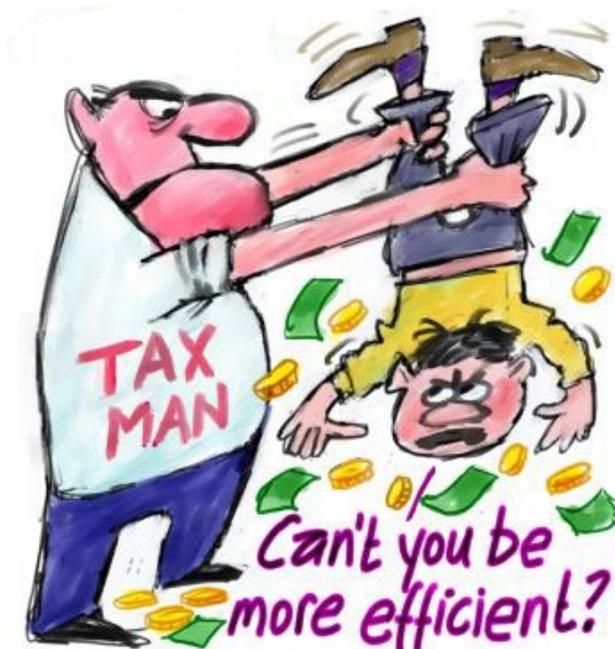


Stamp Duty Tax: How to Calculate It

Almost everybody who is involved in any commercial transaction has to deal with creating, authorizing or validating a number of official documents. Hence it would serve him well to know about stamp duty, which is nothing but a tax levied on documents to make them legally effective. Calculation of the stamp duty is thus critical if you want to have valid legal documentation.

The Indian Stamp Act, 1899 and the Bombay Stamp Act, 1958 are the prevalent laws on Stamp Duty across India with sometimes minor changes and amendments in most states of India. So the provisions discussed below are mainly based on these two laws.

Usually it is easy enough to calculate the stamp duty payable as per the rates provided in the Indian Stamp Act or the Stamp Act of the state, where one is drawing up the document concerned, and pay accordingly. But in complex cases, the person paying the duty may not be able to ascertain the correct stamp duty and may have to apply for help or for the opinion of the Collector of Stamps. The very purpose of this post is to make a person lacking formal legal training aware of the very basic features and modes of stamp duty calculation, so that in most of the usual transactions, he can cease to be dependent on lawyers for matters such as calculation of stamp duty and therefore save a lot of cost incurred in the process.



Tax structure in India

Steps to calculate Stamp Duty:

- 1) First step to calculate the stamp duty is to identify which category the document or instrument falls under. There are three categories of transactions for the purpose of stamp duty calculation:
 - a) Under the first category, the stamp duty remains fixed no matter what value of transaction or goods/property is mentioned in the document or instrument. Examples of such instruments are Administration Bond, Affidavit, Adoption Deed, Appointment in Execution of Power, Divorce, Apprenticeship Deed, Award, Article of Clerkship, Cancellation Deed, Duplicate, Charter Party, Copy of Extracts, Indemnity Bond, Power of Attorney, etc.
 - b) Under the second category, stamp duty charges are entirely dependent upon the value of the transaction or goods/property mentioned in the document. Such documents are Mortgage Deed, Lease Agreement, Title Deeds, Security Bond, Hypothecation Deed, Article of Association, etc.
 - c) Under the third category, the stamp duty charges depend either on the value of the transaction or goods/property as mentioned in the document or on the true market value thereof, whichever is higher. Instruments like Conveyance, Agreement for sale, Gift exchange, Partnership Deed, Development Agreement, Transfer of Immovable Property, Trust Deed, Partition, and so on.
- 2) Second Step after the identification of the category of the document, all it requires is to look up the rates provided in the Indian Stamp Act or the State Stamp Act and pay accordingly. As a way of example, the rates of various transactions as per the Bombay Stamp Act, 1958 is given below. The rates may differ slightly from state to state under their respective laws but more or less the structure and the rate slabs remain the same. Under the Bombay Stamp Duty Act, 1958:
 - a) The Stamp Duty for the acknowledgement of debt: If a person is in debt to another, then the person in debt i.e., the debtor to keep an evidence of his debt needs to have the document of his debt stamped to give it evidentiary value. In other words, if the document has not been stamped and requisite stamp duty has not been paid, the debtor cannot in a court of law produce that document as an evidence of the exact amount of money that he owed to the creditor. The Stamp Duty on such documents increases with the increase in the debt amount. When the debt amount;
 - i) Exceeds Rs. 100 but does not exceed Rs. 1,000 the stamp duty is 20 paise
 - ii) Exceeds Rs. 1,000 but does not exceed Rs. 5,000 the stamp duty is 50 paise
 - iii) Exceeds Rs. 5,000 but does not exceed Rs. 10,000 the stamp duty is Re. 1
 - iv) For every Rs. 10,000 or part thereof in excess of Rs. 10,000 the stamp duty is Re. 1 to a maximum of Rs. 50.

- b) The Stamp Duty for Adoption Deed is Rs. 200.
- c) The Stamp Duty for Affidavit is Rs. 20.
- d) The Stamp Duty for Agreement or the record of agreement or memorandum of agreement between two or more parties:
 - i) If relating to the sale of bill of exchange, Re. 1 for every Rs. 10,000 or part thereof Cheques, drafts, pay orders are examples of bills of exchange.
 - ii) If relating to the purchase or sale of a Government security, Re. 1 for every Rs. 10,000 or part thereof of the value of the security at the time of its purchase or sale, as the case may be.
 - iii) If relating to the purchase or sale of shares, scripts, bonds, debentures, debenture stocks or any other marketable security of a like nature, Re. 1 for every Rs. 10,000 or part thereof of the value of the security at the time of its purchase or sale, as the case may be.
- e) Stamp Duty on agreement relating to Deposit of Title Deeds:
 - i) When such deposit has been made by way of security for the requirement of money advanced or to be advanced by way of loan or an existing or future debt, the stamp duty is Re. 1 for every Rs. 10,000 or part thereof for the amount secured by such deed subject to minimum of Rs. 100 and maximum of Rs. 5,00,000.
- f) Stamp Duty for the appointment execution of power for documents except a will:
 - i) Rs. 100 for the appointment of trustees
 - ii) Rs. 250 for the appointment of property movable or immovable.
- g) Stamp Duty for agreement relating to Pledge and Hypothecation:
 - i) Where the pledge or hypothecation of movable property is to secure the repayment of money advanced or to be advanced by way of loan or an existing or future debt, the stamp duty is Re. 1 for every Rs. 1,000 or part thereof for the amount secured subject to minimum of Rs. 100 and maximum Rs. 5,00,000.
- h) Stamp duty for Bond:
 - i) For every Rs. 500, or part thereof, the stamp duty is Rs. 5 i.e. 1% of value, subject to minimum Rs. 100.
- i) Stamp Duty for Conveyance:
 - i) For every Rs. 500 or part thereof, the Stamp duty is Rs 25. If the instrument transferring the property is residential, and the value of the property is,
 - ii) Up to Rs.2,50,000 then the stamp duty is Rs. 100.
 - iii) Up to Rs. 5,00,000 then the stamp duty is Rs. 100 + 3% of the value above Rs. 2,50,000
 - iv) Above Rs. 5,00,000 then the stamp duty is Rs. 7600 + 5% of the value above Rs. 5,00,000.

- j) Stamp Duty for Further Mortgage Charge:
 - i) Instrument imposing a further charge on mortgaged property, when first mortgage is without possession and further charge is also without possession, the stamp duty is Rs. 5 for every Rs. 1,000 or part thereof for the amount secured by further charge, subject to minimum of Rs. 100 and maximum of Rs. 10,00,000.

- k) Stamp Duty for Mortgage Deed:
 - i) For every Rs. 500, or part thereof, Rs. 5 (i.e. 5% of the amount secured) subject to minimum of Rs. 100 and maximum of Rs. 1,00,000.
 - ii) While these measures of calculation are not exhaustive in respect of all the provisions of the Bombay Stamp Act, they reflect at a glance the stamp duty levied on the most commonplace and frequent transactional documents that a businessman or even an ordinary person in his daily professional activities usually comes across. In course of time, we intend to bring a similar structural and slab division for the Indian Stamp Act too.

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