malappuram</li> </ol>                                                                          |
| Kozhikode (NZ)        | <ol style="list-style-type: none"> <li>1. Kozhikode</li> <li>2. Vatakara</li> <li>3. Wynad</li> <li>4. Kannur</li> <li>5. Kasargod</li> </ol>                                      |

## SECTION – II

### MOTOR VEHICLES ACT 1988

#### CHAPTER 4

#### BASIC FEATURES OF THE ACT

6.1 The Motor Vehicles Act 1988 is mainly regulatory in nature and is not primarily intended to raise revenue. The revenue collected under the Act is mostly in the form of fees for services rendered and penalty for defaults.

6.2 Though the Act is a Central Act applicable to whole of India, power to administer the Act, and also to make rules under the Act on specified provision where State Governments have power in order to carry out the purposes of the Act within the jurisdiction of each State is vested in the concerned State Government.

The State Governments are to administer the Act through State and Regional Transport authorities to be constituted by them under Section 68. Under section 68 every State Government has to constitute a State Transport Authority and enough number of Regional Transport Authorities to exercise and discharge the powers and functions conferred on the State Governments under the Act.



## CHAPTER - 5

### **A. FEES LEVIABLE UNDER THE ACT AND THE RULES**

5.1 Under the Motor Vehicles Act, 1988, statutory bodies called Transport Authorities are created in the State and Regional levels to deal with the grant of permits for plying vehicles on specified routes. The Motor Vehicles Department under the Transport Commissioner is responsible for the, registration of vehicles, licensing of conductors and drivers etc., regulating road traffic and enforcing the provisions of the Motor Vehicles Act 1988 and the rules framed there under. (Central Motor Vehicle Rules 1989, Kerala Motor Vehicle Rules, 1989)

5.2 Under the Act every person is to hold an effective driving licence in order to drive a motor vehicle in a public place. A person can act as conductor of a stage carriage only if he holds an effective conductor's licence issued under the Act. The Act prescribes the qualifications, disqualifications, restrictions, duties and responsibilities of such persons who are the holders of licence.

5.3 A valid certificate of registration issued under the Motor Vehicles Act is essential in order to drive or cause to drive a motor vehicle in any public place. In addition all transport vehicles should carry a certificate of fitness issued under the M.V. Act. The procedure for making a registration, its effectiveness, assignment and cancellation are provided in the Act. All owners of transport vehicles are required to use such vehicles in accordance with the conditions of a permit issued by the transport authority for the purpose. The Act provides for specification regarding the construction, equipment and maintenance of motor vehicles, control of traffic etc. Special provisions exist so far as State Transport Undertakings are concerned. Similarly special provisions have been made in the Act to regulate motor vehicles temporarily leaving or visiting India. The Act prescribes offences and provides for penalties in the case of contravention of the provisions of the Act.



5.4 Under the M.V. Act 1988, no person is to use a motor vehicle in a public place unless there is in force in relation to the use of the vehicle by a person, a policy of insurance complying with the requirements of Chapter XI of the Act.

5.5 Fees payable for services rendered or for purpose of satisfying statutory requirements are contained in the Act, Central Motor Vehicle Rules 1989 and the Kerala Motor Vehicles Rules, 1989 (Rules issued by the State Government) and other rules and notifications issued by the Central and State Governments under statutory authority. A list of such fees leviable by the Motor Vehicles Department of the Kerala State is given as Annexure I to this Manual.

5.6 Entry tax

Section 3(1) of the Kerala Tax on Entry of Goods into Local Areas Act, 1994, requires levy and collection of tax on entry of motor vehicles, chassis of motor vehicles, and body built on chassis of motor vehicles, at the rate specified in schedule to the Act provided that no tax shall be levied and collected in respect of any motor vehicle which was registered in any Union Territory or any other State under the provisions of Motor Vehicles Act 1988 prior to a period of fifteen months or more from the date on which it is registered in the State. Provided further that no tax shall be levied and collected in respect of any motor vehicles which is the property of the Central Government or which is used exclusively for the purposes relating to the defence of India or the vehicles which are gifted to State Government.

Section 18 of the Act requires that where the liability to pay tax in respect of a motor vehicle arises under this Act and such motor vehicle is required to be registered in this State under the Motor Vehicles Act, 1988, no registering authority shall register such motor vehicle unless payment of such tax has been made by the person concerned in respect of that vehicle.



### SECTION – III

#### CHAPTER – 6

#### KERALA MOTOR VEHICLES TAXATION ACT, 1976

##### Basic Features

6.1 The Kerala Motor Vehicles Taxation Act, 1976, (operative from 1.10.75) is intended to consolidate and amend the laws relating to the levy of tax on motor vehicles and that on passengers and goods carried by such vehicles in the State of Kerala.

6.2 Motor vehicle is defined in the Motor Vehicles Act, 1988, as any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty five cubic centimeters. [ (MV Act 1988, Sn. 2(28).]

6.3 Certain words and expressions used in the Act are defined in Section 2.

6.4 The Act provides for levy of tax on all motor vehicles used or kept for use in the State. The registered owner or any person having possession or control of a motor vehicle is deemed to use or keep such vehicle for use in the State except during any period for which no tax is payable on such motor vehicles under sub-section (1) of Section (5).

No tax is leviable on motor vehicles kept by dealers and manufacturers of such vehicles for the purpose of trade and used under authorization of trade certificate from the registering authority.

6.5 The basis of vehicle tax is laden weight for goods vehicles, unladen weight for motor cars, cubic capacity for motor cycles and seating capacity for motor vehicles plying for hire and used for transport of passengers, private service vehicles and omni bus for private use. The rates of tax on various classes of vehicles are specified in the



schedule to the Act (Section 3 (i) (Annexure II ). Govt. have powers to increase the rates specified in the schedule from time to time by notification up to a limit not exceeding fifty percent of such rates.

6.6 The Act empowers Government to direct by notification the issue of temporary licence on payment of tax specified for any class of vehicles specified in the schedule to the Act for a period not exceeding seven days or thirty days at a time on such condition as may be specified in the notification (Section 3 (4))

6.7 (i) The tax levied is payable in advance within such period and in such manner as may be prescribed by Govt. by registered owners or persons having possession or control of the motor vehicles. It may be paid for a quarter, a year, two years, five years or fifteen years. (Section 4)

(ii) Tax in respect of newly purchased motor cycles (exceeding 95 cc), three wheelers motor cars shall be levied from the date of purchase of the vehicle 'one time tax' at the rates specified in the Annexure at the time of first registration of the vehicle, and thereafter tax shall be levied at the time of renewal of the registration of such vehicle at the rate specified in the Schedule as per the fourth proviso to sub - section (1) of Section 4.

Tax in respect of new motor cycle below 95 cc shall be levied from the date of purchase of the vehicle, a tax in advance for period of 5 years, at the rates specified in the schedule at the time of first registration of the vehicles. (Kerala Finance Act 1998 (Act 14 of 1988) w.e.f 1/4/1998).

One time tax at the rate prescribed in the schedule to the KMVT Act has to be realised on all new vehicles specified in item 1(b) (Motor Cycle above 95cc), 2 (3 wheeler) and 11 (Motor Car) of the schedule to the KMVT Act on the date of registration itself. One time tax due has to be remitted before presenting application for registration of new motor vehicle of above said category 2<sup>nd</sup> provision to Section 3(1) and (F2-13420/T.C/99 of 8/11/2001)

(iii) Government may grant a rebate in respect of tax in the case of payment of tax for one year or more (Section 4 (2) )



(iv) In the case of fleet owners, Government may direct that the tax shall be paid in monthly instalments before such date, in such manner and subject to such conditions, as may be specified in the direction (proviso to Sn. 4). A fleet owner means a person, an institution or Government who or which is the registered owner of more than one hundred and fifty transport vehicles used or kept for use in the State.

6.8 When the class of motor vehicle is altered or it is used or proposed to be used, in such a manner as to make the vehicle one for which a higher rate of tax is payable an additional tax of sum equal to the difference between the tax already paid and tax which is payable in consequence of its being so altered or used or proposed to be used is to be paid by the registered owner or the person in possession or control of the vehicle. (Section 7)

6.9 The Act prescribes a surcharge at the rate of 40 percent of the tax payable under section 3(i) in respect of any motor vehicle referred to in sub- item (ii) of item 7 of the scheduled to the Act ie. stage carriages, the registered owner of which is a fleet owner. (Section 25).

6.10 In the case of motor vehicles in respect of which any reciprocal arrangement relating to taxation has been made between the Government of Kerala and any other State Government, the levy of tax shall be in accordance with the terms and conditions of such reciprocal arrangement. (Section 3(6) ).

6.11 If any tax due under this Act or the Kerala Motor Vehicles (Taxation Act, 1963, or the Kerala Motor Vehicles (Taxation of Passengers and Goods) Act, 1963, in respect of any vehicle for any period has escaped assessment, the Taxation Officer may, at any time within, but not beyond, ten years from the expiry of that period, assess the tax which has escaped assessment after giving a notice to the registered owner or the person having possession or control of the motor vehicle and after making such enquiry as he may consider necessary. (Section 26)

6.12 If tax/surcharge is not paid within the specified period, an additional tax as prescribed, not exceeding the amount of the tax due, is payable along with the arrears of tax (Section 12).



6.13 Any amount due under the Act or the rules there under is recoverable as an arrear land revenue under Revenue Recovery Act, 1968. The motor vehicle or its accessories in respect of which any amount is due may be distrained and sold for effecting the recovery, whether or not the vehicle or accessory is in the possession or control of the person liable to pay the amount. (Section 13).

#### 6.14 Exemptions

(i) When a motor vehicle is not intended to be used or kept for use during the first month or first and second months of a quarter, or the whole of the quarter or year, as the case may be, and previous intimation in writing is given to the Regional Transport Officer, no tax is payable in respect of such vehicle for such period (Section 5(i)).

(ii) Any tractor, trailer or tractor-trailer combination solely used for agricultural operations, other than such operations relating to land which are plantations as defined in Kerala Land Reforms Act, 1963, is exempt from payment of tax. If such a vehicle is used for purposes other than agricultural operations a reduction in the rate of tax to such extent as may be specified by Government by notification shall be allowed. (Section - 21)

(iii) Government have powers to make any exemption or reduction in the rate or other modifications, either prospectively or retrospectively, in public interest, in regard to the tax payable under this Act or under the Kerala Motor Vehicles (Taxation) Act, 1963 or the Kerala Motor Vehicles (Taxation on Passengers and goods) Act 1963. (Section 22).

#### 6.15 Refunds

The Act provides for refund of tax in cases where tax has been paid and the vehicle has not been used or kept for use for a continuous period of not less than one month. (Section 6).

6.16 A fine not exceeding one hundred rupees in the case of a first offence and two hundred rupees in other cases can be imposed on conviction on persons who contravene any of the provisions of the Act or the rules made thereunder, if no other penalty is provided elsewhere in the Act or rules. Companies are also liable to be proceeded against and punished. The Regional Transport Officer may compound an offence under this Act or any rule made thereunder by accepting a composition fee not exceeding Rs.250/- in addition to the tax and other dues, if any, payable by the person. (Sections 16, 17 & 18).



6.17 The amount of tax, fee, penalty, fine or any other sum payable and the amount of refund due under the provisions of the Act shall be rounded off to the nearest rupee (Section 27)

#### 6.18 Appeals and Revision

The Act provides for appeals by persons affected by orders passed by competent authorities under the Act and for revision of any order passed by any authority, by the Transport Commissioner.

##### (a) Appeals

Any person who is aggrieved by any order of the Taxation Officer or the Regional Transport Officer made under the Act, may, within 30 days from the date of receipt of the order, prefer an appeal before the Deputy Transport Commissioner having jurisdiction over the area by paying a fee of Rs.25/- by means of Treasury Chalan and in the form of a memorandum setting forth concisely the grounds of objection to the order which is the subject of appeal. (Section 23).

The hearing of appeal shall be conducted as prescribed in rule 12(5) and shall ordinarily be disposed of, within two months from the date of filing the appeal.

##### (b) Revision

The Transport Commissioner may suo moto call for and examine the record of any order passed by any authority or officer under the Act or on application call for and examine the record of any order passed in appeal under section 23 to satisfy himself as to the regularity of the proceedings or the correctness, legality or propriety of the order and if in any case it appears to the Transport Commissioner that the order shall be modified, annulled or remitted for reconsideration, he may pass such order thereon as he may deem fit. (Section 24).

An application for revision shall be filed within three months from the date on which the order to which the application relates was communicated to the applicant and in the form of a memorandum setting forth concisely the grounds of objection to the order, which is the subject of revision. A fee of Rs.50/- shall be paid in respect of each application for revision, the payment being made by means of treasury chalan.



The hearing of revision petition shall be conducted as prescribed in rule 13(4) and shall ordinarily be disposed of within three months from the date of filing the application. The order of the Transport Commissioner on the application shall be final.

6.19. From the proceeds of tax collected under this Act every year, an annual compensation fixed by Government is payable to the local authorities for roads maintained by them. (Section 19).

6.20. The Act empowers Government to make rules for carrying out the purposes of the Act. The purposes for which the rules are to be made by Government are enunciated in the Act. (Section 28) and are mentioned below.

- (a) The manner in which tax shall be paid and the documents to be produced for the issue of tax licence.
- (b) The form of any tax licence, certificate or declaration and the particulars to be contained therein.
- (c) The conditions under which duplicate tax licence may be granted and fee payable for such grant.
- (d) The manner in which refund or reduction or exemption may be claimed
- (e) The total or partial exemption from liability to payment of the tax in respect of any motor vehicle brought into the State by any person visiting the State, or making a temporary stay in the State, the amount which shall be payable on account of such vehicle and the tax licence which any such vehicle shall carry.
- (f) The time within which and the manner in which an appeal may be made under Section 23, the fees to be paid in respect of such appeal and the conduct and hearing of such appeal.
- (g) Any other matter which has to be or may be prescribed.

In making any rule Government may provide that a breach thereof shall be punishable with fine, not exceeding Rs.50/- (Section 28). The Kerala Motor Vehicle Taxation Rules, 1975, have been framed by Government in exercise of the aforesaid powers.



**CHAPTER 7****LEVY, ASSESSMENT AND COLLECTION OF TAX****7.1 General**

The levy of tax on Motor Vehicles from 1/10/75 is governed by the Kerala Motor Vehicles Taxation Act, 1976 and the Kerala Motor Vehicles Taxation Rules, 1975. The scheme of levy of tax on motor vehicles is generally based on the laden weight, unladen weight, cubic capacity or passenger capacity of the motor vehicles. The schedule to the Act given in Annexure II prescribes the rates of quarterly tax/one time tax leviable on each class of motor vehicles. For the purpose of levy of tax, motor vehicles are grouped into the following 13 classes.

1. Motor Cycles (including Motor Scooters and cycles with attachment for propelling the same by mechanical power).
2. Three Wheelers (including tri-cycles and cycle rickshaws with attachment for propelling the same by mechanical power) not used for transport of goods or passengers.
3. Goods Carriages
4. Trailers used for carrying goods.
5. Private Service Vehicles
6. Omni Bus for Private use
7. Motor vehicles plying for hire and used for transport of passengers and in respect of which permits have been issued under the Motor Vehicles Act 1988.
8. Motor Vehicles not themselves constructed to carry any load (other than water, fuel accumulators and other equipments) used for the haulages solely.
9. Double axle trailers and articulated vehicles.
- 10 (I) Fire Engine, Fire Tenders, Road Water Sprinklers, Carnes and Earth Moving Vehicles such as Dumper, Bulldozer etc.  
(ii) Additional tax payable in respect of such vehicles for drawing trailers including Fire Engine and Trailer Pumps.
11. (i) Motor Car (payable every two years)  
(ii) Tax payable in respect of trailers drawn by any of the motor cars and used solely for carrying luggage or personal effect.
12. Motor Vehicles other than those liable to tax under the foregoing provisions of this Schedule.



## 13. (1) Educational Institution Bus

(2) Ambulance

(3) Road Roller

(4) Excavator

(5) Tractor

(6) Vehicles exclusively used for imparting instructions in driving of motor vehicles.

One Time Tax (Newly purchased Motor Cycles exceeding 95 CC, tricycles and cycle rickshaws, three wheelers and motor cars).

7.2 Temporary Licences

Temporary Licences can be issued for any class of motor vehicle specified in the schedule for periods not exceeding 7 days or 30 days at a time on payment of the tax specified. The tax for a temporary licence for a period not exceeding 7 days is  $1/10^{\text{th}}$  of the quarterly tax and that for licence for a period exceeding 7 days but not exceeding 30 days is  $1/3$  of the quarterly tax.

Provided also that in the case of motor vehicles covered with permit under Section 88 (9) of the Motor Vehicles Act, 1988 and registered in any State other than the State of Kerala and entering the State of Kerala and staying therein, then, the tax payable for such vehicles shall be-

(a) if such stay does not exceed seven days one-tenth of the quarterly tax, and if such stay exceeds seven days but does not exceed thirty days one third of the quarterly tax. (Section 3(4) and (5). The conditions for issue of temporary licence are as follows:-

1. Temporary licence shall be issued in respect of:

- (a) vehicles brought into the State for temporary visits, or
- (b) vehicles acquired in the State and intended to be taken out of it after a temporary stay or
- (c) transport vehicles without valid permits acquired in any other State and brought into this State for use in this State after obtaining necessary permit; or



2. The licence shall be obtained from any taxation officer on an application giving full particulars such as name and address of registered owner, registration number and description of vehicle etc.
  3. No refunds of the tax paid, except amount wrongly demanded and collected will be allowed.
  4. The licence is to be displayed as in the case of a quarterly or annual licence.
- 7.3 Mode of collection of tax.

(1) Tax is assessed by the Regional Transport Officer or any person authorized by him and endorsed in the certificate of registration issued under Section 39 of the Motor Vehicles Act, 1988 specifying the rate of tax levied, the date from which tax is levied, and where the payment is to be made. (Rule 3).

(2) One time tax in respect of a new motor vehicle of any of the classes specified in item number 1(b), 2 and 11 of the schedule to the Motor Vehicles Taxation Act, 1976 shall be levied from the date of purchase of the vehicle at the rates specified in the Annexure at the time of first registration of the vehicle, and thereafter tax shall be levied at the time of renewal of the registration of such vehicle at the rate specified in that schedule as per the fourth proviso to sub-section (1) of section 4.

(3) Tax is payable in advance by the registered owner or person having possession or control of the vehicle in such manner as may be prescribed for a quarter, a year, two years, five years or fifteen years, upon a quarterly, annual, two year, five year fifteen year, licence. The dates within which tax is to be paid have been prescribed as follows.(Rule 5)

| Category of Vehicle                                                                                                                            | Period within which tax is to be paid                  |
|------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| 1. Non-transport vehicles and contract carriages ordinarily kept in the State                                                                  | 14 days from the date of commencement of the quarter.  |
| 2. (i) Transport Vehicles other than contract carriages and the stage carriages ordinarily kept in the State.                                  | One month from the date of commencement of the quarter |
| (ii) Stage carriages                                                                                                                           | 45 days from the date of commencement of the quarter   |
| 3. Vehicles newly purchased and registered in this State or brought from outside the State for permanent use in this State, within the quarter |                                                        |



| Category of Vehicle                                                                                                                                                                                                                                                                             | Period within which tax is to be paid                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (i) In the case of Non-transport Vehicles                                                                                                                                                                                                                                                       | 14 days from the date of purchase or bringing of the vehicle in this State without prejudice to the period allowed herein above.                                                             |
| (ii) In the case of Transport vehicles                                                                                                                                                                                                                                                          | 7 days from the date of endorsement of tax in the certification of registration without prejudice to the period allowed herein above                                                         |
| 4. Transport vehicles of other States permitted to ply in this State                                                                                                                                                                                                                            | Before the commencement of the quarter or the date of issue of the permit if permit is issued within the quarter as the case may be                                                          |
| 5 (i) Vehicles in respect of which tax at reduced rate or balance tax become payable within the quarter consequent on the grant of exemption, alteration or any other reason<br>(ii) Vehicles in respect of which tax at reduced rate or balance tax payable due to enhancement of rate of tax. | 7 days from the date of endorsement of such reduced tax or balance tax, without prejudice to the period allowed herein above.<br>Along with the payment of tax due for the subsequent period |
| 6 One time tax of new Motor vehicle                                                                                                                                                                                                                                                             | At the time of first registration                                                                                                                                                            |

5. Tax in respect of non-transport vehicle is to be paid in cash at the office specified in the registration certificate and that in respect of a transport vehicle is to be paid by crossed demand draft payable at the local branch of SBT or SBI or any other Nationalised Bank or Regional Rural Banks. At the time of payment of tax a valid certificate of insurance in respect of the vehicle complying with the requirements of chapter XI of the Motor Vehicles Act, 1988 is to be produced. (Rule 4 and Section 8).

6. On payment of tax the taxation officer will grant a licence in the prescribed form (Forms A to E appended to the Rule) making necessary endorsement regarding the details of tax paid and licence issued (Rule 4 and 7)

#### 7.4 Taxation Officer

The Taxation Officer is defined as the Regional Transport Officer or such Officer as may be appointed by Government to exercise the powers and perform the functions of



a taxation officer under the Act (Section 2(i)). The following officers are appointed to exercise the powers and to perform the functions of a Taxation Officer under the Act.

- (i) Regional Transport Officer
- (ii) Joint Regional Transport Officer
- (iii) Motor Vehicle Inspectors
- (iv) Asst. Motor Vehicle Inspectors
- (v) Head Accountant in respect of non-transport vehicles only.

#### 7.5 Jena Sevana Kendram

Government have set up an integrated service centre called Friends Jana Sevana Kendram in all District Headquarters with a view to facilitate the public to remit various taxes and fees through a 'single window'. Each centre is considered as an extension counter of the respective Regional Transport Offices for all purpose. Motor Vehicles fees for various services and tax on non-transport vehicles are collected at the Friends centre. The receipts for the remittances of fees are issued by the Friends centre in a computerised format in lieu of TR 5 receipts. Collection of tax in respect non-transport vehicles such as motor cycles, motor car and omnibus for private use etc. are made after issuing tax licence discs provided by the Regional Transport Office. The Regional Transport Officer depute one officer to this Centre as the custodian of the tax licences and such officer shall maintain the accounts of the tax licence supplied to the centre.

The Regional Transport Officer shall supply the tax licence under proper acknowledgement and the designated officer shall furnish a statement of tax licence used and the balance at the end of every month along with the counterfoils of the used licence. The amount collected in the friends centre is first remitted into the PD account maintained in the treasury in the name of the Project Manager and these transactions are transfer credited to the respective heads of accounts of the Motor Vehicles Department. The Regional Transport Officer should ensure that the amount collected at the friends centre is transfer credited to the concerned receipt heads of the Motor Vehicles Department through reconciliation etc. (Circular No.7/01 dated 12/5/01 of T.C.)



### 7.6 Additional Tax for default in payment of tax.

If tax is not paid within the specified period vide para 7.3(3) – an additional tax is payable alongwith the arrears of tax (Section 12). The rates of additional tax are as follows –

**TABLE – 1**

Additional tax in respect of Motor Vehicles for which tax is realised for one year or more.

|                                                    |                                                 |
|----------------------------------------------------|-------------------------------------------------|
| 1. Within one month after the prescribed period    | 10% of the tax due for one year or part thereof |
| 2. Within three months after the prescribed period | 20% of the tax due for one year or part thereof |
| 3. Within 6 months after the prescribed period     | 25% of the tax due for one year or part thereof |
| 4. In other cases                                  | 50% of the tax due for one year or part thereof |

**TABLE – II**

Additional tax in respect of Motor Vehicles for which tax is realised quarterly

|                                                    |                                                  |
|----------------------------------------------------|--------------------------------------------------|
| 1. Within one month after the prescribed period    | 10% of the tax due for a quarter or part thereof |
| 2. Within three months after the prescribed period | 20% of the tax due for a quarter or part thereof |
| 3. Within 6 months after the prescribed period     | 25% of the tax due for a quarter or part thereof |
| 4. In other cases                                  | 50% of the tax due for a quarter or part thereof |

(Notification No.14559/C1/98/Tran dated 6<sup>th</sup> April 1999).

### 7.7 Exemptions

(a) Periods of non-use: - In case of a motor vehicle which is not intended to be used or kept for use during the first month or the first and second months of a quarter or the whole of a quarter or a year, as the case may, the registered owner or the person having possession or control of such vehicle shall give previous intimation to the Regional Transport Officer who endorsed the tax of such vehicle. The previous intimation shall be



made within one week of commencement of the period of non-use. In such cases he shall not be deemed to have used the vehicle for such period and no tax shall be payable in respect of such vehicle for such period. The Regional Transport Officer will make necessary endorsement in the registration certificate of the vehicle. But if on verification it is found that the vehicle has been used during such period or any portion thereof, he shall be liable to pay the tax. The burden of proving that such a motor vehicle has not been used during any period, in an appeal under Section 23 or a revision under Section 24, shall be on the registered owner or the person in possession or control of the vehicle. (Section 5 and Rule 10).

(b) Agricultural operations

As stated in para 6.14 (ii) any tractor, trailer or tractor trailer combination solely used for agricultural operation other than agricultural operations in relation to lands which are plantations as defined in the Kerala Land Reforms Act, 1963, is exempt from the payment of tax (Section 21). The tax payable for such a vehicle which is designed to be used for agricultural operations, if used for purposes other than agricultural operations whether by the owner of the Vehicle or by any other persons on hire after obtaining necessary permits in advance of such use is  $\frac{2}{3}$ <sup>rd</sup> of the rate of tax specified in clause 8 or 9 of the schedule.

(c) Power of Government for exemptions and deductions: -

The power to exempt, reduce or modify either prospectively or retrospectively the tax payable (i) by any person or class of persons; (ii) in respect of any motor vehicle or class of motor vehicles, or (iii) in respect of any motor vehicle or class of motor vehicles using a specified route, is vested in the Government if it is necessary in the public interest.

(Section 22).

Under these powers Government have totally exempted certain classes of vehicles from payment of tax such as motor vehicles owned by State Government, road rollers belonging to local bodies, ambulances etc. A list of such exemptions are given in Annexure V.



Government have also exercised the power in quite a few cases, for granting extension of time, prescribing manner of payment of arrears of tax due from the operators of stage carriages who have defaulted in payment.

#### 7.8 Refunds

Where the tax for any motor vehicle has been paid for any quarter or year and the vehicle has not been used or kept for use during the whole of that quarter or year or continuous part thereof not being less than one month, a refund of the tax shall be made at such rate and the conditions as may be prescribed. For that the non use intimation should be filed within 7 days of the period of non use, obtain endorsement regarding non use in the registration certificate and The application for refund should reach the Regional Transport Officer along with the tax licence and registration certificate within one month of endorsement. The Deputy Transport Commissioner is the sanctioning authority. The rate of refund shall be one third of the quarterly tax for every month during which the motor vehicle was not used or kept for use, if it is found on verification that the vehicle has not been used and tax due for the period is paid in this State within the time prescribed. (Section 6)

##### 7.8. Refund of Tax paid in excess or by mistake

Any tax paid or collected by mistake or in excess or remitted under wrong head of account will be refunded by the Regional Transport Officer if applied within one year from the date of payment, of such amount, with evidence of such payment (Rule 15).

##### 7.9 Refund of one time tax

A registered owner who has paid one time tax of non-transport vehicle for five years, ten years, or fifteen years period in lump but the vehicle is removed permanently from this State on transfer of ownership or change of address or the registration of the vehicle has been cancelled during the currency of tax so paid the amount of tax to be refunded shall be the difference between the actual amount of tax paid and the amount calculated by multiplying the number of year for which the motor vehicle was actually used in this State by the rate of annual tax prevailed on the date on which refund is applied for. (Rule 15 (A)).



#### 7.10. Rebate on annual tax licence

The tax payable for annual licence is four times the quarterly rate prescribed in the schedule. The rate of rebate in respect of such licence or licence exceeding one year is two percent of the tax payable, if the tax is paid within the prescribed period.

### SECTION IV

#### CHAPTER – 8

##### INTER STATE VEHICULAR TRANSPORT

The provisions regarding operation of vehicles in States/Union Territories other than Home State are governed by Section 88 of Motor Vehicles Act 1988.

#### 1. Goods carriages – Section 88 (12)

For the purpose of encouraging long distance inter-state road transport the appropriate authority may grant in a State, National permits for goods carriages under Section 88 (12) subject to condition laid down in Rule 86 to 90 of Central Motor Vehicles Rules, 1989.

#### 2. Temporary permit – Section 88 (7)

A Regional Transport Authority of one region may issue a temporary permit under Section 87 to be valid in another region or State with the concurrence given generally or for the particular occasion, of the Regional Transport Authority of that other region or of the State Transport Authority of that other State, as the case may be.

#### 3. All India Tourist Permit – Section 88 (9)

State Transport Authority may for the purpose of promoting tourism, grant Inter State Contract Carriage Permit under Section 88 (9) of the MV Act 1988 in respect of tourist vehicles valid for whole of India or in such contiguous States not being less than three in number including the State in which the permit is issued.

#### 4. Inter State – 88 (8) Special permit



The Regional Transport Authority of any one region or the State Transport Authority may for the convenience of the public, grant a special permit to any public service vehicle, including any vehicle covered by a permit issued under Section 74 or under Sub Section 9 of this Section for carrying a passenger or passengers for hire or reward under a contract for the use of the vehicle as a whole without stopping to pick up or set down along the line of route passengers not included in the contract, and in every case where such special permit is granted, the Regional Transport Authority shall assign to the vehicle for display thereon, a special distinguishing mark in the form and manner specified by the Central Government and such special permit shall be valid in any other region or State without the countersignature of the Regional Transport Authority of the other region or of the State Transport Authority of the other State, as the case may be.

#### 5. Reciprocal agreement between the States/Union Territories

- (i) In order to provide an efficient, adequate, economical and properly co-ordinated Road transport Service on Inter States routes, reciprocal agreements has been entered into between the Government of Kerala and Government of Karnataka, Tamilnadu and Pondicherry as per the provisions in Sections 88 (4), (5), (6), (7) of Motor Vehicles Act 1988.

The main features of the agreements are given below:-

#### 11.2 Between Kerala and Karnataka

1. The agreement effective from 1/7/76 was published as SRO 698/76. Supplemental agreements were published as SRO 1593/82, SRO 584/92 and SRO 596/05 dt 9.6.05. The agreements include conditions of service of stage carriages including those of State Transport Undertaking, goods carriages, passenger vehicles (motor cabs, tourist taxi) and their taxation. In respect of stage carriages operations in others states are on tax payment basis (double point taxation) and of others both under tax payment basis and tax free basis (single point taxation).
2. The number of goods carriage permits on single point taxation for each State is at present 2000 each, the position being reviewed when the numbers reaches 1900. On tax payment basis the number is according to requirement.



3. The number of Motor cab permits on single point taxation allowed for each State is at present 500 each, the position being reviewed when the numbers reaches 450. On tax payment basis the number is according to requirement.

#### 11.3 Between Kerala and Tamilnadu

1 The agreement entered effective from 1-7-1976 was published as SRO 699/76 dated 30/6/76. Supplementary agreements entered into were published as SRO 1127/79 dated 1/10/79, SRO 1531/81 dated 28/12/81, SRO 1164/82 dated 1/10/82, SRO 955/84 dated 16/8/94, SRO 903/95 dated 14/7/95 and SRO 756/99 dated 9/9/99. The agreements includes conditions of service of stage carriages including those of State Transport Undertakings, goods carriages, passenger vehicles (Motor cabs, tourist taxi) and their taxations. In respect of stage carriages operation is on double point taxation basis and of others both under single point and double point.

2. The number of goods carriage permits on single point taxation basis allowed to each State is at present 5000 each, review being made while filling the enhanced quota reaches 100. On tax payment basis number is according to requirement.

3. The number of tourist taxi permits on single point taxation allowed for each state is 600, position being reviewed when the number reaches 550..

#### 11.4 Between Kerala and Pondicherry

1. The agreement entered into on 25/6/1987 was published as SRO 940/87 dated 25/6/87. Supplementary against was extend into and published a SRO 796/90 dt: 11.6.90. This includes condition of services of stage carriages including those of State Transport Undertaking, goods carriages and passenger vehicles (Motor cabs, auto rickshaw) and their taxation.

2. The Pondicherry based stage carriages plying via Mahi Region (surrounded by Kerala State) are exempted from payment of tax due to Kerala State. The Kerala based stage carriages permitted by Kerala Government under this agreement are exempted from payment of tax due to Pondicherry for their operations in Pondicherry.



3. All goods carriages covered by permits issued by Kerala State are exempted from payment of tax due to Pondicherry in the region of Mahi.

In lieu, 25 goods carriages of Pondicherry are exempted from Payment tax due to Kerala.

4. All Kerala based motor cabs including auto rickshaw are exempted from payment of tax due to Pondicherry for their operation in the Mahi region, in lieu exemption is allowed by Kerala Government for 15 motor cabs, 25 tourist taxi and 50 auto rickshaws of Pondicherry.

5. The tax free licences shall be issued in the Home State on behalf of the reciprocating State.

11.5 The permits under the agreement forwarded by the concerned State Transport Authorities are counter signed by the reciprocating State Transport Authority for a period of 5 year or the validity of the permit of Home State whichever is earlier. Tax due to the reciprocating States as per their taxation laws are paid at the neighboring RTO/SRTO and tax/tax free licences issued (except that of Pondicherry).

11.6 Though the permits under single point taxation are, tax free in the reciprocating state, an annual tax of Rs.500 irrespective of laden weight was leviable from 1/4/88 vide notification number 52131/M3/86/PW&T dated 26/9/88 in respect of goods carriages covered by bilateral agreement between Government of Kerala and Government of Karnataka and Tamilnadu. The rate was enhanced to Rs. 1500 with effect from 1/4/93 and to Rs.3000 from 1/4/99 (SRO 316/99). The tax is payable by crossed demand draft in favour of Secretaries of State Transport Authority of reciprocating State. The amount due to Kerala is collected at the counter of STA at Trivandrum. The amount is payable in advance in lump on or before the 15<sup>th</sup> April every year failing which an additional sum of Rs.100 for each calendar month or part thereof is leviable. The counter signature is valid only for the period for which tax is paid.



**SECTION - V****DEPARTMENTAL PROCEDURE AND AUDIT****CHAPTER - 9****DEPARTMENTAL PROCEDURE**

8.1 Counter signature of permits pertaining to vehicles registered in other states but permitted to be used in the state (inter state operation of transport vehicles) are dealt with by the State Transport Authority/Check posts (Section 88 of the MV Act 1988) but all receipts under such permits are collected by the STA/RTO/Check Posts. Permits to All India Tourist Omni Bus registered and normally used or kept for use in the State are also issued by the State Transport Authority. Permits in respect of National permit for goods carriages are issued by the Regional Transport Authority. The State Transport Authority deals with all receipts under reciprocal agreements between other states and State of Kerala.

8.2 Receipts under the Motor Vehicles Act, 1988 and the Kerala Motor Vehicles Taxation Act, 1976 are assessed and collected by the concerned Regional Transport Officer and Joint Regional Transport Officer.

8.3 The work in every Regional Transport Office/Joint RTO office are distributed among circles. Usually vehicles pertaining to one Taluk form one circle. (One or more Clerks in the offices of the RTO will be in charge of registration of motor vehicles) After registration vehicles will be allocated to different circles numbered as C1, C2, C3 etc. In the case of transport vehicles, each circle is to attend to vehicles having registered address within one specified area such as Taluk, municipal town etc. A further distribution based on the class of vehicle such as goods vehicles, stage carriages, contract carriages non-transport vehicles etc. is being done.

8.4 Every circle clerk is to maintain a register in the form prescribed in Circular No.12/66 showing list of registers maintained in his circle. The head clerk has to check and satisfy himself that the list of registers has been prepared correctly and record a certificate to that effect in the register (No.D1.3152/1966 dated 27/4/66 of T.C).



8.5 Apart from the common registers maintained in every Government office a large number of special registers are also maintained in the MV Department in order to administer the laws relating to motor vehicles. A list of registers maintained in MV Department is detailed in the Annexure III.

#### 8.6 Register of Vehicles

This is the primary record of registration of vehicles in Regional Transport Office. Registration of Motor Vehicles as required under Section 39 of the Motor Vehicles Act 1988 is done making suitable entries in this register. Particulars of previous registration, class of the vehicle, brief and detailed description of the vehicles additional particulars such as date of purchase, place from where the vehicle purchased/the body built on chassis, seating capacity, unladen weight/laden weight, cubic capacity in respect of motor cycle etc. are to be noted in the register. Details of hire-purchase agreement if any, colour of the vehicle, particulars of change of ownership, amount of tax due, particulars of cancellation of registration if any, etc are also noted in this register. The entries in this register are to be attested in col. 31 by an Officer not below the rank of a Motor Vehicle Inspector.

#### 2. Tax endorsement register

Tax endorsement register is maintained only for transport vehicles. It is maintained circle wise – (i) For contract carriages and motor cabs/ auto rickshaw, (ii) for goods vehicle (iii) for stage carriages. The entry in this register is made immediately after vehicle is entered in the register of vehicles and the tax payable determined by an officer not below the rank of a Motor Vehicle Inspector. Information regarding entry in the Register of Vehicles, DCB Register and Permit Register are given by way of cross reference.

#### 3. DCB Register

DCB Register is maintained annually circle wise and in three sets (i) for contract carriages and motor cabs (ii) for goods vehicles and tractors and trailers and (iii) for stage carriages.



*Authority :* Appendix B to circular 1/73 of the Transport Commissioner. In the case of vehicles newly registered entries in the Tax Endorsement Register and DCB Register are made simultaneously. When a new DCB register is opened for a financial year, all vehicles are brought forward to the new register. Arrears, of Tax if any, in respect of a vehicle is also noted against it in the new DCB Register. However, vehicles already transferred to other districts/states are not copied to the new register. Demand for each quarter as noted in the tax endorsement register is entered in this register against which details of collection are posted from the chalans received from the treasury concerne pay-in-slip on payment of tax. Deletion or exemption (as per stoppage and tax exemption register) or write off, if any, is also noted against each entry in the column provided for this purpose for each quarter and balance due as at the end of each quarter worked out. Increase or decrease in demand on the basis of assessment, grant of exemption for non-use of the vehicle, deletion due to removal of vehicles to other districts or state etc; are also noted in the column provided and demands revised whenever necessary. Any transfer of ownership, of the vehicle address or otherwise, is also noted in this register.

In the case of DCB of taxes on passengers and goods the remittances during the grace period are to be posted before the expiry of fifteen days after the grace period. Cases of non-remittances are to be listed out within one week of the expiry of the said fifteen days and assessment notices issued.

The DCB Register in respect of non-transport vehicles has been dispensed with with effect from 1.7.1968.( Circular no. B1/17014/2002/TC dt 4/7/2003)

Note: With the discontinuance of the DCB Register for non-transport vehicles with effect from 1.7.1968 collection of tax in respect of such vehicles is enforced by periodical inspection by the staff of the Motor Vehicles/Police Department. Audit is to satisfy that there exists a machinery sufficient to ensure collection of tax in respect of non-transport vehicles and that the machinery is functioning properly and satisfactorily, follow up action exists in respect of cases reported by the enforcement staff. Non-transport vehicles for this purpose is not defined. All motor vehicles other than transport vehicles for which tax is payable are to be treated as non-transport vehicle. In section 2(47) of the



Motor Vehicles Act, 1988, 'Transport Vehicle' is defined as to mean a Public Service Vehicle, a Goods Carriage, an Educational Institution Bus or a Private Service Vehicle. Public Service Vehicle means (Section 2(35)) any motor vehicles used or adapted to be used for the carriage of passengers for hire or reward and includes a maxi cab, a motor cab, contract carriage and stage carriage. Goods Carriage means any motor vehicle constructed or adapted for use solely for carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods.

#### 4. Permit Register

This register is maintained to record details of permits issued by the Regional Transport Authority for stage carriages, permit based on interstate agreements issued by the State Transport Authority. Permit issued by the Regional Transport Officers/Joint Regional Transport Officers for contract carriages, goods vehicles, motor cabs, tourist taxis, autorikshaw are also recorded in this register.

#### 5. Stoppage and Exemption Register.

One Register is maintained for each circle. Advance intimation regarding non-use and tax-exemption relating to all types of vehicles are to be noted in this register. Cross reference to the entry in the DCB register regarding tax exemption is to be given in column 11. The entry regarding exemption granted is to be attested by the RTO in Column 13 as he is the officer competent to sanction exemption. If exemption is granted at one time for one or more quarters, the period covered and the money value of exemption is to be noted against that entry. (Cir. No. D1-3152/1966 dated 27.4.1966 of the TC)

#### 6. Register of Refunds

One register is maintained by each circle and refund application for all vehicles under all heads of account are noted in this register. Column 9 is to contain indication whether the refund application was forwarded to the Dy. Transport Commissioner. In



cases where the Regional Transport Officer is competent to sanction refund the purport of the order of the Officer is to be recorded in Column 10. (Cir No. D1-3152/1966 dated 27.4.1966 of the T.C)

#### 7. Revenue Recovery Register.

Revenue Recovery Register is maintained to record details of cases reported to the Revenue Authorities for collection under the Kerala Revenue Recovery Act, 1968. Every requisition is to be noted in this register before dispatch to the District Collector. The outstanding entries in the register are to be verified and reconciled with those in the Taluk Offices once every quarter. Specific instances of abnormal delay are to be reported to the District Collector and Transport Commissioner. Systematic follow up action is to be taken by the RTO until the arrears are recovered. Revenue recovery advice for a quarter is to be sent to the District Collector immediately after the close of the quarter and in any case before the expiry of the succeeding month (Circular No. A3-40392/TC/83 dt 20.12.89)

#### 8. Vehicle Movement Register

A vehicle movement register should be maintained at each check post. The vehicle movement register should contain the following details.

Sl.No., date on which the vehicle passes the check post, vehicle no. and class of vehicle, name and address of the owner, name and address of the driver and details of driving licence, seating capacity of the vehicle, GVW as registered, unladen weight, nature of permit covered by the vehicle, validity of permit and the authority by whom permit was issued, validity of authorization, the period for which composite tax due to Kerala, remarks, if any, signature of the officer.

#### 9. Check Report Register

Each counter clerk should maintain a check report register showing vehicle number, check report number, date of check, compounding fee collected, date of disposal of check report with proper attestation by RTO/Jt. RTO.



#### 8.7 Counter system for receipt of tax and fee.

- (a) Fees under the Motor Vehicles Act, 1988 is payable at the counter of the RTO's/Jt. RTO's.
- (b) For all fees received under the M.V Act, 1988 a receipt in Form T.R 5 is to be issued. In the case of payment of vehicle tax, such receipts are issued only in respect of arrear payments of tax for which tax licence under section 4(3) of the Act are not issued. In every Regional Transport Office/ Joint Regional Transport Office, three subsidiary cash books in form A are maintained, one for the receipts under the Motor Vehicles Act, 1988 and the other two for Transport Vehicles and non-Transport Vehicles for receipts under the Kerala Motor Vehicles Taxation Act, 1976. Serial number of the licence taken or receipt issued in form T.R 5 is to be noted in column 7 A of the subsidiary cash book in order to facilitate cross-reference. Daily totals of each subsidiary cash book are carried over to the main cash book every day along with other receipts. The receipts issued in form T.R 5 are to be signed by the Taxation Officer.

#### 8.8 Special Reciprocal Agreement between the States of Andhra Pradesh, Kerala, Tamilnadu, Maharashtra and Karnataka and Union Territories of Pondicherry and Goa regarding issue of composite permits.

- (a) As the State Transport Authority alone has been authorized to issue composite permits, the records on the subject are confined to the office of the State Transport Authority.
- (b) A register has been prescribed to note the particulars of the composite permits issued by the State Transport Authority. Every entry made in this register is required to be attested by the Secretary to the State Transport Authority. One page is allotted for each vehicle, and the relevant particulars such as one copy of the composite permit, payment of annual tax etc. are incorporated.
- (c) Under the agreement, the competent authority of the Home State shall furnish copies of the composite permits issued by it to other signatory States. The holder of the authorization shall file a quarterly return in regard to such vehicle in the form prescribed in quadruplicate to the Secretary, Home State Transport Authority who will forward



copies thereof to the Secretaries other signatory States' State Transport Authorities. The competent Authority of the Home State, shall receive the taxes on behalf of the other State in the form of crossed Bank Drafts, which shall be sent by the Home State to the State concerned as and when received along with a statement showing the details of the Vehicle number, Bank draft number and date, period for which tax paid etc.

8.9 Procedure for issue of temporary permits for periods not exceeding 7 days or 30 days after realizing vehicle tax.

(a) In the case of temporary licence to be issued under section 3(4) of the Kerala Motor Vehicle Taxation Act, 1976 and collection of composite fee on temporary permits, reciprocal agreements have been entered into between the States of Kerala, Tamilnadu and Karnataka. Under the agreement the Transport Authorities in the Home State may issue temporary licence/permit on behalf of the reciprocating State to vehicles for plying in such States after realizing the tax prescribed by the reciprocating State.

(b) The vehicle tax due to the reciprocating States are to be realised by the STA/ RTOs issuing temporary permits in the form of bank draft drawn in favour of the Secretary, STA of the reciprocating state. These Bank drafts are to be sent monthly to the Secretary, STA of such state.

(c) The bank drafts for vehicle tax received by the Secretary, STA, Thiruvananthapuram from the reciprocating States are to be entered in the Bank draft register and then encashed by transfer credit to the respective heads of accounts 0041 Taxes on Vehicles.(b) Receipts under the State Motor Vehicle Taxation Act and 0042 Taxes on Goods and Passengers

8.10 Periodical return due from/to the Transport Commissioner's Office.

The following periodicals/returns are due to be sent to the Government from the Transport Commissioners Office. For this purpose the Transport Commissioner is to collect statements from the Regional Transport Officers/Joint Regional Transport Officers and forward to Government a consolidated statement.

| Sl.No. | Name of the Periodical                                           | Due date for receipt in the T.C's office |
|--------|------------------------------------------------------------------|------------------------------------------|
| 1      | Monthly statements of Collection under various heads of accounts | 10 <sup>th</sup> of the succeeding month |



| Sl.No. | Name of the Periodical                                           | Due date for receipt in the T.C's office                    |
|--------|------------------------------------------------------------------|-------------------------------------------------------------|
| 2      | Monthly DCB statement of arrears of tax due for the period ended | Do                                                          |
| 3      | Quarterly DCB statements of vehicle tax                          | 20 <sup>th</sup> of the first month of succeeding quarter   |
| 4      | Quarterly DCB statement of TPG                                   | Do                                                          |
| 5      | Half yearly return showing progress of tax collection            | 30 <sup>th</sup> of the first month of succeeding half year |

## CHAPTER 10

### AUDIT OF RECEIPTS

#### 9.1 Introduction

Audit of receipt is one of the most important functions assigned to the Comptroller and Auditor General of India. Even though the history of receipt audit in this country can be traced to 1913, it really took concrete shape in the early sixties, and during the last four decades, it has attained high stature and gained recognition as a positive arm of Supreme Audit Institution of India, contributing in large measure to the public exchequer, by way of checking losses of revenue, safeguarding against laxity in tax administration, and more importantly suggesting improvements to tax procedures and even fiscal statutes.

Audit of receipts is extensive and covers, among other things, almost all tax statutes, both at the Union and State level. Tax receipts constitute both direct and indirect taxes. Non-tax receipts cover various items such as interest receipts, mining receipts, rental income, forest receipts etc. which are also subjected to audit. In the case of the Union Government, most of its tax receipts arise from administration of Income Tax Act, 1961, Central Excise Act, 1944, Indian Customs Act 1962 etc. under the division of powers enshrined in the Indian Constitution, States are empowered to legislate in certain specified areas, and raise revenue mostly from sales tax, motor vehicles tax, registration and stamp duty, state excise duty etc.

The audit of receipts in India thus covers the receipts of both Union and the States. It is conducted through checking of individual assessment records as well as



verifying the systems and procedures of all aspect of tax administration. The provisions of the CAG's (DPC) Act, 1971 vest unqualified discretion with the C&AG in deciding the scope, quantum and manner of audit. The provision of the CAG's (DPC) Act, also vest in the C&AG the authority to secure access to any accounts, books papers and other documents which deal with or form the basis of or are otherwise relevant to the transactions to which his duties in response of Audit extend.

## 9.2 Audit Mandate

Prior to CAG's (DPC) Act, 1971, the audit of receipt was done on consent basis.

### 9.2.1 Constitution of India (1950)

The Comptroller and Audit General of India who is the head of the Supreme Audit Institution of India derives his duties and powers mainly from Article 149 to 151 of the Constitution of India.

### 9.2.2 C&AG(DPC) Act, 1971

The Comptroller and Audit General's (Duties, Powers and Conditions of Service) Act, 1971 came into force from 15 December 1971, Section 16 of that Act provides :-

"It shall be the duty of the Comptroller and Auditor General to audit all receipts which are payable into the Consolidated Fund of India and of each State and of each Union Territory having a Legislative Assembly and to satisfy himself that the rules and procedures in that behalf are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed and to make for this purpose such examination of the accounts as he thinks fit and report thereon".

With the passing of this Act, it has become the statutory responsibility of the Comptroller and Auditor General of India to audit receipts of the Union and the States.

### 9.2.3 INTOSAI : LIMA DECLARATION 1977

- (i) Audit department is empowered to audit the collection of taxes as extensively as possible and, in doing so, to examine individual tax files.



- (ii) Tax audits are primarily audits for legality and regularity, however, when auditing the application of tax laws. Audit should also examine the system and efficiency of tax collection, the achievement of revenue targets, and if appropriate, propose improvements to the legislative body.

#### 9.2.4 ASSOSAI : BALI-DECLARATION 1988

Audit mandate of many Supreme Audit Institutions (SAIs) provide generally for the audit of public accounts which includes revenue such as tax receipts. However, SAIs should seek clear and specific legal authority for undertaking comprehensive tax audits in conformity with the relevant provisions of LIMA declaration on auditing receipts

#### 9.3 Statutory audit

The audit of receipt conducted by the Indian Audit & Accounts department is statutory audit and is done at two levels.

- (i) Headquarter audit.

Scrutiny of Act, Rules, notifications and circulars and instructions issued by the Government of India, Government of Kerala and the Transport Commissioner is done by the SRA Wing of the Office of the Principal Accountant General (Audit).

- (ii) Local audit

These are conducted by the parties of the State Receipt Audit Wing of Accountant General's (Audit) office. The local audits cover audit of RT Office/Joint RT Office/SRT Office/Deputy Commissionerate/ Commissionerate offices/Check posts.

#### 9.4 General principles of receipt audit

##### 9.4.1 Responsibility of the department to collect revenue.

It is primarily the responsibility of the departmental authorities to see that all receipts due to Government are correctly and properly assessed, realised and credited to Government account. Audit should also make such examination as it thinks fit with respect to the correctness of the sums brought to account.



#### 9.4.2 Audit to verify that sums due are regularly recovered

While the audit of tax receipts is, in most cases, taken up separately, other departmental receipts are audited along with audit of the expenditure of the department/scheme. Even in respect of departments where a detailed audit of receipts has not been possible, it should be verified in audit in so far as it is possible from the accounts that (a) sums due are regularly recovered and checked against demand and (b) sums received are duly brought to credit in the accounts.

#### 9.4.3 Audit may suggest appropriate improvement in procedure

In the audit of receipts, it would be necessary in case of a department which is a receiver of public money to ascertain what checks are imposed to ensure the prompt detection and investigation of irregularities, double refunds, fraudulent or forged refund vouchers or other loss of revenue through fraud, error or willful omission or negligence to levy or collect taxes or to make refunds. Audit may suggest any appropriate improvements in procedure, for instance that in a particular case a test inspection should be carried out by comparing a sample set of counterfoils of receipts with receipts actually in the hands of the tax payers or other debtors, the results of such an investigation being made available to audit.

#### 9.4.4 Audit regulated mainly with reference to statutory provisions

Audit of receipts will be regulated mainly with reference to the statutory provision and as judicially interpreted or financial rules or orders which may be applicable to the particular receipts involved. If the test check reveals any defect, lacuna or loopholes in such rules, the advisability of an amendment should be brought to notice.

#### 9.4.5 Audit not to substitute Revenue authorities

Audit department should not in any way substitute itself for the Revenue authorities in the performance of the statutory duties, but Audit should satisfy itself that legality and regularity are observed in individual assessments and in general that the departmental machinery is sufficiently safeguarded against error and fraud and that so far as can be judged, the procedure is calculated to give effect to the requirements of law.



#### 9.4.6 Audit not to review judicial decision

It is not the duty of Audit to review a judicial decision nor does Audit normally review the judgment exercised by officers in individual cases in areas purely falling in their discretion. But it must be recognized that an examination of such cases is an important factor in judging the effectiveness of assessment, recovery procedures etc. Where the information available on an individual case is insufficient to enable the audit to ascertain how the requirements of the law have been complied with, Audit may consider it its duty to ask for any further information to enable it to form the judgement required of it as to the effectiveness of the system.

#### 9.4.7 Department to set right the errors

Any obvious error in computation of assessment, etc. can be pointed out in audit leaving it to the administrative authorities to set right the errors by adopting such course of action as they may consider appropriate.

#### 9.4.8 Audit to check deviation from prescribed norms

Where any financial rule or order applicable to the case prescribes the scale or periodicity of recoveries, it will be the duty of the Audit to see as far as possible that there is no deviation, without proper authority, from such scale or periodicity. When this check cannot be exercised centrally a test audit may be conducted by local inspections, the aim being to secure apart from due realization of particular debts that disregard of rules of defects of procedure are not such as to lead to leakage of revenue.

#### 9.4.9 Audit to ensure that adequate regulation exists for proper accountal of Government revenue.

Ordinarily, Audit will see that the internal procedure adequately secures correct and regular accounting of demands, collections and refunds, that no amounts due to Government are left outstanding on its books without sufficient reason and that the claims are pursued with due diligence and are not abandoned or reduced except with adequate justification and with proper authority. Audit should carefully watch any outstanding dues and suggest to the departmental authorities any feasible means for their



recovery. Whenever any dues appear to be irrecoverable, order for their waiver and adjustment should be sought.

#### 9.4.10 Audit will have access to all records

Member of the audit department will have access to relevant papers and records of the Motor Vehicles department. But they should observe secrecy in the same way as officers of the Central Excise department.

In the course of scrutiny of records, Audit is entitled to make such queries and observations and to call for such records, statements, returns and explanations in relation to them as it may consider necessary in the interest of proper discharge of its duties.

Under sub-section (2) of Section 18 of the CAG's (DPC) Act, 1971 it is statutory obligation of the person in-charge of the office or the department, the accounts of which are to be inspected/audited by the functionaries of the C&AG, to afford all facilities of such inspection and comply with requests for information in complete form as possible and with all reasonable expedition.

#### 9.4.11 In the case of audit of receipts it should further be seen that:-

- (i) There are sufficient rules, regulations and procedure governing the taxation statute, in order to ensure prompt and proper collection of tax prescribed under the Act/Rules.
- (ii) The rules and procedure are so designed as to secure an effective check on the assessment, collection and allocation of the revenue.
- (iii) The rules and procedure are duly enforced so as to ensure timely collection of all revenues due to Government.
- (iv) The moneys which are due have been properly collected and accounted for and that the executive does not grant unjustified or unauthorised remission to tax payers.
- (v) There exists proper documentation in regard to the levy, assessment and collection of tax.
- (vi) There exists a proper system of accounting enabling audit to trace all receipts from its source to the final accounting in the Government's books.
- (vii) The departmental machinery is sufficiently safeguarded against error and fraud, and the procedure is to give effect to the requirements of law.



- (viii) Proper safeguards exist to prevent willful omission or negligence to levy or collect tax or to ensure refunds.
- (ix) The accounting classification and allocation if any are correctly done.
- (x) There is no delay in raising demand except without proper justification.
- (xi) No double refund or issue of fraudulent or forged refund orders or other losses of revenue through fraud, default or mistake have occurred.
- (xii) That all registers required to be maintained under the rules, notifications, orders and circulars have been maintained in accordance with the instructions contained therein.

9.4.13 In auditing the receipts under the Motor Vehicles Act, 1988, it should inter alia be seen that:-

- (i) All fees leviable under the Motor Vehicles Act, 1988 and rules made thereunder, have been levied and collected and the rates at which such fees are collected are in accordance with the Act, Rules and Orders in force at the time of collection and there has been no delay in collecting them and
- (ii) All Registers required to be maintained in respect of fees collected have been maintained properly.

9.4.14 In the case of receipts under the Kerala Motor Vehicles Taxation, Act, 1976 audit should satisfy the following:-

- (a) In the case of receipts under reciprocal agreements between States of which the State of Kerala is party it should be seen in audit that
  - (i) the agreement is within the competence of the Government under the relevant statute.
  - (ii) the agreement executed is regular and is in conformity with the provisions of the Act, Rules and Notifications issued by the State Government on the subject.
  - (iii) the agreement is not ambiguous and provides for all contingencies possible in the process of its enforcement, in respect of receipts realisable under the agreement.
  - (iv) in respect of the receipts due under the agreement, the department has taken prompt steps for the collection and proper accounting of such receipts.
  - (v) there is no loss of revenue due to anything required to be done under the agreement, but not done by the department or the State Government



(b) In the case of audit of DCB registers maintained for receipts under the taxation statutes, it should be seen in audit that :-

- (i) there is no omission to include in the DCB register, any transport vehicle for which tax is payable,
- (ii) the tax noted as due is correct with reference to the particulars of the vehicle entered therein,
- (iii) the entries concerning the vehicle agree with those in the Register of Vehicles and the Tax Endorsement Register,
- (iv) the collections noted against demands are correct with reference to the original chalans, and schedules received from the treasury,
- (v) all collections as per treasury schedules and the chalans have been correctly posted against demands noted in the register,
- (vi) the head of credit and other particulars are correctly noted in the chalan and there is no wrong classification of the revenue,
- (vii) all transfers from one circle to another within the districts that is one DCB register to another in the same office have been correctly and completely accounted for,
- (viii) wherever there is change in the quantum of tax payable due to alteration of the nature/class of the vehicle all such changes including the date of effect have been duly noted in the DCB register and demand revised,
- (ix) the opening balance of every year agrees with the closing balance of the previous year in respect of every vehicle,
- (x) the DCB Registers are closed quarterly and monthly reconciliation with treasury figures done in order to,
  - (a) detect omission to post credits in DCB.
  - (b) ensure that the same chalan is not posted against more than one vehicle.
  - (c) locate mistakes in posting the collections
  - (d) check manipulations in chalan presented by the party and
  - (e) detect false chalans, if any.



(xi) there is no omission to note the passenger capacity in the case of stage carriages and contract carriages and registered laden weight in the case of goods vehicles,

(xii) all entries in the DCB Register are attested.

(xiii) where no demands have been raised the reason therefore has been noted in the DCB Register,

(xiv) the deductions made in the DCB Register towards exemptions granted agree with the money value of exemptions sanctioned as per the tax exemption register for the same period,

(xv) No vehicle is deleted from the DCB Register except under orders of the RTO,

(xvi) in the case of stage carriages it should be seen in audit that no loss of revenue has occurred due to non-observance of Rule 269 of the Kerala Motor Vehicles Rules, 1989 regarding minimum seating capacity,

9.4.15 In the case of audit of receipt under the Kerala Motor Vehicles Taxation Act, 1976, it should be seen in audit that

(i) the vehicle tax has been realised correctly from all registered owners of transport vehicles in respect of the type of vehicle as entered in the register of vehicles and action taken to collect the arrears by reference to the DCB,

(ii) all transport vehicles entered in the register of vehicles have been entered either in the tax endorsement register or free tax endorsement register and that the tax endorsed is correct with reference to the Act, Rules, Notifications, Circulars and Orders issued in the matter,

(iii) in the case of free tax endorsement, the exemption from payment of tax is covered by the Act and the Rules and that there has been no unauthorised or unjustified remission of tax.

(iv) every entry in the tax endorsement register stating the tax payable for transport vehicles has been brought into the DCB,



- (v) advance intimation has been given regarding non-use of the vehicle where tax exemption/reduction is allowed and proper verification of such non-use has been conducted before allowing exemption/reduction,
- (vi) the registered laden weight in respect of goods vehicles are determined by the department in accordance with the notification issued by the Government on the subject from time to time,
- (vii) where delay in the remittance of tax and penalty has been noticed, with reference to postings in the DCB in respect of transport vehicles and based on reports from enforcement staff, in the case of other vehicles, prompt action has been taken to recover the tax etc., and recovery effected within a reasonable time, where tax in respect of any vehicle is paid after the date prescribed in Rule 5 of KMVT Rules 1975 it should be seen that the additional tax due has been collected.
- (viii) in the case of fleet owners the prescribe procedure (KMVT Act, 1976) has been followed correctly and completely and there is no loss of revenue due to wrong computation of tax.,
- (ix) tax token registers should be checked to ensure that the cash received are supported by counterfoils of receipts issued (for arrears only) and that cash has been actually taken to the cash book

A questionnaire on important points to be looked into during local audit of vehicle tax receipts is given in Annexure IV.

#### 9.4.16 Review of internal control and fraud/defalcation on the lines of INTOSAI guidelines.

##### a) Reporting on Internal control

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. They also help in prevention of frauds and other irregularities. Internal controls also helps in creation of reliable financial and management information system for prompt and efficient services and for adequate safeguards against evasion of tax and duties.



Each Inspection Report should contain a para on the control environment and the internal control system including internal audit in the office inspected. A detailed questionnaire prepared on the lines of INTOSAI is appended as annexure VI for the guidance of the field party. The control mechanism in the office may be evaluated and commented in the Inspection Report based on the replies to the questionnaire

*b) Audit should ensure that internal checks are adequate*

Audit is to satisfy itself by such test-checks as it may consider necessary that the internal procedure adequately provides for and actually secures:-

- (i) the collection and utilization of data necessary for the computation of demand or refund under the law;
- (ii) the prompt raising of demand on tax-payers in the manner required by law;
- (iii) the regular accounting of demands, collections and refunds;
- (iv) the correct accounting and allocation of collection and their credit to the consolidated fund;
- (v) that proper safeguard exist to ensure that there is no omission or negligence to levy or collect taxes, or to issue refunds;
- (vi) that claims on tax payers are pursued with diligence and are not abandoned or reduced except with adequate verification and proper authority;
- (vii) that double refunds, fraudulent or forged refund orders, or other losses of revenue through fraud, default or mistake are promptly brought to light and investigated;
- (viii) that INTOSAI guidelines for internal control standards for the public sector have been referred to.

*c) Reporting on Fraud/Defalcation*

Weak and suspect areas vulnerable to risk of defalcation, fraud etc are also highlighted and brought out in the Inspection Report. Important points set out in the ASOSAI guidelines dealing with fraud are listed below:

1. Fraud may involve

- Manipulation, falsification or alteration of records or documents.
- Misappropriation/misapplication of assets.



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**1. Fraud may involve**

- Manipulation, falsification or alteration of records or documents.
- Misappropriation/misapplication of assets.



- Suppression or omission of the effects of transactions from records or documents.
- Recording of transactions without substances.
- Misapplication of accounting policies.

## 2. Types of fraud

- Falsifies a materials fact or makes a false or fictitious representation of riles a false of fictitious claim resulting in economic or financial loss to the institution.

## 3. Audit evidence

In searching for the evidence of fraud and corruption the audit must:

- Always search for the strongest possible evidence;
- Investigate without delay, as evidence can be destroyed, lost or forgotten;
- Not ignore small clues or leads;
- Look for facts that confirm or refute suspicions;
- Concentrate on the weakest point in the fraud and corruption;
- Identify and summarize the evidence indicating that fraud may have been committed;
- Identify the possible scenario of fraud;
- Summarise and explain the accounting and control systems involved, the paper trail involved in the transaction, and the deviations from the systems;
- Explain patterns used in covering up the fraud;
- Identify the possible extent of the fraud;
- Consider the possibility of collusion.

## Sources of Evidence

- Documents from the auditee: During the course of examination of books of accounts, auditors investigate various documents that serve as evidence for the audit. These documents may be originals or photocopies depending upon their importance.



- Report of Internal Auditor: The internal auditor may have identified instances of deviation from normal procedure.
- Interviews : Auditors can obtain important information from various government employees. Since they may have noticed internal control failure made by managers and fraudulent activities perpetrated by other employees, interviews may be useful in detecting material misstatements caused by fraud and corruption.
- Inspection/ Observation: Auditors can notice possibility of fraud and corruption through the examination of inspection observation/physical verification reports (e.g forged document, inventory not in existence of inferior quality). Where any auditor relies on physical observation for an audit conclusion this would need to be supported with properly documented evidence.
- Questionnaires: Auditors may gather important and helpful information by using questionnaires.
- Confirmation with other related parties: Auditors sometimes obtain information directly from other related parties (e.g bank balance confirmation from the bank, Debtor's balance confirmation from individual debtors etc). If the figures provided by these agencies do not tally with the books of account, they should check in detail to find out the reason for discrepancy.
- Results of Analytical Review: Auditors analyze both financial and non-financial information which can indicate abnormal trends. In that case, auditors need to concentrate on particular areas.
- Expert Opinion: Auditors may seek expert opinion about a suspicious case. The expert opinion becomes evidence if auditors can rely on that opinion in assessing fraud and corruption.



## CHAPTER - 11

### AUDITING STANDARDS

#### 10.1 Introductory

Auditing Standards prescribe the norms of principles and practices, which the auditors are expected to follow in the conduct of audit. They provide minimum guidance to the auditor that helps determine the extent of auditing steps and procedures that should be applied in the audit and constitute the criteria or yard stick against which the quality of audit results are evaluated.

The auditing standards of the International Organization of Supreme Audit Institutions (INTOSAI) have been suitably adapted with due consideration of the Constitution of India, relevant Statutes and rules for the auditing standards for the Supreme Audit Institution of India (SAI).

#### 10.2 INTOSAI's Auditing standards

The general framework of the auditing standards for the International Organisation of Supreme Audit Institutions (INTOSAI) has been deduced from the Lima and Tokyo declarations, the statements and reports adopted by INTOSAI in various congresses, and the report of the United Nations Expert Group Meeting in Public Accounting and Auditing in Developing Countries. The INTOSAI's auditing standards consist of four parts.

- (a) The Basic postulates
- (b) The General standards
- (c) The Field standards
- (d) The Reporting standards

INTOSAI has developed these standards to provide a framework for the establishment of procedures and practices to be followed in the conduct of an audit, including audits of computer-based systems. They should be viewed in the particular constitutional, legal and other circumstances of the Supreme Audit Institution (SAI).



### 10.3 The Auditing standards by C&AG of India

10.3.1 The CAG's Auditing standards are broadly grouped under four categories

(i) The Basic postulates; (ii) The General standards; (iii) The Field standards; and (iv) The Reporting standards.

#### 10.3.2 Basic postulates

The basic postulates for auditing standards are basic assumptions, consistent premises, logical principles and requirements which help in developing auditing standards and serve the auditors in forming their opinion and reports, particularly in cases where no specific standards apply.

#### 10.3.3 General standards

The general auditing standards describe the qualifications of the auditor and the auditing institution so that they may carry out the tasks related to field and reporting standards in a competent and effective manner.

The general auditing standards include standards, which apply both to the auditors and to the audit institutions, and standards which apply only to audit institutions. The standards common to auditors and audit institutions are :

- (a) The auditor and the audit institutions must be independent.
- (b) The auditor and the audit institutions must possess the required competence.
- (c) The auditor and the audit institutions must exercise due care and concern in complying with these auditing standards. This embraces due care in planning, specifying, gathering and evaluating evidence, and in reporting findings, conclusions and recommendations.

The general auditing standards for the audit institutions are that they should adopt policies and procedures to

- (a) Recruit personnel with suitable qualifications.
- (b) Develop and train employees to enable them to perform their tasks effectively, and to define the basis for the advancement of auditors and other staff.
- (c) Prepare manuals and other written guidance notes and instructions concerning the conduct of audits.
- (d) Support the skills and experience available within the audit institutions, and identify the skills which are absent; provide a good distribution of skills to



auditing tasks and assign a sufficient number of persons for the audit; and have proper planning and supervision to achieve its goals at the required level of due care and concern.

- (e) Review the efficiency and effectiveness of internal standards and procedures.

#### 10.3.4 Field standards

The purpose of field standards is to establish the criteria or overall frame work for the purposeful, systematic and balanced steps or actions that the auditor has to follow. These steps and actions represent the rules of investigation that the auditor, as a seeker of audit evidence, implements to achieve a specific result.

The field standards establish the framework for conducting and managing audit work. They are related to the general auditing standards, which set out the basic requirements for undertaking the tasks covered by the field standards. They are also related to the reporting standards, which cover the communication aspect of auditing, as the results from carrying out the field standards constitute the main source for the contents of the opinion or report.

The field standards applicable to all types of audit are:

- (a) The auditor should plan the audit in a manner, which ensures that an audit of high quality is carried out in an economic, efficient and effective way and in a timely manner.
- (b) The work of the audit staff at each level and audit phase should be properly supervised during the audit; and a senior member of the audit staff should review documented work.
- (c) The auditor, in determining the extent and scope of the audit, should study and evaluate the reliability of internal control.
- (d) In conducting regularity (financial) audits, a test should be made of compliance with applicable laws and regulations.
- (e) Competent, relevant and reasonable evidence should be obtained to support the auditors judgement and conclusions regarding the organization, program, activity or function under audit.



- (f) In regularity (financial) audit and in other types of audit when applicable, auditors should analyse the financial statements to establish whether acceptable accounting standards for financial reporting and disclosure are complied with. Analysis of financial statements should be performed to such a degree that a rational basis is obtained to express an opinion on financial statements.

#### 10.3.5 The Reporting standards

The Reporting standards set down the framework for reporting the results of audit concisely, with accuracy, objectivity and clarity and in a constructive manner and for appropriate, conclusive and preventive follow up action.

##### *(i) Local Audit Report*

###### *(a) Self explained words*

On the completion of each audit assignment, the Auditors should prepare a written report setting out the observations and conclusions in an appropriate form; its content should be easy to understand and free from vagueness or ambiguity, include only information which is relevant and supported by sufficient and competent audit evidence and be independent, objective, fair, complete and accurate, constructive and concise as the subject-matter permits.

###### *(b) Timeliness*

The audit report should be made available promptly to be of utmost use to all users, particularly to the auditee organisations and/or Government who have to take requisite action.

##### *(ii) Follow up of Audit Reports*

Adequate, prompt and proper follow up action by the entity on , and in the light of audit conclusions projected will enhance the effective ness of audit and promote public accountability.

*Note:* For further details – Auditing Standards (2<sup>nd</sup> edition – 2002) issued by the headquarters may be consulted.



## SECTION VI

## CHAPTER – 12

## ORGANIZATIONAL SET-UP OF AUDIT

## 12.1 State Receipt Audit Wing (Headquarters)

The headquarters of State Receipt Audit is at Thiruvananthapuram. There are six sections at the headquarters under the charge of Deputy Accountant General (RR) which assist the Accountant General in the audit of State Receipts. 'Taxes on Vehicles' is attached to SRA(HQ)I under the charge of one Assistant Audit Officer.

## 12.2 Functions assigned to headquarters

The functions assigned to headquarters sections dealing with various tax receipts are dealt with in detail in chapter 3 of the Manual of State Receipt Headquarters Sections. The main duties consist of

- Co-ordination
- Guidance to field parties.
- Scrutiny of notifications, circulars and amendments to Act/ Rules
- Organizing seminars
- Edition and issue of reports received from the field parties and follow up action including processing draft paragraphs.
- Maintenance of the-prescribed registers.

## 12.3 Field formation

The field inspection parties each consist of three/four members. They visit the office of the Commissioner, Deputy Commissioners, RTOs and Joint RTOs, according to the prescribed time schedules and conduct audit of receipts. The audit of expenditure relating to these offices except the commissionerate is also simultaneously conducted by these parties.

*I. Audit Officer*

1. Review of items marked with asterisk and discussion of outstanding Local Audit Report paras.



2. Allocation of work to Audit Officer, Assistant Audit Officer/Section Officer/Auditor to enable cross check with records in other Excise and Taxation Offices with those in Motor Vehicle Registration Offices, where all the taxes in this Section (E) and connected taxes are not dealt with in same office.
3. Payment of passenger and goods tax in lumpsum in excess of Rs 5,000 (audit officer may raise or lower this limit to ensure that 25 per cent of all lump sum payments of high value are audited by him).

## *II. Assistant Audit Officer/Section officer*

- \* 1. Audit of registers and files dealing with recovery and demand of vehicle (token) tax and fee for registration and re-registration and fitness certificate.
- \* 2. Audit of registers and files dealing with recovery, remittance and demand of fees, penalty etc. under National, Zonal and bilateral permit schemes; including watching and checking recoveries and dues from other States and finding system defects.
- \* 3. Audit of registers and files dealing with recovery of tax or licence fees for plying contract and stage vehicles and renewal of licences.
- \* 4. Audit of registers and files dealing with assessment of rates of vehicle tax bases on vehicle weight etc.
- \* 5. Audit of assessment files relating to passenger and goods tax based on freight/seating capacity of vehicle or weight, other than compounded rate or lump sum payments including assessment of such tax on stage and contract carriages.
- \* 6. Payment of passenger and goods tax at compounded rates or as lump sum above Rs 1,000 and below Rs 5,000 (or such limits as Audit Officer may fix to ensure that 50 per cent of such payments are audited by Assistant Audit Officers).
- \* 7. Audit of files dealing with levy of fines, penalties or composition fees on compounding of offence, appeal fees, refunds (other than refund of token tax) and exemption.



### III. Auditor

1. Audit of registers and files dealing with issue or renewal of driving licences and conductor's licences.
- \* 2. Check of 10 percent of recoveries posted in D & C and such registers with payment documents or treasury records e.g challans.
- \* 3. Collection of details of 10 per cent of entries in records of vehicles transferred to jurisdiction of other offices in same or other States for tracing in other offices by reference to other audit parties or other Accountant General (Audit)/ Director of Audit to see if tax is being recovered in the other offices without break.
- \* 4. Check of cash books, receipt books and other registers and relevant records.
- \* 5. Records in outposts, if any.
- \* 6. Refund of token tax.
- \* 7. Payment of passenger and goods tax/compounded or made in lump sum where amount does not exceed Rs 1,000 (Audit officer may raise or lower this limit to ensure that 25 per cent of such payments are audited by Auditor).