

## CHAPTER-IV: TAXES ON MOTOR VEHICLES

### 4.1 Tax administration

The collection of motor vehicles taxes in the State is administered by the Transport Department, which is headed by the State Transport Commissioner (STC). In performance of his duties, he is assisted by two Joint State Transport Commissioners at the headquarters. The State is divided into nine regions and 38 districts which are controlled by the Secretaries of the Regional Transport Authorities and the District Transport Officers (DTOs) respectively. They are assisted by motor vehicle inspectors for the collection of revenue.

### 4.2 Trend of receipts

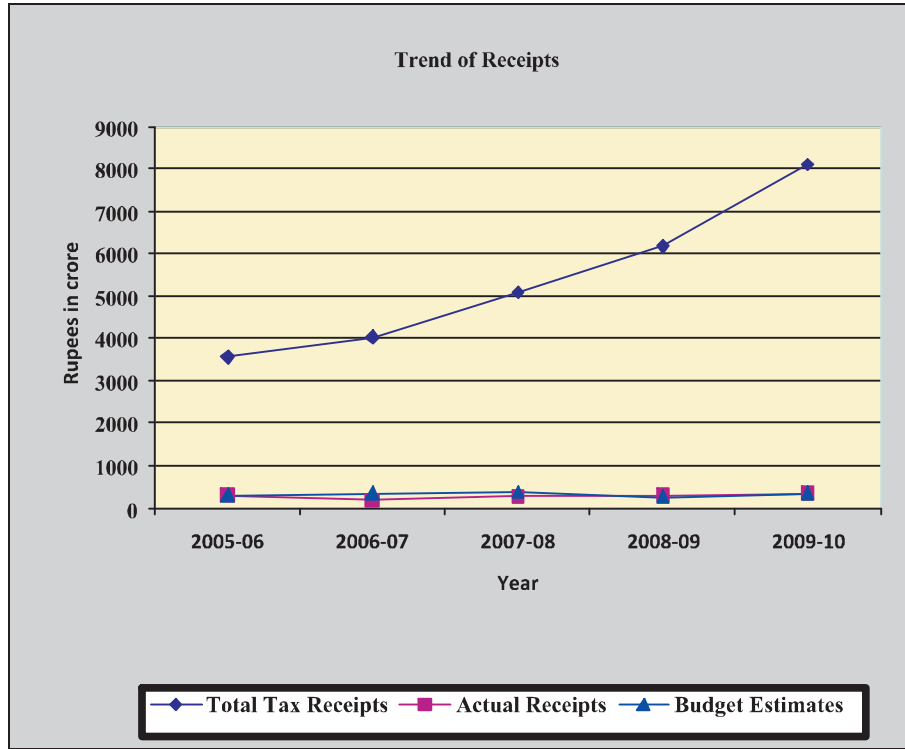
The variation between the budget estimates and the actual receipts from the motor vehicles taxes during the period 2005-06 to 2009-10 along with the total tax receipts during the same period is mentioned below:

(₹ in crore)

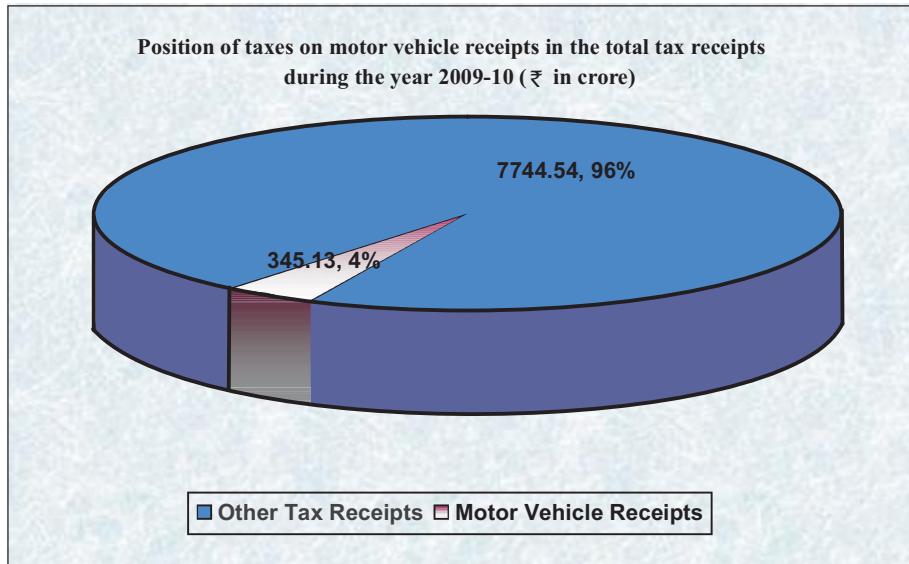
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
2005-06	310.00	302.44	(-) 7.56	(-) 2.44	3,561.10	8.49
2006-07	350.00	181.38	(-) 168.62	(-) 48.18	4,033.08	4.50
2007-08	375.00	273.21	(-) 101.79	(-) 27.14	5,085.53	5.37
2008-09	256.60	297.74	(+) 41.14	(+) 16.03	6,172.74	4.82
2009-10	355.00	345.13	(-) 9.87	(-) 2.78	8,089.67	4.27

The above table indicates that the percentage of receipts from taxes on motor vehicles against the total receipts of the State decreased during 2006-07, 2008-09 and 2009-10 over previous years.

The trend of receipts vis-à-vis the estimated receipts of taxes on motor vehicles and total tax receipts is given in the following graph:



The chart below depicts the contribution of motor vehicles receipts to the total tax receipts (₹ 8,089.67 crore) of the State during 2009-10:



### 4.3 Cost of collection

The gross collection of motor vehicles tax receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2009-10 along with the all India average percentage of expenditure on collection to gross collections for the relevant previous years are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2007-08	273.21	5.96	2.18	2.47
2008-09	297.74	6.95	2.33	2.58
2009-10	345.13	10.41	3.02	2.93

The above table indicates that during the year 2009-10, the percentage of expenditure on collection was more than the all India average percentage for the year 2008-09.

**The Government needs to take appropriate measures to keep the percentage of expenditure on collection below the all India average percentage in the coming years.**

### 4.4 Impact of audit

#### Revenue impact

During the period from 2004-05 to 2008-09, we through our inspection reports had pointed out non/short levy, underassessment/loss of revenue etc., with revenue implication of ₹ 653.99 crore in 918 cases. Of these, the Department/ Government had accepted audit observations in 577 cases involving ₹ 308 crore and had since recovered ₹ 1.52 crore. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Objected		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	28	274	116.67	9	26.54	4	0.17
2005-06	42	53	198.42	27	13.99	1	0.01 lakh
2006-07	47	172	41.63	116	28.49	Nil	Nil
2007-08	47	201	141.29	215	142.94	5	0.37
2008-09	46	218	155.98	210	96.04	4	0.98
<b>Total</b>	<b>210</b>	<b>918</b>	<b>653.99</b>	<b>577</b>	<b>308.00</b>	<b>14</b>	<b>1.52</b>

This low recovery of ₹ 1.52 crore (0.49 per cent) against the accepted cases involving ₹ 308 crore indicates lack of promptness on the part of the Government/ Department in realising the Government dues.

**We recommend that the Government take appropriate steps to recover the amount involved, at least in accepted cases.**

#### 4.5 Working of internal audit wing

There is an internal audit wing called Finance (Audit) which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department.

An audit team of Finance (Audit) comprises of three members, one being the head of the team. In consideration of the quantum of requisitions for audit, personnel for audit teams are drawn from headquarters/divisional offices. The Department did not furnish further information regarding the number of offices due for audit, audit conducted, number of observations issued and amount involved to us.

#### 4.6 Results of audit

In 2009-10 our test check of the records of 38 units relating to motor vehicles taxes revealed underassessment of tax and other irregularities involving ₹ 253.13 crore in 310 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy of taxes	52	39.77
2.	Irregular issue of certificate of fitness	12	7.26
3.	Non/short realisation of trade tax	28	2.87
4.	Non-realisation of tax from vehicles involved in surrender	16	2.02
5.	Other cases	202	201.21
<b>Total</b>		<b>310</b>	<b>253.13</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 201.23 crore in 295 cases, of which 286 cases involving ₹ 199.67 crore were pointed out during 2009-10 and the rest in earlier years.

A few illustrative cases involving ₹ 20.96 crore are mentioned in the following paragraphs.

#### 4.7 Audit observations

*Our scrutiny of the records of the state transport offices revealed several cases of non-compliance of the provisions of the Act, Rules and orders of the Department as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We point out such omissions on the part of the Departmental authorities each year, but not only do the irregularities persist, these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system so that such omissions can be prevented.*

#### 4.8 Non-realisation of motor vehicle taxes

##### Twenty six<sup>1</sup> District Transport Offices

Under section 5 and 9 of the Bihar Motor Vehicles Taxation (BMVT) Act, 1994, motor vehicles tax is to be paid to the Taxing Officer in whose jurisdiction the vehicle is registered on due date. The vehicle owner can pay the tax to the new Taxing Officer in case of change of residence/business, subject to the production of No Objection Certificate (NOC) from the previous Taxing Officer. Further, the Taxing Officer may exempt the vehicle owner from payment of tax, if he is satisfied that the prescribed conditions have been fulfilled by the vehicle owner. DTOs are required to issue demand notice to ensure timely realisation of tax and in case of non-response to the demand notice, certificate proceedings are to be initiated as per the instructions issued by the Department from time to time. Further, under rule 4 (1) of BMVT Rules 1994, the due date for payment of tax shall be the date of expiry of the period for which the tax had been last paid for vehicles other than personalised vehicles. Non-payment of tax beyond 90 days attracts penalty at the rate of 200 *per cent* of the tax due as provided under section 23 *ibid* read with rule 4 (2) of the Rules.

While scrutinising taxation registers between June 2009 and March 2010, we observed that though owners of 751 transport vehicles did not pay tax of ₹ 6.51 crore pertaining to the period between July 2002 and June 2009 within the due dates, yet the DTOs did not initiate action towards realisation of dues from the defaulting vehicle owners. In none of the cases, change of addresses of the owners or surrender of documents for securing exemption from payment of tax was found on record. This resulted in non-realisation of tax

of ₹ 19.52 crore including penalty of ₹ 13.01 crore.

<sup>1</sup> Araria, Aurangabad, Begusarai, Bettiah, Bhabua, Buxar, Darbhanga, Gaya, Gopalganj, Jehanabad, Katihar, Khagaria, Kishanganj, Lakhisarai, Madhepura, Madhubani, Motihari, Muzaffarpur, Nalanda, Patna, Purnea, Saharsa, Samastipur, Sitamarhi, Siwan and Vaishali.

After we pointed this out, 23<sup>2</sup> DTOs stated between June 2009 and March 2010 that the demand notices would be issued while three<sup>3</sup> DTOs stated that action would be taken for recovery of dues.

The cases were reported to the Government between November 2009 and April 2010; we are yet to receive their reply (December 2010).

#### **4.9 Non/short realisation of trade tax from the dealers of motor vehicles**

##### **Four<sup>4</sup> District Transport Offices**

Under section 6 of the BMVT Act, 1994 and the Rules framed thereunder, tax at an annual rate as prescribed shall be paid by a manufacturer or a dealer in respect of motor vehicles which are in his possession in course of his business as a manufacturer/dealer. Non-payment of tax within the due date attracts penalty ranging between 25 and 200 *per cent* of the tax due as provided under section 23 *ibid* read with rule 4(2) of the BMVT Rules, 1994. Further, the STC instructed all DTOs to initiate legal action for realisation of tax and renewal of trade certificate.

We observed between January and March 2010 that in case of 10 dealers of motor vehicles, trade tax at the prescribed rate was either not deposited or deposited short in respect of 34,413 vehicles (8,320 two wheelers and 26,093 three/four wheelers) possessed by them between the period 2004-05 to

2008-09. The DTOs also did not take action against the defaulting traders. This resulted in non/short realisation of trade tax of ₹ 73.66 lakh including penalty of ₹ 49.11 lakh.

After we pointed this out, three<sup>5</sup> DTOs stated between January and March 2010 that demand notices would be issued while DTO Begusarai stated that action for recovery would be taken as per rules.

The cases were reported to the Government between March and April 2010; we are yet to receive their reply (December 2010).

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<sup>2</sup> Araria, Aurangabad, Bettiah, Bhabua, Buxar, Darbhanga, Gaya, Gopalganj, Jehanabad, Katihar, Khagaria, Kishanganj, Lakhisarai, Madhepura, Madhubani, Motihari, Muzaffarpur, Nalanda, Patna, Purnea, Samastipur, Sitamarhi and Siwan.

<sup>3</sup> Begusarai, Saharsa and Vaishali.

<sup>4</sup> Begusarai, Muzaffarpur, Patna and Purnea.

<sup>5</sup> Muzaffarpur, Patna and Purnea.

#### 4.10 Irregular issue of certificate of fitness Three<sup>6</sup> District Transport Offices

Under rules 73 of the CMV Rules, 1989, a Certificate of Fitness (CF) for a transport vehicle cannot be granted unless the vehicle owner obtains a tax clearance certificate in such form as may be prescribed by the State Government. As held by the Hon'ble Patna High Court<sup>#</sup>, tax token, being an evidence of payment of tax, is required to be produced for obtaining CF. Further, according to the instructions issued by the STC, Bihar on 13 April 1994, the Motor Vehicle Inspectors (MVIs) are prohibited from granting/renewing the CF to transport vehicles against which tax has not been paid and disciplinary action is required to be taken against the erring MVIs besides forfeiture of such CFs by the Enforcement wing.

We observed during cross verification of the entries in CF registers with those in the taxation registers of DTOs between October 2009 and March 2010 that CFs were issued to 14 transport vehicles without ensuring up-to-date payment of tax. Further, we observed that the Enforcement wing never pointed out these cases to the Department. This was highly irregular as plying of these

vehicles without proper inspection could compromise public safety and property. The omission not only violated the rules and the STC's order but also resulted in non-realisation of tax of ₹ 54.76 lakh including penalty of ₹ 36.51 lakh pertaining to the period between April 2004 and June 2009.

After we pointed this out, the concerned DTOs stated between October 2009 and March 2010 that the matter would be referred to the MVIs concerned for compliance.

The cases were reported to the Government between March and April 2010; we are yet to receive their replies (December 2010).

<sup>6</sup> Motihari, Muzaffarpur and Purnea.

<sup>#</sup> Patna Zila Truck Association Vs. State of Bihar 1993 (1) PLJR 211.

#### 4.11 Irregular issue of transport vehicle driving licence

##### Four<sup>7</sup> District Transport Offices

Under section 9 of the Motor Vehicles Act, 1988, the licensing authority shall grant driving licence to an applicant to drive such class of vehicle who is holding a learner's licence of that class and has passed the competency test for driving the vehicle. Further, as per section 7(1) of the Act *ibid* read with rule 10 of the CMV Rules, 1989, no person shall be granted a learner's licence to drive a transport vehicle unless he has held a driving licence to drive a light motor vehicle for at least one year.

We observed between November 2009 and March 2010 from professional driving licence registers that 7,498 professional driving licences were granted during 2008-09 to applicants who were not holding licences to drive light motor vehicles. This omission not only

violated the provisions of the Act and Rules resulting in loss of Government revenue of ₹ 15.75 lakh on account of fee recoverable for grant of driving licences, but also involved road safety issues.

After we pointed this out, the DTO Patna stated that amount would be realised at the time of renewal, the DTO Purnea stated that notice would be issued while the DTOs Gaya and Muzaffarpur stated that action would be taken as per directions.

The cases were reported to the Government in March and April 2010; we are yet to receive their reply (December 2010).

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<sup>7</sup> Gaya, Muzaffarpur, Patna and Purnea.