

## MOTOR VEHICLES TAXATION MANAGEMENT ACT.

### Act No. 34, 1949.

An Act to provide for assessing and collecting taxes upon motor vehicles; to validate certain matters; and for purposes consequent thereon or incidental thereto. George VI.  
No. 34, 1949.  
[Assented to, 12th November, 1949.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** (1) This Act may be cited as the "Motor Vehicles Taxation Management Act, 1949." Short title  
and com-  
mencement.

(2) This Act shall commence upon the date of commencement of the Motor Vehicles (Taxation) Act, 1949.

**2.** (1) The Motor Tax Management Act, 1914, as amended by subsequent Acts, shall continue in force for all purposes in connection with tax payable in respect of motor vehicles under the Motor Vehicles (Taxation) Act, 1942, but shall otherwise cease to have effect. Operation of  
certain Acts  
and valida-  
tion.

(2) Any act, matter or thing done or performed or omitted to be done or performed before the commencement of this Act by the Minister, the Commissioner or any other authority in which was vested the administration of any Act, and which would have been valid if this Act and the Motor Vehicles (Taxation) Act, 1949, had been in force at the time when such act, matter or thing was so done or performed or omitted to be done or performed is hereby validated.

**3.** In this Act, unless the context or subject-matter otherwise indicates or requires— Definitions.

"Articulated vehicle" means any motor vehicle having at the rear thereof a portion, on wheels, which

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which is pivoted to, and a part of which (not being a pole, draw-bar or similar device or an accessory thereof) is superimposed upon, the forward portion of the vehicle.

“Authorised officer” means any officer authorised by the Commissioner either generally or in any particular case.

“Commissioner” means The Commissioner for Road Transport and Tramways appointed under the Transport (Division of Functions) Act, 1932, as amended by subsequent Acts.

“Compression ignition engine” means an engine in which fuel oil is injected under pressure and is ignited either solely or partly by the temperature resulting from the compression of the combustion air.

“Motor car” means a motor vehicle constructed to be used principally for the carriage of persons, but does not include a motor omnibus or a motor cycle.

“Motor cycle” means any motor vehicle with two wheels (not being a trailer), or any motor vehicle with three wheels, one of which is designed to enable a side-car to be carried, or any motor vehicle which weighs not more than five hundredweight when unladen and is specially constructed to be used, and whilst upon a public street is used, solely for the conveyance of an invalid.

“Motor lorry” means a motor vehicle (not being a motor cycle or a tractor or a trailer), constructed to be used principally for the carriage of goods, wares, or merchandise, or for the conveyance of any kind of materials used in any trade, business, or industry, or for use in any work whatsoever other than the conveyance of persons.

“Motor omnibus” means a motor vehicle (not being a taxi-cab) plying in a public street for hire for the conveyance of passengers at separate fares.

“Motor

“Motor vehicle” means any motor car, motor carriage, motor cycle, or other vehicle propelled upon any public street wholly or partly by any volatile spirit, steam, gas, oil, or electricity, or by any means other than human or animal power, and includes a tractor or a trailer, but does not mean or include any vehicle used on a railway or tramway. No. 34, 1949.

“Owner” when used with reference to a motor vehicle includes every person who is the owner, joint owner, or part owner of the vehicle, and any person who has the use of the vehicle under a hire-purchase or a hiring agreement, but does not include the lessor under a hire-purchase agreement.

“Prescribed” means prescribed by this Act or the regulations.

“Primary producer” means a person—

- (a) who cultivates or uses his own land or that of another for his own benefit—
  - (i) for the production of fruit, grain, flowers, vegetables, tobacco or farm or agricultural produce of any description; or
  - (ii) for dairy farming, poultry or other bird farming, pig farming, bee keeping or oyster culture; or
  - (iii) as a nurseryman; or
  - (iv) as a pastoralist for the rearing or grazing of horses, cattle or sheep; or

(b) who gathers leaves from which eucalyptus or other oil is to be distilled.

“Primary producer’s vehicle” means a motor vehicle (not being a motor vehicle which is used or let for hire)—

- (a) which is owned by a primary producer and whilst upon a public street is used solely or principally—
  - (i) for carting primary products produced or leaves from which eucalyptus

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eucalyptus or other oil is to be distilled gathered by him, or materials, provisions or commodities of any kind for use in his business or occupation as a primary producer or in his household;

- (ii) for purposes connected with the clearing of land to be cultivated or used by him for primary production; or
- (b) which is owned by a rural society registered under the Co-operation Act, 1923-1948, where—
- (i) at least seventy-five per centum of the shares in such society are held by primary producers; and
  - (ii) the vehicle whilst upon a public street is used solely or principally for carting primary products produced or leaves from which eucalyptus or other oil is to be distilled gathered by primary producers who are members of the society, or materials, provisions or commodities of any kind for use in their businesses or occupations as primary producers or in their households, or for carting primary products produced or leaves from which eucalyptus or other oil is to be distilled gathered by the society or acquired by it from primary producers who are members of the society, or for purposes connected with the clearing of land to be cultivated or used by members of the society for primary production.

“Public street” means any street, road, lane, thoroughfare, footpath or place open to or used by

by the public and includes any place at the time open to or used by the public on the payment of money or otherwise. **No. 34, 1949.**

“Registered” in relation to a public motor vehicle to which the Transport Act, 1930, as amended by subsequent Acts, applies, means registered under that Act as so amended or the regulations thereunder, and in relation to any other motor vehicle means registered under the Motor Traffic Act, 1909, as amended by subsequent Acts, or the regulations thereunder, and “registration” has a corresponding meaning.

“Regulations” means regulations made under this Act.

“Semi-trailer” means a vehicle used or intended to be used as the rear portion of an articulated vehicle.

“Side-car” means any car, box or other receptacle attached to the side of a motor cycle and for the carriage of which a third wheel is provided.

“Tax” means motor vehicles tax.

“Tractor” means any motor vehicle constructed principally for the purpose of supplying motive power for machinery or of hauling any vehicle.

“Trailer” includes a semi-trailer.

**4.** (1) Subject to the provisions of this Act, tax at such rates as may be fixed by or under any Act shall be paid to the Commissioner in respect of every motor vehicle at the time of application for registration of the motor vehicle and at the time of application for each renewal of the registration of that motor vehicle and shall be so paid by the person in whose name the application is made. **Payment of taxes.**

(2) If any person fails to pay the full amount of tax as aforesaid, he shall be liable to a penalty not exceeding five pounds and, in addition to such penalty, he shall be liable to pay the unpaid amount of such tax and any fee due and payable in respect of the registration or renewal of registration of the motor vehicle.

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Unregis-  
tered  
vehicles  
and vehicles  
upon which  
tax has not  
been paid.  
Act No. 34,  
1914, s. 5.

**5.** The owner of any motor vehicle which (not being a motor vehicle exempted from registration) is not registered, or which being registered is liable to tax but upon which the prescribed tax though due and payable has not been paid, who uses or drives the vehicle, or causes or permits or suffers it to be used or driven, upon a public street shall be liable to a penalty not exceeding fifty pounds and, in addition to such penalty, be liable, where the vehicle is not registered, to pay the fee for the registration or renewal of the registration thereof together with the tax which would be due upon the application for such registration or renewal for each year in any part of which the vehicle was so used or driven, or caused, permitted or suffered to be so used or driven had the same been registered or, where the vehicle is registered, to pay the tax so due and payable.

Power to  
seize un-  
registered  
vehicles.  
Act No. 34,  
1914, s. 7A.

**6.** (1) Where any unregistered motor vehicle, not being a motor vehicle exempted from registration, is used or driven upon a public street, any authorised officer or member of the police force may seize such motor vehicle.

(2) Where any motor vehicle has been seized pursuant to subsection one of this section any court of petty sessions holden before a stipendiary magistrate may, upon application in or to the effect of the prescribed form by any authorised officer or member of the police force, make an order declaring the vehicle forfeited to His Majesty.

Where any such application is made the following provisions shall have effect:—

(a) notice of the application shall be given to the person who had the custody of the vehicle at the time of the seizure if such person can be found and to such other persons (if any) as the court may direct;

(b) no order of forfeiture shall be made if the owner of the vehicle satisfies the court that there has been no intent to evade registration of the vehicle.

(3) Any person aggrieved by an order of a court of petty sessions under this section may appeal therefrom in the manner provided in the Justices Act, 1902-1947.

(4)

(4) Any such forfeiture may be waived by the Commissioner upon payment within such period as the Commissioner may allow of a fine equivalent to the sum obtained by adding together the fee for the registration or renewal of the registration of the vehicle and the tax which would be due upon the application for such registration or renewal for each year in any part of which the vehicle was so used or driven together with a further fine of twenty per centum of such sum.

(5) If any such fine is not paid within the period so allowed the vehicle may be disposed of in the prescribed manner and the proceeds of any sale thereof shall be applied as prescribed by the regulations.

7. (1) There shall be exempt from tax—

Exemptions.

- (a) any motor vehicle specially constructed for the work of conveying sick or injured persons or for mine rescue work in accordance with the Mines Rescue Act, 1925, and the regulations thereunder, if the vehicle whilst upon a public street—
  - (i) is used solely for such work; or
  - (ii) is used mainly for, and is not used for any purpose not connected with, such work;
- (b) any motor vehicle upon which a trader's plate is being used in accordance with the Motor Traffic Act, 1909, as amended by subsequent Acts, and the regulations made thereunder;
- (c) any motor vehicle which is owned by the council of a city, municipality or shire or by a county council and which—
  - (i) not being a vehicle provided for in subparagraph (ii) or subparagraph (iii) of this paragraph, is used solely for or in connection with road construction, maintenance or repair or the removal of garbage or night soil and is not used or let for hire;
  - (ii) comprises a plough, bulldozer, mechanical scoop or shovel, road grader, road roller or similar machinery or apparatus and

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and is used solely or principally for or in connection with road construction, maintenance or repair;

- (iii) comprises a roller, lawn mower, or similar machinery or apparatus and is used solely or principally for or in connection with the rolling or maintenance of tennis courts, cricket wickets, lawns or pathways or improving the surface of the ground, or similar work.

In this paragraph "maintenance" includes cleansing, sweeping, watering or any similar process;

- (d) any trailer (not being a semi-trailer which is comprised in the registration of an articulated vehicle)—
  - (i) which is a primary producer's vehicle; or
  - (ii) which is owned by a person engaged in the cutting of timber and whilst upon a public street is used solely for the purpose of carting timber, cut by him, from the forest to a mill and is not let out on hire;
- (e) any motor vehicle which whilst upon a public street is used solely for or in connection with the work of fighting bush fires and is registered in the name of a bush fire brigade or other body controlling such work;
- (f) any motor vehicle owned by the Board of Fire Commissioners of New South Wales;
- (g) any motor vehicle which is exempted from registration.

(2) The regulations may exempt from tax any motor vehicle owned by and used by or on behalf of a consul or consulate or other person or body duly appointed to represent any State or country other than the State of New South Wales.

(3)



(3) The Commissioner may grant exemption or No. 34, 1949.  
partial exemption from tax in respect of—

- (a) any motor vehicle where he is satisfied that it does not travel upon a public street except for purposes connected with the operation of a plough, hoe, chaff-cutter, thresher or other farming or agricultural implement, or well-boring or dam-sinking plant;
- (b) any trailer (not being a semi-trailer which is comprised in the registration of an articulated vehicle)—
  - (i) where it is owned by a primary producer and the Commissioner is satisfied that it does not travel upon a public street except for purposes connected with the operation of any implement or plant referred to in paragraph (a) of this subsection or for purposes mentioned in subparagraphs (i) and (ii) of paragraph (a) of the definition of “Primary producer’s vehicle” in section three of this Act;
  - (ii) where it is owned by a rural society registered under the Co-operation Act, 1923-1948, and at least seventy-five per centum of the shares in such society are held by primary producers, and the Commissioner is satisfied that the trailer does not travel upon a public street except for purposes connected with the operation of any implement or plant referred to in paragraph (a) of this subsection or for purposes mentioned in subparagraph (ii) of paragraph (b) of the definition of “Primary producer’s vehicle” in section three of this Act;
- (c) any motor vehicle (not being a vehicle constructed principally for the conveyance of persons, goods or materials, or a vehicle provided for in paragraph (c) of subsection one of this section) which whilst upon a public street

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street is used solely or principally for or in connection with road construction, maintenance (including cleansing, sweeping, watering or any similar process), or repair;

- (d) any motor vehicle, for which exemption or power to exempt in whole or in part from tax is not provided elsewhere in this Act, which comprises a crane, concrete mixer, welding plant, air compressor or other similar machinery or apparatus and does not, whilst upon a public street, carry any loading other than accessories used in connection with the operation of such machinery or apparatus;
- (e) any motor vehicle which is used mainly on private property or on a wharf, railway station, airport or similar place and travels on the public streets only when proceeding to or from such a property or place, if the Commissioner is satisfied that—
  - (i) by reason of the nature and construction of the vehicle, it is not suitable to be used to any material degree upon a public street; and
  - (ii) the vehicle does not, whilst upon the public street, carry, or haul any trailer which carries, loading other than accessories used in connection with the operation of the vehicle;
- (f) any trailer weighing not more than five hundredweight when unladen, which whilst upon a public street is used principally or solely for the carriage of camping equipment or a boat or other materials or goods used in connection with tours made for recreation purposes and which is not used or let for hire or for any consideration or is not used in the course of trade or business;
- (g) any motor vehicle which is not driven upon a public street except whilst being driven across such street;
- (h) any motor vehicle which weighs not more than five hundredweight when unladen and is specially

specially constructed to be used, and whilst upon a public street is used, solely for the conveyance of an invalid. No. 34, 1949

(4) In respect of interchangeable trailers or any of them the Commissioner, in his discretion, may grant such reduction of tax as he thinks fit. Any such reduction shall not exceed seventy-five per centum of the amount which, but for this subsection, would be payable as tax.

**S.** (1) For the purpose of determining whether any tax or additional tax is payable on a motor vehicle and if so, the amount thereof, the Commissioner or any authorised officer may request— Determination of tax.

- (a) the owner or person in charge of the vehicle to produce it within a time and at a place specified in the request and afford all reasonable facilities for examination of the vehicle by an authorised officer;
- (b) the owner of the vehicle or the person in whose name an application for the registration or renewal of registration of the vehicle is made to furnish such information in writing by statutory declaration or otherwise as the Commissioner or the authorised officer shall consider necessary or convenient.

(2) Any owner or person in charge of a motor vehicle who fails to comply with a request made pursuant to paragraph (a) of subsection one of this section, and any owner or person in whose name an application for the registration or renewal of registration of a motor vehicle is made who fails to comply with a request made pursuant to paragraph (b) of that subsection or who otherwise than by statutory declaration wilfully furnishes any false or misleading information in respect of any matter necessary or convenient to enable the appropriate amount of tax or additional tax payable on a motor vehicle to be determined shall be liable to a penalty not exceeding ten pounds.

(3) The Commissioner shall determine whether any tax or additional tax is payable on any motor vehicle and, if so, the amount thereof.

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Adjustment  
of tax.

**9.** (1) For the purpose of ensuring that the provisions of the Motor Vehicles (Taxation) Act, 1949, are complied with, the Commissioner may at any time alter, vary or rescind any determination in regard to tax or additional tax on a motor vehicle or may refund the whole or any portion of any tax paid.

(2) Where the Commissioner has so altered, varied or rescinded a determination and tax or additional tax is payable as a result thereof he may require the person in whose name the vehicle was registered at the time when the determination was made to pay such tax or additional tax, as the case may be, within a time stipulated by him, and if such person fails to comply with such requirement within the time so stipulated he shall be liable to a penalty not exceeding five pounds and, in addition to such penalty, he shall be liable to pay such tax or additional tax, as the case may be.

Provided that no person shall be liable to pay tax or additional tax as a result of any alteration, variation or rescission of a determination where such determination was made more than three years before the date of such alteration, variation or rescission if he satisfies the Commissioner that there was no intent to avoid payment of tax.

Notice of  
alteration  
and addi-  
tional tax.  
Act No. 34,  
1914, s. 13.

**10.** (1) Where during the currency of the registration of a motor vehicle an alteration is made in the construction, equipment, use or ownership of the vehicle of such a nature that tax or an increased amount of tax would be payable on the renewal of its registration the person in whose name the motor vehicle is registered shall forthwith notify the Commissioner of the alteration in writing, and shall forthwith or within such period as the Commissioner may allow pay tax or pay additional tax. Such tax or additional tax shall be calculated at the rate of—

- (a) where the registration current at the date of the alteration was effected for a period exceeding three months—one-twelfth of the tax applicable after the alteration in respect of a yearly registration of the vehicle where the vehicle was exempt from tax before the alteration or, as the case may be, one-twelfth of the difference between

between the tax applicable before the alteration and the tax applicable after the alteration in respect of a yearly registration of the vehicle; No. 34, 1940.

(b) where the registration current at the date of the alteration was effected for a period not exceeding three months—one-third of the tax applicable after the alteration in respect of a quarterly registration of the vehicle where the vehicle was exempt from tax before the alteration or, as the case may be, one-third of the difference between the tax applicable before the alteration and the tax applicable after the alteration in respect of a quarterly registration of the vehicle, for each month or part thereof in the portion of the period for which the vehicle is registered unexpired at the date of the alteration.

(2) Any person in whose name a motor vehicle is registered who fails forthwith to notify the Commissioner of any such alteration as is referred to in subsection one of this section shall be liable to a penalty not exceeding fifty pounds in addition to the tax or additional tax payable and to a further penalty of twenty pounds for each month during any part of which the vehicle is used or driven without notification of the alteration and payment of tax or additional tax as the case may be.

**11.** Where before the expiration of the registration of a motor vehicle the person in whose name the vehicle is registered applies to the Commissioner for cancellation of the registration the Commissioner may cancel the registration and, in his discretion and subject to the prescribed conditions, grant to such person a refund of tax calculated at the rate of one-twelfth of the tax applicable in respect of a yearly registration of the motor vehicle for each complete month in the portion of the period for which the vehicle was registered unexpired at the date on which the prescribed conditions were complied with, less any cancellation fee which may be prescribed by regulation. Refund of tax on surrender of registration.  
Act No. 34, 1914, s. 12.

**12.** No refund of tax shall be made where application for such refund is made after the lapse of more than three years from the date of payment of the tax. Time limit for refunds.  
Act No. 34, 1914, s. 11.

- No. 34, 1949.** **13.** The amount of any tax imposed on a motor vehicle by any Act shall be a debt due to His Majesty and may be recovered before a stipendiary magistrate or any two justices in petty sessions at any time or in any court of competent jurisdiction at the suit of the Commissioner or any authorised officer from the person liable to pay the same.
- Recovery of tax.**  
*Ibid.* s. 8A.
- 14.** Any penalties imposed by this Act or the regulations may be recovered in a summary way before a stipendiary magistrate, or any two justices in petty sessions.
- Recovery of penalties.**  
*Ibid.* s. 9.
- 15.** The court before which a person is convicted of an offence under this Act or the regulations or which makes any order under this Act or the regulations shall cause particulars of each such conviction or order to be forwarded to the Commissioner.
- Particulars of conviction or order.**
- 16.** In any action or proceedings under this Act the production by the Commissioner or on his behalf of a certificate purporting to be signed by him or by any prescribed officer certifying—
- Evidence.**  
*Ibid.* s. 16.
- (a) that the amount specified in the certificate as being tax upon, or fee in respect of the registration or renewal of registration of, any motor vehicle is due and unpaid, or was due or paid on a specified date, or was not paid before a specified date;
- (b) that an adjustment of tax or a requirement to pay tax or additional tax upon any motor vehicle was made in accordance with section nine of this Act;
- shall be prima facie evidence of the particulars contained in such certificate.
- 17.** (1) The Minister may, from time to time—
- Power to waive exchange on cheques.**
- (a) authorise the Commissioner to accept (subject to collection) in satisfaction or part satisfaction of the amount payable to the Commissioner in respect of any tax, fee or charge under this or any other Act, any cheque tendered to the Commissioner in payment or part payment, as the

the case may be, of such tax, fee or charge, to the extent of the sum stated in the cheque, notwithstanding that such sum does not include any exchange payable to a bank in respect of the amount in payment of which the cheque is tendered;

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(b) vary or revoke any such authority.

(2) Any such authority may be given, varied or revoked generally, or in relation to payments of a specified class or to all payments other than payments of a specified class.

**18.** (1) In respect of any exemption or partial exemption from or reduction or refund of tax or any approval granted by the Commissioner under this Act or the regulations, the Commissioner may impose such conditions as he thinks fit and may revoke or vary any such condition or may add any condition at any time during the period in respect of which such exemption, partial exemption, reduction or refund or approval operates.

Commissioner may impose, revoke or vary conditions, etc.

(2) Any person who fails to comply with or observe any condition imposed, varied or added as aforesaid shall be liable to a penalty not exceeding ten pounds.

**19.** Where this Act or any regulation thereunder gives power to the Commissioner or any officer to grant any exemption or partial exemption from or reduction of tax or any approval or to give any direction or to make any request or to do any act, matter or thing, it shall be implied that such Commissioner or officer may revoke or vary the same from time to time as occasion requires.

Exemptions, &c., may be revoked or varied.

**20.** (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular and without prejudice to the generality of the foregoing power, may thereby—

Regulations.

(a) regulate matters relating to exemptions or partial exemptions from or reductions of tax;

(b)

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- (b) provide that specified motor omnibuses or specified classes of motor omnibuses shall be subject to tax at the rates applicable to motor cars;
- (c) provide for and regulate the granting to prescribed persons of refunds of portion of the tax paid in respect of the registrations of motor vehicles where during the currency of such registrations alterations are made in the construction, equipment, use or ownership of the vehicles of such a nature that no tax or a reduced amount of tax would be payable on the renewal of the registrations. The amount of any such refund shall be calculated in accordance with a formula to be prescribed;
- (d) provide for the furnishing, at the time of application for registration or renewal of registration of a motor vehicle or at any time during the currency of the registration, of weighbridge tickets showing the weight of the vehicle; or for the determination of such weight at a weight approximating the average weight of motor vehicles of the same make and description;
- (e) impose a penalty not exceeding ten pounds for any breach of or failure to comply with any regulation or any condition, requirement, or request imposed or made by or under any regulation.

(2) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by the Commissioner either generally or in any class of cases or in any particular case, and may confer on the Commissioner or on any other prescribed person any power or authority necessary or convenient for carrying into effect all or any of the provisions of that or any other regulation or of this Act.

(3) A regulation may be made to apply to the whole or any part of the State, may be of general or specially limited application according to time, place, or circumstances, and may be general or restricted to any specified class of subject-matter.

(4)



- (4) The regulations shall—
- (a) be published in the Gazette;
  - (b) take effect from the date of publication, or from a later date specified in the regulations;
  - (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

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If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sittings days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

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