STAMP DUTY

1. INTRODUCTION :-

The Bombay Stamp Act, 1958 came into force on 16th Feb, 1959 and is applicable in the State of Maharashtra. The Act is intended to levy stamp duty on certain types of documents executed in the state or brought from outside for acting upon the same in the state.

The Bombay Stamp Act levies stamp duty on documents or instruments by which any right or liability is, or purports to be created, transferred, limited, extended, extinguished or recorded.

2. STAMP DUTY - meaning

It is a type of tax which is paid to the State Government for the transaction performed by way of document or instrument under the provisions of Bombay Stamp Act, 1958 and Indian Stamp Act, 1899. It is to be noted that Stamp Duty is payable on instruments and not on transactions.

3. INSTRUMENT & DOCUMENT - meaning

(i) Instrument :-

The definition of the term instrument is very wide.

Instrument means any document by which any right or liability is , or purports to be created, transferred, limited, extended, extinguished or recorded.

(ii) Document :-

As defined in Evidence Act, a document means only matter expressed or described upon substance by means of letters, figures or marks or by more than any of those means intended to be used or which may be used for the purpose of recording that matter.

4. EXECUTION OF INSTRUMENTS - meaning

Execution of Instruments means putting signatures on the instruments by the person or persons who are the parties to the transaction which is being performed through such instruments.

Thus, when the respective parties signs the instrument the instrument is said to have been executed.

5. LEGALITY OR IMPORTANCE OF THE PAYMENT OF STAMP DUTY

The payment of proper Stamp duty on instruments bestows legality on them, such instruments get evidentiary and are admitted as evidence in court of law.

The instruments which are not properly stamped are not admitted in evidence by the court.

6. INSTRUMENTS WHICH ATTRACTS STAMP DUTY UNDER BOMBAY STAMP ACT

There are 63 types of instruments which attract Stamp duty under Bombay Stamp Act, 1958.

Some of the important and foremost instruments under the Bombay Stamp Act, 1958 are :-

a) Agreements;

b) Conveyances;

c) Exchange;

d) Gifts;

e) Certificate of Sale;

f) Deed of Partition ;

g) Power of Attorney to sell immovable property when given for consideration ;

h) Deed of settlement ;

i) Lease by way of Assignment .

7. INSTRUMENTS WHICH ATTRACT STAMP DUTY UNDER THE ARTICLES OF INDIAN STAMP ACT, 1899 IN THE STATE OF MAHARASHTRA

The following instruments under the Articles of Indian Stamp Act, 1899 attracts Stamp duty in the State of Maharashtra.

The same is stated as under :-

Article No.	Instruments
13	Bill of Exchange
14	Bill of lading
27	Debenture
37	Letter of Credit
47	Policy of Insurance
49	Promissory Note
52	Proxy
53	Receipt
62	Transfer

It is to be noted that the Revenue received under the Indian Stamp Act, 1899 goes to the Central Government.

8. WHO ARE LIABLE TO PAY STAMP DUTY

In the absence of an agreement to the contrary Stamp duty shall be paid by the purchaser.

Liability for the payment is indicated in Sec. 30 of the Bombay Stamp Act 1958.

In case of lease or Agreement to lease, the Stamp duty has to be paid by the lessee and in the case of instrument of exchange it is to be paid by the parties in equal share.

9. TIME AND MODE OF PAYMENT OF STAMP DUTY

The Stamp duty is payable on instruments before or at the time of execution or on the next working day following the day of execution.

However, it is our practical experience that with a view to avoid harassment one should pay stamp duty as far as possible before executing the agreement.

The Stamp duty can be paid by account payee cheque demand draft or pay order.

If it is paid by cheque the documents are delivered after the encashment of the cheque.

In case the Stamp duty has been paid by pay order, or demand draft the documents are returned within a short period of time.

If the amount of the Stamp duty is above Rs.50,000/- and one wishes to pay by cash then the amount will have to be deposited in Reserve Bank of India and/or any other specified Bank and the challan to the effect will have to be submitted to the office of the Superintendent of Stamps.

10. PARTIES IN WHOSE NAME STAMP ARE REQUIRED TO BE PURCHASED & CONSEQUENCES IN CASE OF NON-COMPLIANCE.

The Stamps are required to be purchased in the name of the one of the executors to the instrument .

If the instrument is executed on the stamps which does not bear the name of one of the executors, then such instruments will not be admitted as evidence for any purpose.

These instruments will also be treated as not properly stamped.

Further such instruments will be liable to be impounded by any Govt or Semi Govt office or court and sent to the Collector of Stamps for recovery of proper Stamp duty.

11. IMPOUNDING OF INSTRUMENTS - meaning

Every person having by law or consent of parties authority to receive evidence and every person in charge of Public office before whom any instrument chargeable with Stamp duty is produced or comes in the performance of his functions, shall if it appears to him that instruments is not only stamped impound the same, irrespective whether the instrument is not valid in law.

Such impounded document is required to be forwarded to the Collector of Stamps for recovery of deficit Stamp duty in addition to penalty at the rate of 2% per month on the duty evaded amount.

The maximum penalty is 200% of the Stamp duty evaded amount.

12. PROCEDURE FOR THE PAYMENT OF STAMP DUTY

The document which is chargeable with Stamp duty can be prepared on the non-judicial Stamp paper of appropriate value.

Unexecuted document can be got franked with special adhesive stamps by franking machine intended for stamping such document, by tendering required amount in the office of Collector of stamps wherever this facility is available.

When document is lodged for adjudication on receiving intimation as to the amount of Stamp duty payable by tendering appropriate amount equal to the amount of Stamp duty and penalty if any, the Collector of Stamp shall certify the document as to the payment of proper duty.

13. ADJUDICATION OF INSTRUMENTS

Sec. 31 of the Bombay Stamp Act, 1958 deals with the Adjudication of the instruments.

Adjudication means determining the chargeability of stamps appointed in each district.

In respect of the Transfer of the Immovable propert,. Adjudication means determining the amount of Stamp duty payable on such transfer.

PROCEDURE :

As per Sec 31, the parties are required to file the Original instrument (signed or unsigned) with the Stamp duty officials and pay the prescribed fee of Rs.100/- as Adjudication fees.

The application has to be submitted to the Authorities alongwith

(i) Original instruments with one xerox copy

(ii) Information in Form II of the Bombay Stamp determination of true Market value of the property Rules 1981 in the form of affidavit on a Stamp paper of Rs. Nil duly notarized.

14. APPEAL AGAINST ADJUDICATION

The chargeability of Stamp duty on the instrument as determined by the Collector of Stamps in Adjudication is not final.

The person affected by the order of the Collector of Stamps can go in appeal to the Chief controlling Revenue Authority as provided in Sec. 53 of the Bombay Stamp Act 1958. Though there is no time limit prescribed for the filing of an appeal, it will be desirable to file the appeal at the earliest to avoid complications.

15. DISCLOSURE OF RELEVANT FACTS

Sec 28 of the Bombay Stamp Act 1958 costs the duty on the executants to disclose and truly set forth relevant facts and circumstances in the instruments. This helps in finding out the types of Transactions involved in the instruments which in turn helps in the determination of the proper Stamp duty payable on such instruments.

It is to be noted that duty is not payable on the title or the heading given on the top of the instruments but on the recitals as stated in the instruments.

16. VALIDITY OF STAMPS AND REFUND

As per the provisions of section 52-B, the Stamps which are purchased and not used within six months shall be rendered invalid thereafter. Further a person can claim refund of Stamp duty for stamps, unintentionally spoiled, rendered unfit for the purpose originally intended and also other reasons as mentioned in sec.47 of Bombay Stamp Act,1958.

Such applications for refund must be submitted within six months from the date of purchase of Stamps to the Joint District Registrar and Collector of Stamps of the concerned district.

17. CALCULATION OF STAMP DUTY

The amount of Stamp duty payable on the instruments are in accordance with rates provided for the same under the provisions of Bombay Stamp Act, 1958 and the Indian Stamp Act, 1899.

The various instruments or documents are broadly covered under different 62 articles listed in Schedule I appended to the Bombay Stamp Act, 1958 & depending on the nature of the same can be grouped in three categories.

CATEGORY 1

Articles or instrument whose amount of Stamp duty is fixed irrespective of the value mentioned in the document or instrument.

CATEGORY 2

Articles or instruments where depending upon the value mentioned in the document, the amount of Stamp duty is varied.

CATEGORY 3

Articles or instruments which attracts Stamp duty depending on the consideration mentioned in the document or true market value whichever is higher.

NOTE :

For category I & II types of instruments the Stamp duty payable can be ascertained by referring to the Schedule I. But to ascertain the Stamp duty on the instruments mentioned in category III, the expertise in valuation is required.

The true market value is determined as per the provisions of the Bombay Stamp (Determination of True market value of property) Rules 1995.

1. **<u>Penalties on parties for evasion of Stamp duty</u>**

In addition to recovery of deficit Stamp duty, the Collector of Stamps had the power to recover the penalty from the parties upto 2 times the amount of evaded Stamp duty in terms of Provisions contained in sub-sec 1(b) of section 39 of Bombay Stamp Act, 1958.

The penalty shall be charged at a uniform rate of 2% per month the maximum penalty is 200%n of the Stamp duty amount.

In addition the parties can also be prosecuted under sec. 42 of the Bombay Stamp Act.

2. **<u>Detection of the Evasion of Stamp duty</u>**

The Collector of the Stamps, if he has reason believe that all or any of the instruments specified in Schedule I of the Bombay Stamp Act have not been charged or incorrectly charged he may himself or through his authorized officer enter upon the premises and inspect such instruments and take such notes and extracts as he may deem necessary and if necessary he may seize and impound such instruments under sec.33 of the Bombay Stamp Act.

The Collector of the Stamp is further authorized not only to collect deficit Stamp duty but penalty as well, which will be at a uniform rate of 2% per month subject to the maximum which is 200% of the evaded Stamp duty.

3. **<u>Penalty for not setting forth all the facts and circumstances in the instruments which affects its chargeability</u>**

Any person which also includes persons employed or concerned in preparation of the instrument who with intent to defraud the Government, executes any instrument without setting forth therein the full and true facts or makes any false statements or does any other acts calculated to deprive the Government of any duty or penalty under the Bombay Stamp Act, can be prosecuted under the provisions of section 62 of the Bombay Stamp Act.

The parties are penalized for not stating true facts and circumstances in the instruments because non-disclosure of relevant facts and circumstances lead to evasion of Stamp duty.

18. STAMP DUTY & TRANSFER OF IMMOVABLE PROPERTY & RELATED ISSUED.

(i) What is meant by value of property ?

Ans : Market value in relation to any property which is subject matter of instrument means the price at which such property would have fetched if sold in open market on the date of execution of such instrument or the consideration stated in the instrument which ever is higher.

(ii) Whether Stamp Duty is payable on the market value of the property or on consideration as stated in the document ?

Ans: The Stamp Duty is payable on the agreement value of the property or the market value whichever is higher stated in the document.

(iii) Which types of instruments attract payment of Stamp duty on market value of property ?

Ans: Agreements, Conveyances, Exchange, Gift, Certificate of Sale, Deed of Partition, Power of Attorney to sell immovable property given for consideration, Deed of Settlement and Transfer of Lease by way of assignment attract Stamp Duty on market value of the property.

NOTES ON REGISTRATION

1. Registration - meaning

Registration means recording of the contents of the document with a registering officer and preservation of copies of the original document.

2. Importance and necessity of Registration

The documents needs to be registered for the purpose of conservation of evidence, assurance of title, publicity of documents and prevention of fraud. Further registration also helps an intending purchaser to know if the title deeds of a particular property have been deposited with any person or a financial institution for the purpose of obtaining an advance against the security of that property.

3. Place of Registration

Sec. 28 of the Indian Registration 1908 states that all documents of which Registration is compulsory as well the documents of which registration is optional should normally be presented for registration in the office of Sub-Registrar within whose Sub-district the whole or some portion of the property to which the document relates is situated

4) **<u>Effects of Non-Registration of documents which has to be compulsorily Registered</u>**

Ans : The title of the purchaser who has purchased the property will be defective. Any documents requiring compulsory registration u/s. 17 or by any provision of the Transfer of Property Act, 1882, if not registered, no documents shall :-

(a) Affect any immovable property comprised therein , or

(b) Confer any power to adopt , or

(c) Be received as evidence of any transaction affecting such property or concerning such power, unless it has been registered. Provided that an unregistered document affecting immovable property and required by this Act or The Transfer of Property Act, 1882 to be registered may be received as evidence of the contract in a suit for specific performance under Chapter II of The Specific Relief Act, 1887 or as evidence as part performance of a contract for the purpose of Sec.53 A of the Transfer of Property Act, 1882 or as evidence of any collateral transaction not required to be affected by a registered instrument. Also u/s. 50, every documents requiring compulsory registration or optional registration, if duly registered takes effect as regards the property comprised therein against every unregistered documents relating to the same property and not being a decree of court, whether such unregistered documents be of the same nature as the registered documents or not.

Registration Fees

The Registration fee is the fee for the service provided by the sub-registrar's office, of recording and storing the document for years together and in proper condition.

The State Government has been empowered to fix the fees for registration of the document.

The Registration fees at present fixed for registering document relating to property transactions is 1% of the market value or Rs.30,000/- whichever is less in case of documents pertaining to sale or conveyance. (This is applicable from 1.4.2003 to till date).

Penalty

Though there is no penalty for non-payment of Registration fees. However, one must keep in mind that when one goes for registration after four months and before eight months of execution of agreement /

document he is charged a penalty which could be upto 10 times of Registration fees.

This is the penalty for delay in presenting the document before the registrar and is not a penalty for non-payment.

Normally this penalty is charged at the rate of 2.5 times of the Registration fees per month for delay beyond the permissible 4 months.

Papers / Documents required for the purpose of Registration

sA. A document should be correctly stamped as per the Stamp Duty Ready Reckoner and Market Value of Flats in Mumbai, so as to confirm that proper stamp duty has been paid. Stamp Duty Ready Reckoner is a public document and is available for inspection at a sub-registrars office. For registering documents relating to property, one should go to their respective Registration Office alongwith, Original document and one photocopy. The document must be printed or typed on one side only and in black colour. Photocopy should be taken only on one side of paper and paper should be of 90 GSM thickness and there should be butter paper in between two sheets of the photocopy. Apart from a properly executed and fully stamp duty paid document which is to be registered following other documents are also required before registration procedure is initiated.

(1) No Objection Certificate under Urban Land Ceiling Act if land is transferred, irrespective of whether land area exceeds 500 sq. mts. or not, in Mumbai.

(2) If the land belongs to Government or Semi-Government body or to Charitable trust, the No Objection Certificate of such Government or Semi-Government body or of Charity Commissioner.

(3) Property Card of Land on which the property being registered is situated. This requirement is irrespective of whether land is sold or building is being sold or any part of the building is being sold and also irrespective of whether the seller of property is recorded as owner on property card or not. In other words even flat owners are expected to produce this paper at the time of registration.

(4) If property sold / purchased is in old building and benefit of depreciation is claimed on Market value then any one of the following documents is to be produced as a proof of its old construction ; (a) Municipal assessment bill of the building OR

(b) Building Completion certificate OR (c) Building Occupation Certificate OR (d) Original Registered agreement between builder and Original purchaser of that flat or of any flat in that building. It is better to get the document adjudicated in case building is very old and proper depreciation is not given by the sub-registrar.

(5) Original stamp duty payment receipt.

(6) One should go along with two witnesses.

(7) If the building is completed prior to 25-3-1991 then properly assessment bill is to be attached and if the building is completed on or after 25-3-1991 then Commencement certificate or Completion certificate or Occupation Certificate or I.O.D. issued by the Municipal Corporation is required to prove that the Building is an authorized structure.

(8) Now mentioning of Income Tax PAN number is mandatory to be mentioned in all sale purchase document of value above Rs.5,00,000/-. Those who do not have PAN number must file Form 60 alongwith documents.

(9) Registration fees is payable by the way of Government Challan and / or Payorder of Nationalised Bank

Procedure of Registration at Sub-registrars Office :-

The procedure to be followed for registration of documents at Sub-Registrars office is stated as below.

(1) Take token number from Sub-Registrar on Telephone one day prior to date of registration.

(2) Obtain a pay order of specified amount favouring that Sub-Registrar for Registration fees.

(3) Submit a copy of pay order for Registration fees on the day of taking token number on phone.

(4) Bring complete document along with other document as mentioned in the preceding reply.

(5) Submit the document alongwith input form at token window atleast 30 to 45 minutes before the time allotted for that token number.

(6) Wait till the token number is announced.

(7) On token number being announced, all parties to the document must present themselves before the Sub-Registrar to admit execution of the document, photographed, thumb impression and signature taken on additional sheet of paper in presence of Sub-Registrar.

(8) Pay the exact Registration fees through Government challan and / or pay order and computer service charges in cash as per the receipt. (Computer service charges are @ Rs.20/- per page)

(9) Documents will be returned within 30 minutes of getting the receipt.

Persons who can present document for Registration

Section 32 of the Registration Act, 1908 deals with the provisions relating to the presenting of documents for registration by a person.

Subject to certain exceptions, every document which is to be registered under the provisions of the Act should be presented at the proper Registration office by :-

(i) the concerned person himself, or

(ii) the representative or the agent of such a person duly authorized in manner as is stated in Section 33 of the Registration Act, 1908.

Language of the Document

The language of the Document presented for Registration should be in the language commonly used in the district existing in the state.

It is to be noted that the sub-registrar can refuse to register the document if the same is written in a language that is not commonly understand by the people residing in the said state, unless the document is accompanied by a true translation into a language commonly used in the district / state and also by a true copy.

In Mumbai documents are generally executed in English, Hindi & Marathi.

Registration and presence of witness

It is to be noted that two witnesses are required at the time of completing the Registration formalities, basically the witnesses are required for the purpose of identifying the persons who have executed the document. However if the parties produce their passport then the problem of identification is solved. In such circumstances the Sub-Registrars office does not insist for the presence of witnesses. It should be noted that even if one of the parties passport is not produced then the Registration formalities will remain incomplete.

Grounds for non-registration of documents

The sub-registrar can refuse to register the documents on certain grounds.

The normal grounds for non-registration of documents are :-

(1) Document is opposed to public policy.

(2) Parties have not complied with the formalities as laid down by the Registration Act and by any reasons by which registering authority is not satisfied.

(3) The survey number of the property is not mentioned in the documents.

(4) The language in which the document is executed is not in the language that is normally prevailing in the area where the office of the Registering Authority is situated.

Remedies for non-registration of documents

(i) Remedy in case the Sub-Registrar refuses to register the document .

An Appeal should be filed against the order of the Sub-Registrar refusing to admit the documents for registration to the registrar under whose jurisdiction the Sub-Registrar is working.

The Appeal has to be filed within a period of 30 days from the date of the order.

The Registrar has the power to issue summons to the party and for the purpose of enquiry also summon and enforce the attendance of witnesses and can also compel them to give evidence.

The power enjoyed by the Registrar is that of a Civil Court and is also authorized to direct by whom the whole or any part of the cost of the inquiry should be recovered or paid . These powers are enjoyed by the Registrar under sec.74 of the Indian Registration Act,1908.

(ii) Remedy in case where the Registrar refuses to register the documents.

On refusal of the Registration of the document by the Registrar, the parties or their representatives u/s. 72 & 73 of the Indian Registration Act,1908 can within 30 days from the date of order of refusal institute proceedings in the Civil Court in whose jurisdiction the office of the Registrar is situated.

Description of the Immovable Property for the purpose of Registration

It is always advisable, with the view to identify the property involved, in a document that the description of the property is mentioned in a separate schedule, preferable with maps or plans, so as to enable the Registering Authority to make notes in the books to be preserved.

The description should mention the area of the property the number of the property, the boundaries of the property, the streets on which it is situated, alongwith the name of the Village, Taluka, District. The city survey number with Hissa number if any should also be mentioned.

Note – It is the discretion of the Registering Officer to refuse to accept a document if the description of the immovable property is not sufficient to identify the property correctly.

Registration and Verification of Title

Normally the person purchasing the property has to ensure that the seller has a good and marketable title.

In order to find out if the title of the seller is clear & marketable, one has to take search of the property. The search of the property has to be taken at the offices of the relevant Sub-Registrar. Normally 30 years search has to be taken. The purchaser can also ask copies of the documents lodged with the office of the Sub-Registrar to the seller.

The objections pertaining to the title of the property can be easily verified after taking the search, for e.g. if the party has mortgaged and registered the documents with the Sub-Registrar of Assurances then it can be known only after taking the search of the property. After satisfying as regards the title of the property the party should proceed with the transaction.

It will thus be seen that a document which is duly registered can be relied on in order to ascertain the title of the property.

Registration of document executed outside India

A document relating to an immovable property in India can be executed out of India and later it can be presented for registration in India.

As per Sec.26 of the Registration Act,1908, if a document purporting to have been executed by all or any of the parties out of India is presented for registration within the prescribed time, the Registration Officer may on payment of proper Registration fee, accept such document for registration if he is satisfied that.

(i) the instrument was executed out of India &

(ii) the instrument has been presented for registration within four months after its arrival in India.

BOMBAY STAMP ACT

1. **Applicability**

The Bombay Stamp Act applies to the entire State of Maharashtra. Only such instruments specified in the Schedule to the Act are covered by this Act.

2. **Charge of Stamp Duty**

2.1 S.3 of the Act levies stamp duty at the rate provided in

2.2 Schedule I on any instrument executed in the State of Maharashtra. Even instruments executed outside the State are liable to duty only on their receipt in the state, provided it relates to a property situated in the state or a matter or thing to be done in the state.

2.3 An instrument covering or relating to several distinct matters is chargeable with the aggregate amount of duty with which each separate instrument would have been chargeable.

2.4 In case an instrument is so drafted that it is covered within the ambit of more than one Article under Schedule I, then it shall be taxed by that Article which levies the highest amount of stamp duty.

2.5 The term " Instrument" has been defined to include every document by which any right or liability is or purports to be created, transferred, limited, extended, extinguished or recorded.

However, it does not include a bill of exchange, cheque, promissory note, bill of lading, letter of credit, policy of insurance, transfer of share, debenture, proxy and receipt.

3. **Certain Definitions**

3.1 "Conveyance" has been defined to include:

a) a conveyance on sale,

b) every instrument,

c) every decree or final order of any Civil Court,

d) every order made by the High Court u/s. 394 of the Companies Act, 1956 in respect of amalgamation of companies;

The Explanation to the definition provides that any instrument by which one co-owner transfers his property to another co-owner would be deemed to be a conveyance provided that it is not an instrument of partition.

3.2 "Instrument of gift" has been defined to include, in case of an oral gift any instrument recording its making or acceptance, whether by way of declaration or otherwise.

3.3 "Instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property and includes :

a) any final order for effecting a partition passed by any revenue authority or any civil court,

b) an award by an arbitration directing a partition, and

c) when any partition is effected without executing any such instrument, any instrument or instruments signed by the co-owners and recording, whether by way of declaration of such partition or otherwise, the terms of such partition amongst the co-owners.

The expression ‘co-owners’ includes all kinds of co-ownership such as joint tenancy, tenancy in common, coparcenary, membership of HUF, etc. and the partnership.

3.4 “Immovable Property” includes land, benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth. The two leading decisions on this definition are those of the Supreme Court in the case of Sirpur Paper Mills (1998) 1 SCC 400 and the case of Duncan’s Industries (2000) 1 SCC 633.

4. **Payment of Stamp Duty**

4.1 Duty can be paid by way of adhesive or impressed stamps on the instruments.

4.2 The stamp papers must be in the name of one of the parties to the transaction. They cannot be in the name of the Chartered Accountant or Lawyer of the parties.

4.3 The date of issue of the stamp paper must not be more than 6 months older than the date of the execution of the instrument.

4.4 Liability to pay Stamp Duty will be on the person who has agreed to pay the same. In the absence of any such agreement, the Act provides that in the case of a Conveyance, duty is to be paid by a buyer and by the lessee in case of a lease. In cases of Bonds, Release, Settlement, it is to be paid by the person making or drawing the instrument. In case of exchange, it is to be paid by the parties in equal shares and in case of partition, by the parties in proportion to their respective shares. In all other cases, it is to be paid by the person executing the instrument.

4.5 Stamp duty is payable at rates specified in Schedule I. Depending upon the Instrument, it may be based upon nature of instrument which is either ad-valorem. In case of ad- valorem instruments which are based upon market value of the property, means the price which such property would have fetched if sold in open market on date of execution of such instrument or consideration stated in the instrument whichever is higher.

The stamp office determines the market value of the property by referring to an Annual Statement of Rates (commonly known as Stamp Duty Ready Reckoner) which gives the market values of various immovable properties in Mumbai. The Reckoner divides the immovable property into various categories such as developed land, undeveloped land, residential units, industrial units / office, shops, etc., and fixes their market value accordingly.

4.6 Any person can apply to the Collector of Stamps for adjudication of the stamp duty payable on the instrument.

5. **Understamped Document**

5.1 Under section 34 of the Act, any instrument which is inadequately / not stamped, then it shall be inadmissible in evidence for any purpose, e.g., in a Civil Court. Such instruments can be admissible in evidence on payment of the requisite amount of duty and a penalty @2% per month on the deficient amount of duty calculated from the date of execution. However, the maximum penalty cannot exceed twice the amount of deficiency in duty.

5.2 Further, any public officer can impound such improperly stamped instruments if it comes to his notice. Such impounded instruments must be sent to the Collector who would then determine the amount of duty and penalty, if any, payable on the same. Any party to an instrument can also *suo motu* submit an instrument for adjudication by the Collector u/s. 31 on payment of Rs. 100.

5.3 A person can be punished with rigorous imprisonment for up to 6 months (not less than 1 month) and with fine up to Rs. 5,000/-, if it is proved that the instrument was undervalued or short payment of duty was made with intention to evade duty.

SCHEDULE 1 RATES ON STAMP DUTY ON VARIOUS INSTRUMENTS AS PER BOMBAY STAMP ACT, 1958 MAHARASHTRA

Article	Description	Stamp Duty
4	**Affidavit** (Exemption: for use in the Court or Tribunal)	Rs.100/-
5	***Agreement**	
	a) Relating to sale of bill of exchange;	Rs. 1 for every Rs.10,000 or part thereof
	b) Relating to purchase or Sale of Government Security;	50 paise for every Rs.1,00,000/- or thereof of the value of Security at the time of its purchase or sale, as the case may be.
	c) Development Rights Agreement	Rs.5 for every Rs.500 or part thereof of the market value of the property
	d) Relating to the purchase of one or more units in any scheme or project by an investor from a developer.	Same duty as on conveyance under clause (a), (b), (c) or (d) of Article 25 on the market value of the unit; Note: The purchaser would get a set off of Stamp Duty to the extent of the amount of Stamp Duty paid by the seller, on the second document of conveyance made with in three years from the date of the agreement by the purchaser & if no duty is required to be paid, then the minimum duty for the conveyance shall be Rs.1, 000/-
	e) Relating to transfer tenancy rights (duty per sq. m.)	Commercial Residential

	i) Greater Bombay ii) Thane, Pune, Nagpur, Navi Mumbai iii) Other Municipal Corporation	Rs.2, 000 Rs.1, 000 Rs. 400	Rs. 200 Rs. 100 Rs. 50
	f) relating to hire purchase	Same as in case of lease.	
	g) relating to : -		
	(i) any advertisement on mass media made for promotion of any product or programme or event with an intention to make profit out of it.	Rs. 2.50/- for every Rs.1000/- or part thereof on the amount agreed in the contract. subject to minimum Rs 100/- and maximim Rs 10,00,000/-	
	(ii) Conferring exclusive rights of telecasting, broadcasting or exhibition of any event or a film,	Rs. 2.50/- for every Rs.1000/- or part thereof on the amount agreed in the contract. subject to minimum Rs 100/- and maximim Rs 10,00,000/-	
	(iii) Specific performance by any person or group of person where the value of contract exceed Rs.1 Lac;	Rs. 2.50/- for every Rs.1000/- or part thereof on the amount agreed in the contract. subject to maximim Rs 10,00,000/-	
	(iv) Creation of any obligation, right or interest & having monetary value but not covered under this article;	One Rupees for every Rs. 1000/-or part thereof on the amount agreed in the contract subject to minimum Rs 100/- and maximim Rs 10,00,000/-	
	(v) Assignment of copyright under the Copyrights Act, 1957.	Rs. 2.50/- for every Rs.1000/- or part thereof on the amount agreed in the contract. of the value signed for such assignment subject to minimum Rs 100/- and maximim Rs 10,00,000/-	
	(vi) If not provided, otherwise	One Hundred Rupees	

6	***Agreement for deposit of title deeds, pawn, pledge or Hypothecation** Deposit of title deeds securing amount of loan or for pawn, pledge or hypothecation securing amount of loan	Rs.1/- for every Rs.1000 or part thereof of the amount secured by the deed-Maximum of Rs.5, 00,000 & Minimum of Rs.100/-
10	**Articles of Association of a Company** On the share capital, thereof subject to a nominal capital or increased share capital (Exemption S.25 companies)	Rs.1, 000 for every Rs.5,00,000 or part thereof subject to a maximum of Rs.50,00,000/-
12	**Award** by an Arbitrator or Umpire (not being an Award directing a Partition) a) On the property value to which the award relates b) Other cases	Rs.100 Rs.100
15	**Cancellation** (**Exemption**: Revocation of will)	Rs.100
17	**Certificate of Other Document** (Shares, Scrip, Stock, etc. on face value + premium)	Rs.1 for every Rs.1, 000 or part thereof (approx.0.1%)
24	**Composition Deed**	Rs.200
25	**Conveyance (on the true market value)** a) **Movable Property** for every Rs.500 or part thereof b) (A) **Immovable Property** (i) In Rural areas within Bombay Metropolitan Region (BMR)	Rs.15 Rs.25

	(ii) Residential property in Rural area not in BMR (iii) Non-residential property in Rural area not in BMR (iv) In C Class Municipal Councils (v) In B Class Municipal Councils (vi) In A Class Municipal Councils (vii) In Municipal Corporation of Mumbai, Pune, Thane and Navi Mumbai (viii) In Municipal Councils of certain Hill Stations (viii) In Municipal Councils of BMR, Devlali, Dehu Road	Rs.5 Rs.15 Rs.20 Rs.25 Rs.25 Rs.25 Rs.25 Rs.25
	(b) (B) If relating to a residential premises which is a building or an unit (Concessional rate of duty) a) by or in favour of a Co-op Housing Society b) where provisions of Maharashtra Ownership Flats Act or Maharashtra Apartment Ownership Act apply c) by Society in favour of its member or incoming member (by share or otherwise) d) by a member to another member including an incoming member e) purchase of land in cases covered by (a) to (d) above **Applicable Rates**	

	(i) Does not exceed Rs 2,50,000/- (ii) exceed Rs 2,50,000/- but does not exceed Rs 5,00,000/- (iii) exceeds Rs 5,00,000/-	One Hundred Rupees Rs 100/- plus 3% of the value above Rs 2,50,000/- Rs 7,600/- plus 5% of the value above Rs 5,00,000/-
	(c) High Court order u/s. 394 of the Companies Act, in respect of amalgamation or reconstruction of companies.	10% of the aggregate of the market value of shares issued or allotted in exchange or otherwise and the amount of consideration paid for such amalgamation: the amount of duty chargeable under this clause shall not exceed- i) 5% of the true market value of the immovable property located in Maharashtra of the transferor company; or ii) 0.7% of the aggregate of the market value of shares issued or allotted in exchange or otherwise and the amount of consideration paid, for such amalgamation, whichever is higher: Provided further that, in case if reconstruction or demerger the duty charegeable shall not exceed- (i) 5% of the true market value of the immovable property located in Maharashtra transferred by the Demerging Company to the Resulting Company: or (ii) 0.7% of the aggregate of the market value of shares issued or allotted to the

		Resulting Company and the amount of consideration paid for such Demerger, whichever is higher.
Special Points for Conveyance 1. An agreement for sale providing for transfer of possession shall be deemed to be a 'Conveyance' and will be stamped accordingly. However, a set off of the duty paid will be given at the time of execution of the conveyance. 2. Assignment of copyrights is exempt from stamp duty. 3. In case of amalgamation / reconstruction of companies, the market value of the shares of transferee company is the value of shares on stock exchange on the "appointed day" mentioned in the scheme or else the date of the court's order. If the shares are not listed or not quoted, the market value means the value of shares to the transferor company or the value as determined by the Collector.		
27	**Counterpart / Duplicate**	Maximum Rs.100
32	**Exchange**	Same duty as on a conveyance on the value of that property which has the greater value
34	**Gift** (other than a settlement, will or transfer)	Same duty as on conveyance. In case of a gift to spouse, brother, sister, lineal ascendants or descendants @ Rs.10/- for every Rs.500 or part thereof
35	**Indemnity Bond**	Rs.200
36	***Lease** including sub-lease & any agreement to let or sub-let or any renewal of lease, where such lease purports to be: - (i) for a period not exceeding 5 years.	Same duty as a levible on a conveyance under clause (a), (b), (c) or (d) of article 25, on 10 % of market value of the property.

	(ii) for a period exceeding 5 years but not exceeding 10 years	Same duty as a levible on a conveyance under clause (a), (b), (c) or (d) of article 25, on 25 % of market value of the property.
	(iii) for a period exceeding 10 year but not exceeding 29 years	Same duty as a levible on a conveyance under clause (a), (b), (c) or (d) of article 25, on 50 % of market value of the property.
	(iv) for a period exceeding 29 years or in perpetuity or does not purport for definite period.	Same duty as a leviable on a conveyance under clause (a), (b), (c) or (d) of article 25, on 90 % of market value of the property.

36A	*LEAVE & LICENCE Where agreement purports to be for term not exceeding 60 months: - **(i)** if relating to residential Premises, (Mumbai City & Mumbai suburban district)	
	i) Average annual rent + security deposit or money to be advanced < Rs.2,50,000 for single term of 12 months	Rs. 750/- for every term of 12 months or part thereof
	ii) Average annual rent + security deposit or money to be advanced >Rs.2,50,000 but < Rs.5,00,000 for single term of 12 months	Rs.1500/- for every term of 12 months or part thereof
	iii) Average annual rent + Security deposit or money advanced > Rs.5, 00,000 but < Rs. 20,00,000 for single term of 12 months	Rs.3000/- for every term of 12 months or part thereof
	iv) Average annual rent + security deposit or money advanced > Rs.20, 00,000 for single term of 12 months	Rs.5, 000 for every term of 12 months or part thereof
	(ii) if relating to non residential premises	Twice the amount of duty chargeable for residential premises under clause (i), (ii), (iii) or (iv) above, as the case may be
	(b) the Municipal Corporation of cities Thane, Pune, Nagpur , Navi Mumbai etc. (1) if relating to residential premises,	
	(i) Average annual rent + security deposit or money to	Rs. 500/- for every term of 12 months or part thereof

	be advanced < Rs.2,50,000 for single term of 12 months	
	ii) Average annual rent + Security deposit or money to be advanced >Rs.2, 50,000 but < Rs.5, 00,000 for single term of 12 months	Rs.1000/- for every term of 12 months or part thereof
	iii) Average annual rent + security deposit or money advanced > Rs.5, 00,000 for single term of 12 months	Rs.2000/- for every term of 12 months or part thereof
	(2) If relating to non-residential premises	Twice the amount of duty chargeable for residential premises under clause (i),(ii) or (iii) above, as the case may be.
	(c) Any place other than above (1) If relating to residential premises	
	(i) Average annual rent + security deposit or money to be advanced <Rs.2,50,000 for single term of 12 months	Rs.300/- for every term of 12 months or part thereof.
	(ii) Average annual rent + security deposit or money to be advanced >Rs.2,50,000 but < Rs 5,00,000 for single term of 12 months	Rs.600/- for every term of 12 months or part thereof.
	(iii) Average annual rent + security deposit or money to be advanced > Rs 5,00,000 for single term of 12 months	Rs.1, 200/- for every term of 12 months or part thereof.
	(2) If relating to non- residential premises	Twice the amount of duty chargeable for residential premises under clause (i),(ii)

	(b) Where Agreement purports to be for term exceeding 60 months	or (iii) above, as the case may be. Same duty as is leviable on lease
37	**Letter of Allotment of Shares**	Rs.1
39	**Memorandum of Association** a) if accompanied with Articles b) if not so accompanied	 Rs.200 Same duty as on Articles of Association under Article 10 according to Share Capital of the company.
40	***Mortgage Deed** a) Where possession is given b) Where possession is not given	 Same duty as on conveyance as the case may be of Article 25, for the amount secured by the deed. Rs.5 for every Rs.1000 or part thereof (approx.1%); subject to a maximum of Rs. 10, 00,000/- and a minimum of Rs.100/-
42	**Notary (attestation** etc., by Notary Public)	Rs.25
46	**Partition**	Rs.10 for every Rs.500 or part thereof of the amount or the market value of the separated share or shares of the property. Note – The largest share remaining after the property is partitioned (or if there are two or more shares of equal value & not smaller than any other shares, then one of such equal shares) shall be deemed to be

		that from which the other share are separated.
47	**Partnership** (a) No share of contribution in partnership, or where such share contribution (brought in way of cash) does not exceed Rs.50, 000 (b) where such share Contribution (brought in by way of cash) is in excess of Rs 50,000/- for every Rs 50,000/- or part thereof. (c) Contribution by way of Property (not cash) (d) **Dissolution of partnership or Retirement of partner** i) where any property is taken as his share by a partner other than a partner who brought in that property as his share of contribution in the partnership. ii) In any other case	 Rs.500/- Rs.500/-, subject to a maximum duty of Rs.5, 000/- Same as on a conveyance on the market value of property. Same as on a conveyance on the market value subject to a minimum of Rs.100 Rs.200
48	**Power of Attorney** a. for sole purpose of Registration of documents b. for suits in small cause court c. for acting in a single transaction to one or more persons d. for acting in more than one transaction or generally to one person e. for acting in one or more transactions or generally to one or more persons f. for consideration and authorization to sell an	 Rs.100 Rs.100 Rs.100 Rs.100 Rs.100 Same as on a Conveyance

	immovable property g. for construction, development, sale etc. to a developer or promoter h. in any other case	Rs.5 for every Rs.500 or part thereof of the market value of the property Rs.100 for each person authorised
51 A	*Record of Transaction effected by a Trading Member through a stock exchange or the Association referred to in section 10B. a) if relating to sale and purchase of government securities , b) If relating to purchase or sale of securities, other than those falling under item (a) above (i) in case of delivery (ii) in case of non delivery c) if relating to futures & options trading d) if relating to forward contract of commodities traded through an association or other wise.	 Rs.50 for every Rs.1 Crore or part thereof of the value of security Rs.1 for every Rs.10, 000 or part thereof. 0.20 paise for every Rs.10,000 or part thereof. 0.20 paise for every Rs.10,000 or part thereof. Rs.1 for every Rs.1,00,000 or part thereof.
52	***Release** i.e. any instrument (not being instrument as provided by sec.24) whereby a person renounces a claim upon such other person or against such property. (a) if the release deed of an ancestral property or part thereof is executed by or in favour of brother or sister (children of renouncers parents) or son or daughter or son of predeceased son or	Rs.5 for every Rs.500 or part thereof on the market value of subject matter of the property Two Hundred Rupees

	daughter of predeceased son or father or mother or spouse of the renouncer or the legal, heirs of the above relations. a) In any other case.	 The same duty as is leviable on a conveyance under clause (a) (b) (c) or (d) as the case may be of Article 25, on the market value of the share interest, part or claim renounced.
58	**Surrender of Lease** i) Without consideration ii) With consideration	 Rs.200 Same duty as on a Conveyance on amount of consideration
59.	**Transfer** (whether with or without consideration) (a) of debentures, being marketable securities whether the debenture is liable to duty or not except debentures provided for by section 8 of the Indian Stamp Act, 1989.	 0.50 paise for every Rs 100/- or part thereof of the consideration.
	(b) Of any Interest secured by bond, mortgage deed or policy of insurance	Same duty as a bond (article 13) for such amount or value of the interest as set forth in the transfer, subject to a maximum of Rs 200/-.
	(c) of any property under section 22 of the Administrators General Act,1963;	Same duty as a bond (article 13) for such amount or value of the interest as set forth in the transfer, subject to a maximum of Rs 200/-.

	(d) of any trust property without consideration from one trustee to another trustee, or from a trustee to a beneficiary. Exemptions- transfers by endorsement – (a) bill of exchange, cheque or promissory note; (b) bill of lading, delivery order, warrant of goods or other mercantile document or title to goods (c) Policy of Insurance; (d) securities of the Central Government.	Same duty as a bond (article 13) for such amount or value of the interest as set forth in the transfer, subject to a maximum of Rs 200/-.
61	**Trust** A. a) where there is disposition of property i) for charitable or religious purpose ii) in any other case where there is no disposition b) Where there is no disposition	 Rs.10 for every Rs.500 or part thereof Same as on a conveyance on the amount settled Maximum Rs.200

NOTE: * denotes the amendment taken place on 7.5.05

STAMP DUTY AND FEES PAYABLE

STAMP DUTY AND FEES PAYABLE FOR REGISTRATION OF COMPANIES LIMITED BY SHARES				
Nominal Capital	**Filing fee to be deposited with the ROC**		**Stamp Duty payable in Maharashtra**	
	Memorandum	**Articles & Forms* (each)**	**Memorandum**	**Articles**
Rs.	**Rs.**	**Rs.**	**Rs.**	**Rs.**
50,000	4,000	100	200	1,000
100,000	4,000	200	200	1,000
200,000	7,000	200	200	1,000
500,000	16,000	300	200	1,000
1,000,000	26,000	300	200	2,000
1,500,000	36,000	300	200	3,000
2,500,000	56,000	500	200	5,000
5,000,000	106,000	500	200	10,000
7,500,000	131,000	500	200	15,000
10,000,000	156,000	500	200	20,000
20,000,000	206,000	500	200	40,000
30,000,000	256,000	500	200	60,000
40,000,000	306,000	500	200	80,000
50,000,000	358,000	500	200	100,000
100,000,000	606,000	500	200	200,000
200,000,000	1,106,000	500	200	400,000
300,000,000	1,606,000	500	200	600,000
400,000,000	2,106,000	500	200	800,000
500,000,000	2,606,000	500	200	1,000,000

Note:

a.Further fees @ Rs. 500 per lacs subject to maximum registration fees Rs.2,00,00,000/-.

b. Registration fees payable for a company not having share capital & having members not exceeding 20, Rs. 1000/-.

c. Members exceeding 20 but not exceeding 100 then fees payable would be Rs. 2500/-

d. Members exceeding 100 for every 50 members Rs. 10/- subject to maximum Rs.5000/-

e. In case of unlimited members Rs. 5000/- is payable for a document & in case of a company not having share capital Rs.50/-

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