

INDIAN STAMP ACT AMENDMENTS

In brief-

1. The amendments to the Indian Stamp Act were added by the Finance Act, 2019 (Part I of Chapter IV). [Attached at the end]
2. To bring uniformity in the levy of stamp duty on securities, whether through physical or dematerialised form.
3. To introduce a central mechanism for collection of stamp duty by certain authorised entities for the issuance and transfer of securities and subsequent disbursement of the duty collected to the respective States.
4. On December 10, 2019 **The Indian Stamp (Collection of Stamp Duty through Stock Exchanges, Clearing Corporations and Depositories) Rules, 2019** were notified to regulate the centralised mechanism for the collection of stamp duty across the country.
5. The amendments were to come into force with effect from **9th January 2020**.
6. However, vide notification no. **G.S.R. 19(E), dated 8th January, 2020** the date was pushed forward to **April 1, 2020** and the name of the rules were amended to **Indian Stamp (Collection of Stamp-Duty through Stock Exchanges, Clearing Corporations and Depositories) (Amendment) Rules, 2020**.
7. Further vide notification no. **S.O. 1226(E), dated 30th March, 2020** the amendments which were scheduled to come into effect from 1st April, 2020 are now deferred by a period of 3 months.
Therefore, now the fresh date of the amendments coming into effect is **1st July, 2020**.

SR. NO.	PARTICULARS	IMPACT
1	Definition of Debentures has been added.	Wider scope of collection of Stamp Duty.
2	Debentures have been excluded from the definition of bonds.	Stamp duty on Debentures will become chargeable only under Article 27 (Union list) of the Constitution. No State exchequer can take the argument of payment of stamp duty on issuance of debentures under the classification of bonds.
3	Definition of securities has been added.	Wider scope of instruments that would fall in the ambit of stamp duty. Earlier the reference was given to the SCRA.
4	Addition of sections 9A and 9B 9A. It provides that the stamp duty on sale of any securities through stock exchange or depository shall be collected from buyer on behalf of State Government by the authorised stock	To consolidate the stamp duty provisions relating to the issue, sale or transfer of securities. Administration of stamp duty will be more convenient.

	exchange or a clearing corporation or depository as the case may be. The duty will be collected on basis of the market value of the securities at time of settlement of transactions in securities of such buyer. The collecting agency such as stock exchange, clearing corporation or depository as the case may be shall have to transfer the collected stamp duty to the State Government within three weeks of end of each month. The duty will be transferred to the State in which the buyer resides if the buyer is outside India then the State Govt. having registered address of the trading member or broker shall receive the duty. 9B. In case of <u>issue</u> of securities made by issuer otherwise than through a stock exchange or depository the stamp duty on each such issue shall be payable by the issuer at a place his registered office is situated. The duty will be calculated on the market value of the securities so issued at rate specified in Schedule I.	
5	Change in rates of Stamp Duty.	Stamp duty on issuance- i. Debentures: 0.005% (earlier 0.05% per year up to a maximum of 0.25% or Rs. 25 lakh, whichever is lower) ii. Securities other than debentures: 0.005% (earlier it was charged as per State Schedule which is generally 0.1%) iii. Derivatives: Futures –0.002% Options – 0.003% Currency and interest rate derivatives– 0.0001% Other derivatives –0.002% iv. Government securities –0% v. Repo on corporate bonds – 0.00001% WITH THE AMENDMENTS COMING INTO EFFECT, THE RATES OF STAMP DUTY HAS BEEN REDUCED. Stamp duty on transfer- Transfer of dematerialised securities between beneficial owners was earlier

		exempted from stamp duty provisions under section 8A(c) (ii) & (iii) of the Act. The same has now been deleted and the exemption is only limited to transfer of securities from a person to a depository or from a depository to a beneficial owner. The rates proposed for stamp duty on transfer of securities are as follows: - Transfer and re-issue of debentures –0.0001% - Transfer of security (other than debenture) on delivery basis –0.015% - Transfer of security (other than debenture) on non-delivery basis –0.003% THE EXEMPTION WHICH WAS EARLIER PROVIDED FOR THE TRANSFER OF SHARES SHALL BE OMITTED THUS IN EFFECT IT HAS IN SOME OR THE OTHER WAY CREATED A BURDEN FOR THE SHAREHOLDERS.
6	Persons responsible for the payment of Stamp Duty: • Sale of security through stock exchange: buyer • Sale of security otherwise than through a stock exchange: seller • Transfer of security through a depository: transferor • Transfer of security otherwise than through a stock exchange or depository: transferor • Issue of security whether through a stock exchange or depository or otherwise: issuer • In any other case: by person making, drawing or executing such instrument	Now there is a clearer picture as to the person responsible for the payment of duty.
7	Collection mechanism: The Central Government has notified the Indian Stamp (Collection of Stamp Duty through Stock Exchanges, Clearing Corporations and Depositories) Rules, 2019 on 10 December 2019. {Indian Stamp (Collection of Stamp-Duty through Stock Exchanges, Clearing Corporations and Depositories) (Amendment) Rules, 2020}, amended on 8th January, 2020.	The rules made in regards to the clearing mechanism provides for the date of collection of stamp duty, the amount on which consideration is to be paid.

8	Principle Instrument: Once stamp duty is collected by a Collection Agency as per Section 9A, the instrument on which such stamp duty is collected will be deemed to be the principal instrument for the purpose of section 4 of the Act and no stamp-duty is payable on any other instrument relating to such transaction.	In the earlier provisions, the option to select the principle instrument was given to the parties and the duty chargeable to the said instrument shall be the highest duty which would be chargeable in respect of any of the instruments employed in that transaction. Now with the advent of the amendments, the principle instrument shall be the one on which stamp duty is levied at the first instance. This will reduce the burden of paying the highest duty rate.
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Please provide your valuable feedback at:

Email id: Tanveersaluja27@gmail.com

Whatsapp: 9479379039

"Provided also that the aggregate of the amounts of deduction under the first and second provisos shall not exceed two lakh rupees."

6. In section 54 of the Income-tax Act, in sub-section (1), after clause (ii), the following provisos shall be inserted with effect from the 1st day of April, 2020, namely:—

Amendment
of section 54.

'Provided that where the amount of the capital gain does not exceed two crore rupees, the assessee may, at his option, purchase or construct two residential houses in India, and where such option has been exercised,—

(a) the provisions of this sub-section shall have effect as if for the words "one residential house in India", the words "two residential houses in India" had been substituted;

(b) any reference in this sub-section and sub-section (2) to "new asset" shall be construed as a reference to the two residential houses in India:

Provided further that where during any assessment year, the assessee has exercised the option referred to in the first proviso, he shall not be subsequently entitled to exercise the option for the same or any other assessment year.'

7. In section 80-IBA of the Income-tax Act, in sub-section (2), in clause (a), for the figures "2019", the figures "2020" shall be substituted with effect from the 1st day of April, 2020.

Amendment
of section
80-IBA.

8. In section 87A of the Income-tax Act, with effect from the 1st day of April, 2020,—

Amendment
of section
87A.

(a) for the words "three hundred fifty thousand", the words "five hundred thousand" shall be substituted;

(b) for the words, "two thousand and five hundred", the words "twelve thousand and five hundred" shall be substituted.

9. In section 194A of the Income-tax Act, in sub-section (3), in clause (i), for the words "ten thousand" wherever they occur, the words "forty thousand" shall be substituted.

Amendment
of section
194A.

10. In section 194-I of the Income-tax Act, in the first proviso, for the words "one hundred and eighty thousand rupees", the words "two hundred and forty thousand rupees" shall be substituted.

Amendment
of section
194-I.

CHAPTER IV

MISCELLANEOUS

PART I

AMENDMENTS TO THE INDIAN STAMP ACT, 1899

11. The provisions of this Part shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Commencement
of this Part.

2 of 1899.

12. In section 2 of the Indian Stamp Act, 1899 (hereafter in this Part referred to as the principal Act),—

Amendment
of section 2.

(a) for clause (1), the following clauses shall be substituted, namely:—

'(1) "allotment list" means a list containing details of allotment of the securities intimated by the issuer to the depository under sub-section (2) of section 8 of the Depositories, Act, 1996;

22 of 1996.

(1A) "banker" includes a bank and any person acting as a banker;';

(b) in clause (5), the following long line shall be added at the end, namely:—

"but does not include a debenture;";

(c) after clause (7), the following clauses shall be inserted, namely:—

'(7A) "clearance list" means a list of transactions of sale and purchase relating to contracts traded on the stock exchanges submitted to a clearing

corporation in accordance with the law for the time being in force in this behalf;

(7B) "clearing corporation" means an entity established to undertake the activity of clearing and settlement of transactions in securities or other instruments and includes a clearing house of a recognised stock exchange;';

(d) after clause (10), the following clauses shall be inserted, namely:—

'(10A) "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 debenture issued by any incorporated company or body corporate;

(iii) certificate of deposit, commercial usance bill, commercial paper and such other debt instrument of original or initial maturity upto one year as the Reserve Bank of India may specify from time to time;

(iv) securitised debt instruments; and

(v) any other debt instruments specified by the Securities and Exchange Board of India from time to time;

(10B) "depository" includes—

(a) a depository as defined in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; and

22 of 1996.

(b) any other entity declared by the Central Government, by notification in the Official Gazette, to be a depository for the purposes of this Act;';

(e) in clause (12), the words and figures "and includes attribution of electronic record within the meaning of section 11 of the Information Technology Act, 2000" shall be inserted at the end.

21 of 2000.

(f) for clause (14), the following clause shall be substituted, namely:—

'(14) "instrument" includes—

(a) every document, by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded;

(b) a 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

(c) any other document mentioned in Schedule I,

but does not include such instruments as may be specified by the Government, by notification in the Official Gazette;';

(g) after clause (15), the following clause shall be inserted, namely:—

'(15A) "issuer" means any person making an issue of securities;';

(h) for clause (16A), the following clauses shall be substituted, namely:—

'(16A) "marketable security" means a security capable of being traded in any stock exchange in India;

(16B) "market value", in relation to an instrument through which—

(a) any security is traded in a stock exchange, means the price at which it is so traded;

(b) 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;

(c) any security is dealt otherwise than in the stock exchange or depository, means the price or consideration mentioned in such instrument;'

(i) after clause (23), the following clause shall be inserted, namely:—

'(23A) "securities" includes—

42 of 1956.

(i) securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956;

2 of 1934.

(ii) a "derivative" as defined in clause (a) of section 45U of the Reserve Bank of India Act, 1934;

(iii) a certificate of deposit, commercial usance bill, commercial paper, repo on corporate bonds and such other debt instrument of original or initial maturity upto one year as the Reserve Bank of India may specify from time to time; and

(iv) any other instrument declared by the Central Government, by notification in the Official Gazette, to be securities for the purposes of this Act;'

(j) after clause (26), the following clause shall be inserted, namely:—

'(27) "stock exchange" includes—

42 of 1956.

(i) a recognised stock exchange as defined in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; and

(ii) such other platform for trading or reporting a deal in securities, as may be specified by the Central Government, by notification in the Official Gazette, for the purposes of this Act.'

13. In section 4 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment
of section 4.

"(3) Notwithstanding anything contained in sub-sections (1) and (2), in the case of any issue, sale or transfer of securities, the instrument on which stamp-duty is chargeable under section 9A shall be the principal instrument for the purpose of this section and no stamp-duty shall be charged on any other instruments relating to any such transaction."

14. For section 8A of the principal Act, the following section shall be substituted, namely:—

Substitution
of new
section for
section 8A.

'8A. Notwithstanding anything contained in this Act or any other law for the time being in force,—

Securities
dealt in
depository
not liable to
stamp-duty.

(a) an issuer, by the issue of securities to one or more depositories, shall, in respect of such issue, be chargeable with duty on the total amount of securities issued by it and such securities need not be stamped;

(b) the transfer of registered ownership of securities from a person to a depository or from a depository to a beneficial owner shall not be liable to duty.

Explanation.—For the purposes of this section, the expression "beneficial ownership" shall have the same meaning as assigned to it in clause (a) of sub-section (1) of section 2 of the Depositories Act, 1996.'

22 of 1996.

Insertion of
new Part AA.

15. In Chapter II of the principal Act, after Part A relating to 'Of the liability of instruments to duty', the following Part shall be inserted, namely:—

'AA.—Of the liability of instruments of transaction in stock exchanges and depositories to duty

Instruments
chargeable
with duty for
transactions
in stock
exchanges
and
depositories.

9A. (1) Notwithstanding anything contained in this Act,—

(a) when the sale of any securities, whether delivery based or otherwise, is made through a stock exchange, the stamp-duty on each such sale in the clearance list shall be collected on behalf of the State Government by the stock exchange or a clearing corporation authorised by it, from its buyer on the market value of such securities at the time of settlement of transactions in securities of such buyer, in such manner as the Central Government may, by rules, provide;

(b) when any transfer of securities for a consideration, whether delivery based or otherwise, is made by a depository otherwise than on the basis of any transaction referred to in clause (a), the stamp-duty on such transfer shall be collected on behalf of the State Government by the depository from the transferor of such securities on the consideration amount specified therein, in such manner as the Central Government may, by rules, provide;

(c) when pursuant to issue of securities, any creation or change in the records of a depository is made, the stamp-duty on the allotment list shall be collected on behalf of the State Government by the depository from the issuer of securities on the total market value of the securities as contained in such list, in such manner as the Central Government may, by rules, provide.

(2) Notwithstanding anything contained in this Act, the instruments referred to in sub-section (1) shall be chargeable with duty as provided therein at the rate specified in Schedule I and such instruments need not be stamped.

(3) From the date of commencement of this Part, no stamp-duty shall be charged or collected by the State Government on any note or memorandum or any other document, electronic or otherwise, associated with the transactions mentioned in sub-section (1).

(4) The stock exchange or a clearing corporation authorised by it or the depository, as the case may be, shall, within three weeks of the end of each month and in accordance with the rules made in this behalf by the Central Government, in consultation with the State Government, transfer the stamp-duty collected under this section to the State Government where the residence of the buyer is located and in case the buyer is located outside India, to the State Government having the registered office of the trading member or broker of such buyer and in case where there is no such trading member of the buyer, to the State Government having the registered office of the participant:

Provided that before such transfer, the stock exchange or the clearing corporation authorised by it or the depository shall be entitled to deduct such percentage of stamp-duty towards facilitation charges as may be specified in such rules.

Explanation.—The term "participant" shall have the same meaning as assigned to it in clause (g) of section 2 of the Depositories Act, 1996.

22 of 1996.

(5) Every stock exchange or the clearing corporation authorised by it and depository shall submit to the Government details of the transactions referred to in sub-section (1) in such manner as the Central Government may, by rules, provide.

9B. Notwithstanding anything contained in this Act,—

(a) when any issue of securities is made by an issuer otherwise than through a stock exchange or depository, the stamp-duty on each such issue shall be payable by the issuer, at the place where its registered office is located, on the total market value of the securities so issued at the rate specified in Schedule I;

(b) when any sale or transfer or reissue of securities for consideration is made otherwise than through a stock exchange or depository, the stamp-duty on each such sale or transfer or reissue shall be payable by the seller or transferor or issuer, as the case may be, on the consideration amount specified in such instrument at the rate specified in Schedule I.'.

Instruments chargeable with duty for transactions otherwise than through stock exchanges and depositories.

16. In section 21 of the principal Act,—

(a) for the words "the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument.", the words "the market value of such stock or security:" shall be substituted;

(b) the following proviso shall be inserted, namely:—

"Provided that the market value for calculating the stamp-duty shall be, in the case of—

(i) options in any securities, the premium paid by the buyer;

(ii) repo on corporate bonds, interest paid by the borrower; and

(iii) swap, only the first leg of the cash flow.".

Amendment of section 21.

17. In section 29 of the principal Act,—

(i) in clause (a),—

(a) the words, figures and brackets "No. 27 (Debenture)" shall be omitted;

(b) the words, figures, brackets and letter "No. 62 (a) (Transfer of shares in an incorporated Company or other body corporate)" shall be omitted;

(c) the words, figures, brackets and letter "No. 62 (b) (Transfer of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8)" shall be omitted;

(ii) in clause (e), after the word "exchange", the words "including swap" shall be inserted;

(iii) in clause (f), the word "and" shall be omitted;

(iv) after clause (g), the following clauses shall be inserted, namely:—

"(h) in the case of sale of security through stock exchange, by the buyer of such security;

(i) in the case of sale of security otherwise than through a stock exchange, by the seller of such security;

(j) in the case of transfer of security through a depository, by the transferor of such security;

(k) in the case of transfer of security otherwise than through a stock exchange or depository, by the transferor of such security;

(l) in the case of issue of security, whether through a stock exchange or a depository or otherwise, by the issuer of such security; and

(m) in the case of any other instrument not specified herein, by the person making, drawing or executing such instrument.".

Amendment of section 29.

Insertion of
new section
62A.

Penalty for
failure to
comply with
provisions of
section 9A.

18. After section 62 of the principal Act, the following section shall be inserted, namely:—

"62A. (1) Any person who,—

(a) being required under sub-section (1) of section 9A to collect duty, fails to collect the same; or

(b) being required under sub-section (4) of section 9A to transfer the duty to the State Government within fifteen days of the expiry of the time specified therein, fails to transfer within such time,

shall be punishable with fine which shall not be less than one lakh rupees, but which may extend upto one per cent. of the collection or transfer so defaulted.

(2) Any person who,—

(a) being required under sub-section (5) of section 9A to submit details of transactions to the Government, fails to submit the same; or

(b) submits a document or makes a declaration which is false or which such person knows or believes to be false,

shall be punishable with fine of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less."

Insertion of
new section
73A.

Power of
Central
Government
to make rules.

19. After section 73 of the principal Act, the following section shall be inserted, namely:—

"73A. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of Part AA of Chapter II.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Central Government may make rules for all or any of the following matters, namely:—

(a) the manner of collection of stamp-duty on behalf of the State Government by the stock exchange or the clearing corporation authorised by it, from its buyer under clause (a) of sub-section (1) of section 9A;

(b) the manner of collection of stamp-duty on behalf of the State Government by the depository from the transferor under clause (b) of sub-section (1) of section 9A;

(c) the manner of collection of stamp-duty on behalf of the State Government by the depository from the issuer under clause (c) of sub-section (1) of section 9A;

(d) the manner of transfer of stamp-duty to the State Government under sub-section (4) of section 9A;

(e) any other matter which has to be, or may be, provided by rules."

Amendment
of section 76.

20. In section 76 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

21. In Schedule I of the principal Act,—Amendment
of Schedule I.

(i) in Article 19, in column (1),—

(a) after the words "CERTIFICATE OR OTHER DOCUMENT", the brackets, words, figures and letter "(except the certificate or other document covered under Articles 27 and 56A)" shall be inserted;

(b) the words, brackets and figures "See also LETTER OF ALLOTMENT OF SHARES (No. 36)" shall be omitted;

(ii) for Article 27 and the entries relating thereto, the following Article and entries shall be substituted, namely:—

(1)	(2)
"27. DEBENTURE—[as defined by section 2 (10A)] (see sections 9A and 9B)	
(a) in case of issue of debenture;	0.005%
(b) in case of transfer and re-issue of debenture.	0.0001%";

(iii) in Article 28, for the entry in column (1), after the words "DELIVERY ORDER IN RESPECT OF GOODS,", the brackets and words "(excluding delivery order in respect of settlement of transactions in securities in stock exchange)" shall be inserted;

(iv) in Article 36, for the entry in column (1), the following entry shall be substituted, namely:—

"36. LETTER OF ALLOTMENT in respect of any loan to be raised by any company or proposed company.";

(v) after Article 56 and the entry relating thereto, the following Article and entries shall be inserted, namely:—

(1)	(2)
"56A. SECURITY OTHER THAN DEBENTURES (see sections 9A and 9B)—	
(a) issue of security other than debenture;	0.005%
(b) transfer of security other than debenture on delivery basis;	0.015%
(c) transfer of security other than debenture on non-delivery basis;	0.003%
(d) derivatives—	
(i) futures (equity and commodity)	0.002%
(ii) options (equity and commodity)	0.003%
(iii) currency and interest rate derivatives	0.0001%
(iv) other derivatives	0.002%
(e) Government securities	0%
(f) repo on corporate bonds	0.00001%";

(vi) in Article 62, items (a) and (b) and the entries relating thereto shall be omitted.

PART II**AMENDMENT TO THE PREVENTION OF MONEY-LAUNDERING ACT, 2002**

22. In section 8 of the Prevention of Money-laundering Act, 2002, in sub-section (3), with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

Amendment
of section 8
of Act 15 of
2003.

(i) in clause (a), for the words "ninety days", the words "three hundred and sixty-five days" shall be substituted;