



INDIAN STAMP ACT, 1899 – AMENDMENTS

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BRIEF

The Finance Bill, 2019, had proposed certain amendments in the Indian Stamp Act, 1899 (the Act) bringing uniformity in the levy of stamp duty on securities, whether through physical or dematerialised form. The proposed amendments shall come into force with effect from 01st July, 2020. It has also notified the Indian Stamp (Collection of Stamp Duty through Stock Exchanges, Clearing Corporations and Depositories) Rules, 2019 on 10 December 2019 to regulate the centralised mechanism for the collection of stamp duty across the country.

OBJECTIVE

The present amendment has been brought with the intent to create a legal and institutional mechanism which would enable states to collect stamp duty on securities at "One Place" and by "One Agency on "One Instrument".

KEY DEFINITIONS

Following are some of the key definitions as proposed in the Finance Bill:

- Allotment List now means a list containing details of allotment of the securities to allottees that the issuer is required to intimate to the depository, before their names are recorded as the beneficial owner of the security as per Section 8(2) of the Depositories Act, 1996.
- Clearance List will now mean a list of transactions of sale and purchase relating to contracts traded on the stock exchanges. It is to be submitted to a clearing corporation in accordance with the law.
- The definition of Instrument has also been expanded to incorporate any document, electronic or otherwise, created for a transaction in a stock exchange or depository by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded; and any other document mentioned in Schedule I of the Stamp Act.
- Market Value, in relation to an instrument through which any security is traded in a stock exchange, now means the price at which it is so traded; any security which is transferred through a depository but not traded in the stock exchange, means the price or the consideration mentioned in such instrument.

- Debenture” has been excluded from the definition of “bonds.”
- “Debenture” -includes
 - i. Debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not;
 - ii. Bonds in the nature of debentures issued by any incorporated company or body corporate Certificate of deposit, commercial usance bill, commercial paper and such other debt instrument of original or initial maturity up to one year, as the Reserve Bank of India (RBI) may specify from time-to-time;
 - iii. Securitised debt instruments; and
 - iv. Any other debt instruments specified by the Securities and Exchange Board of India from time-to-time

KEY AMENDMENT

Introduction of Section 9A and 9B of the Act. The amendment proposes to consolidate the stamp duty provisions relating to the issue, sale or transfer of securities. It is also proposed that the instrument on which stamp duty is chargeable under section 9A of the Act shall be the principal instrument for the levy of stamp duty and no stamp duty shall be charged on any other instruments relating to the said transaction.

Particulars	Existing	Revised	Liability to pay	When to pay
Issue of shares	currently the issuance is charged as per State Schedule, which is generally at 0.1%	0.005% of the total market value	Issuer	Before credit of securities to allottees' account
Issue of debentures [@]	Currently charged at 0.05% per year up to a maximum of 0.25% or INR 2.5m, whichever is lower	0.005% of the total market value	Issuer	Before credit of securities to allottees' account
Issue of Commercial Papers ^{\$}	Upto 3 months: 0.012% 3 – 6 months: 0.024% 6 – 9 months: 0.036% 9-12 months: 0.50%	0.005% of the total market value	Issuer	Before credit of securities to allottees' account

	More than 12 months: 0.1% of the issue size			
Transfer of shares (through stock exchanges)	Exempt	0.015% [Delivery based] 0.003% [Non-delivery based] of the sale consideration	Buyer	Settlement date
Transfer of shares (otherwise through stock exchanges)	0.25% of consideration	0.015%	Seller	Before transfer
Transfer of debentures (listed on the exchanges)	Exempt	0.0001% of the total market value	Buyer	Settlement date
Transfer of Commercial Papers	Exempt	0.0001% of the total market value	Buyer	Settlement date
Transfer of shares to pledgee on invocation of pledge	Not subject to duty	0.015% on total market value of invoked securities	Pledgee	Before invocation

Notes:

Stock Exchanges, Depositories to come up with procedures for collection and remittance of Stamp duty to the exchequer.

- @ debentures issued in terms of a registered mortgage deed were exempted from the applicability of stamp duty subject to the payment of stamp duty on the mortgage deed in terms of the respective state's act. This benefit will no longer be available from 01st July, 2020.
- \$ In terms of SEBI/HO/IMD/DF2/CIR/P/2019 dated 1 October 2019, Mutual Fund schemes can invest in Commercial Papers provided that they are listed. Accordingly, SEBI has rolled out the mechanism for listing of Commercial Papers effective 22 November 2019.

Exemptions – No duty shall be collected on creation or destruction of securities on account of corporate action such as stock split, consolidated, etc provided that there is no change in the beneficiary records. Bonus needs to be examined.

CENTRALISED COLLECTION

Section 9A has been inserted, whereby stamp duty paid on any of the following instances will now be collected on behalf of the State Government and transferred within three weeks from the end of each month to the State Governments. The Central Government shall make rules for the collection and disbursement of stamp duty. As per the amendment, the following authorities would collect stamp duty:

- On sale of any securities made through a stock exchange –Stock exchange or clearing corporation appointed by it.
- On transfer of securities for consideration made by a depository otherwise than on the basis of any transaction referred to above – Depository.
- On issue of securities leading to creation or change in the records of depository – Depository

DISCLAIMER

Certain articles fall under the jurisdiction of the States, and thus, it is necessary to examine the acceptance and implementation of some of these amendments under the State laws.
