## Frequently Asked Questions (FAQs) on Indian Stamp Act, 1899 Amendments and Rules made thereunder

1. **Why amendments in the Indian Stamp Act, 1899 have been made?**

   **Answer:** The amendments have been carried out with respect to securities market transactions. The present system of collection of stamp duty on securities market transactions has led to multiple rates for the same instrument, resulting in jurisdictional disputes and multiple incidences of duty, thereby raising thetransaction costs in the securities market and hurting capital formation.

2. **What is the basic framework being created through the amendments to the Indian Stamp Act, 1899?**

   **Answer:** Through the said amendments, the Central Government has created the legal and institutional mechanism to enable States to collect stamp duty on securitiesmarket instruments at one place by one agency (through the Stock Exchanges or Clearing Corporations authorised by the Stock Exchange or by the Depositories) on one instrument. A mechanism for appropriate sharing the stamp duty with relevant State Government based on State of domicile of the buying client has also been included. In the extant scenario, stamp duty was payable by both seller and buyer whereas in the new system it is levied only on one side (payable either by the buyer orby the seller but not by both, except in case of certain instrument of exchange where the stamp duty shall be borne by both parties in equal proportion).

3. **What are the expected key benefits of amendments in the Indian Stamp Act, 1899?**

   **Answer:** The amendments in the Indian Stamp Act, 1899 and Rules made thereunder will facilitate ease of doing business and will bring in uniformity and affordability of the stamp duty on securities across States and thereby build a pan-India securities market. Further, cost of collection would be minimized while revenue productivity is enhanced. Further, this system will help develop equity markets and equity culture across the length and breadth of the country, ushering in balanced regional development.

4. **The amended provisions of the Stamp Act and Rules made thereunder will come into force from which date?**

   **Answer:** The amended provisions of the Indian Stamp Act, 1899 brought through Finance Act, 2019 and Rules made thereunder shall come into force w.e.f 1st July, 2020.

5. **What all instruments are covered under Part AA of Chapter II of the amended Stamp Act and the Rules made thereunder?**

   **Answer:** Each security is charged with a duty as specified in Schedule I of the amended Stamp Act. Securities are defined to include all those instruments specified in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956; a "derivative" as defined in clause (a) of Section 45U of the Reserve Bank of India Act, 1934; a 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 may specify from time to time; repo on corporate bonds; and any other instrument declared by the Central Government, by notification in the Official Gazette, to be securities for the purposes of this Act.

6. **Who will collect the Stamp Duty on behalf of the State Government?**

   **Answer:** The stamp-duty on sale of securities, transfer of securities and issue of securities shall be collected on behalf of the State Government by the Stock Exchange or Clearing Corporation authorized or Depositories (authorized collecting agents). The Central Government has also notified the Clearing Corporation of India Limited (CCIL) and the Registrars to Issue and / or Share Transfer Agents to act as collecting agents.

7. **What is the manner of collection of stamp duty under new system?**

   **Answer:** For all exchange based secondary market transactions in securities, Stock Exchanges shall collect the stamp duty; and for off-market transactions (which are made for a consideration as disclosed by trading parties) and initial issue of securities happening in demat form, Depositories shall collect the stamp duty.

8. **When and how will the stamp duty be transferred to each State?**

   **Answer:** The collecting agents shall within three weeks of the end of each month and in accordance with the Rules made in this behalf by the Central Government, transfer the stamp-duty collected 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. The collecting agent shall transfer the collected stamp-duty in the account of concerned State Government with the Reserve Bank of India or any scheduled commercial bank, as informed to the collecting agent by the Reserve Bank of India or the concerned State Government.

9. **What would be the fees for the collecting agent?**

   **Answer:** The collecting agent may deduct 0.2 per cent of the stamp-duty collected on behalf of the State Government towards facilitation charges before transferring the same to such State Government.

10. **How the State Government will communicate regarding stamp duty matter?**

    **Answer:** The State Government shall appoint a nodal officer for all official communications with the principal officers (appointed representatives of collecting agents) for the purposes of collection of stamp-duty in accordance with stamp duty Rules.

11. **What if collecting agents fails to transfer the duty to the State Government within the time period specified in the Stamp Act and Rules made thereunder?**

    **Answer:** The collecting agents have to transfer collected stamp duty to the State Government within three weeks of the end of each month. Any collecting agent who fails to collect the stamp duty or fails to transfer stamp duty to the State Government within fifteen days of the expiry of the time specified, shall be punishable with fine which shall not be less than one lakh rupees, but which may extend up to one per cent of the collection or transfer so defaulted.

12. **Will any information be provided to the State Government in respect of the stamp duty collected?**

    **Answer:** The collecting agent shall submit a return of stamp-duty collected on various transactions to the State Government including details of defaulters in the prescribed format on a monthly basis to be furnished manually or electronically within seven days of the succeeding month. Further, the collecting agent shall furnish a consolidated return of stamp-duty collected during a financial year manually or electronically on or before the 30$^{th}$ June immediately following that financial year to the concerned State Government and the Accountant General of each State. The State Government may provide an online facility by which a collecting agent shall upload State wise monthly and yearly returns. Further, if a collecting agent fails to submit details of transactions to the Government or 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.

13. **Can collecting agents utilise amount collected on behalf of States for any other purpose?**

    **Answer:** The stamp-duty collected on behalf of the State Government shall not be utilized by any collecting agent for any other purpose and shall be transferred to the State Government along with interest earned on such amount, if any.

14. **Who will collect the stamp duty in case of private placements/ e-IPOs through Stock Exchange platform?**

    **Answer:** As per section 9A(1)(c), stamp duty shall be collected by the Depository on any creation or change in the records of a Depository, pursuant to issue of securities.

This should be followed even in case of private placements/ e-IPOs through stock exchange platform.

**15. Whether stamp duty is applicable on bonus issue of shares?**

**Answer:** In case of bonus issue, there is no consideration which means bonus shares are issued free to existing shareholders. Section 21 of the Amended Indian Stamp Act read with sub-section 16B of Section 2 clearly indicates that stamp duty is to be collected on market value which is based on price or consideration involved.

**16. Whether stamp duty is applicable on units of Mutual Fund?**

**Answer:** Sub-Section 23A of Section 2 of the Indian Stamp Act, 1899 definessecurities as including securities defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (SCRA). Further, it may be noted that clause (h)(id) of Section 2 of SCRA, 1956, which defines "securities" includes "units or any other such instrument issued to the investors under any mutual fund scheme" under its ambit. Therefore, units of Mutual Fund Schemes are to be considered as securities for the purpose of applicability of stamp duty also

**17. Which section of amended Indian Stamp Act, 1899 (section 9A or 9B) is applicable for Mutual Funds for the purposes of collection and transfer of stamp duty to States/UTs?**

**Answer:** Since RTI and/or STA of Mutual Funds have been declared as Depositories under the Stamp Act vide gazette notification dated 8$^{th}$ Jan, 2020, the entire mutual fund business gets covered under Section 9A of the Indian Stamp Act. Section 9B is not applicable to them. RTAs have to function like a Depository in respect of collection of Stamp Duty on issue and sale or transfer of mutual funds in SoA form. The extant Stamp Rules applies to them as well i.e. the operational clause for them is Section 9A and not 9B of the Indian Stamp Act.

**18. Who will collect and transfer the Stamp duty to States in case of transactions in units of Mutual Funds and AIFs in Statement of Account/ Physical (non-demat form)?**

**Answer:** To provide for collection of Stamp Duty on transactions in mutual fund and AIF units in the statement of account/physical (non-demat) form, RTI and/or STA have been notified (vide Gazette Notification dated 8th January, 2020) as a "Depository" for the limited purposes of acting as a "collecting agent" under the said Act and the Rules made thereunder. Accordingly, for non-demat Mutual Fund andAIF transactions, collection of stamp duty by RTAs shall be governed by the provisions of Section 9A(1)(b) and 9A(1)(c) and the transfer of stamp duty to the respective States shall be governed by the provisions of Section 9A (4). Thus, the transfer of collected stamp duty to respective States/UTs by RTAs also is governed bybuyer-based principle as covered in Section 9A(4) and not on the basis of registered office of the issuer.

19. **Who will collect the Stamp duty in case of Mutual Fund and AIF transactions (sale, transfer and issue of units in demat mode) through recognized Stock Exchange or Depository?**

    **Answer:** As clear from the Act that in case of Mutual Fund and AIF transactions (sale, transfer and issue of units in demat mode) through recognized Stock Exchange or Depository as defined under SCRA, 1956 and Depositories Act, 1996 respectively, the respective Stock Exchange/authorized Clearing Corporation or a Depository is already empowered to collect stamp duty as per Amended Indian Stamp Act and Rules made thereunder.

20. **On transfer of units of Mutual Funds and AIFs held in physical form stamp duty is to be collected from the transferor. As these transfers happen outside the purview of RTAs what will be process of collection and remittance of stamp duty?**

    **Answer:** Stamp duty has to be collected and remitted only by collecting agents (RTA for physical units and Depositories for demat units). Where Mutual Fund and AIF units are issued in physical form, stamp duty has to be collected and remitted byRTA. Accordingly, when the transferee approaches RTA for effecting the transfer in their books, RTA will be collecting the stamp duty from the transferor before effecting the transfer which will then be remitted to the state of domicile of the transferee.

21. **How stamp duty is calculated in case of issuance of Mutual fund Units?**

    **Answer:** Stamp duty is imposed on the value of units excluding other charges like service charge, AMC fee, GST etc. If the units are issued for Rs.1 crore then Rs.500 would be the stamp duty to be remitted to States.

22. **Whether switching in Mutual fund attract stamp duty?**

    **Answer:** The issue of fresh units in the switched scheme would also attract stamp duty even though there is no physical consideration paid or transfer of ownership.This is because the new units are deemed to have been purchased with the NAV realized from the sale of earlier units.

23. **Whether stamp duty is applicable on redemption of Mutual Fund units?**

    **Answer:** Redemption is not liable to duty as it is neither a transfer nor an issue nor a sale.

24. **Whether stamp duty will be charged on off-market transfer of securities without consideration such on gift, legacy transfer etc.?**

    **Answer:** No. Section 21 of the Amended Indian Stamp Act read with sub-section 16B of Section 2 clearly indicates that stamp duty is to be collected on market value which is based on price or consideration involved.

25. **Whether stamp duty is applicable at multiple levels of a single transaction (on account of procedural requirements) and to which State Government the stamp duty amount be transferred in such cases?**

    **Answer:** It should be ensured that double incidence of stamp duty doesn't occur on any transaction. Where, before being credited in the buyer's demat account, the securities are transferred from the demat accounts of issuer to clearing corporation, member, etc., the stamp duty shall be transferred to the State Government where the residence of the buyer is located.

26. **Whether stamp duty will be applicable in case of creation of segregated portfolio?**

    **Answer:** No. Since no consideration is received from the investors and the mechanism is only to facilitate mutual funds to deal with liquidity risk leading toequal treatment of all investors, issuance of units in segregated portfolio is not liable to stamp duty.

27. **Whether stamp duty will be applicable in case of conversion of holding from Dematerialisation into Statement of Account (SoA) form and vice versa?**

    **Answer:** No. Conversion of existing mutual fund units held in SoA mode to demat mode or vice-versa does not tantamount to issuance or transfer of mutual fund units and it only reflects the change in mode of holding without any change in beneficiary ownership. Accordingly, stamp duty is not applicable on such conversions.

28. **Whether stamp duty will be applicable in case of basket redemption of units of Exchange Traded Funds (ETFs) for receipt of the constituent shares?**

    **Answer:** No, redemption of units of ETFs for receipt of constituent shares is not liable to stamp duty.

29. **In case of off-market transactions, what would be the applicable exchange rate where consideration for transfer of securities is in any currency other than the Indian Rupee?**

    **Answer:** If consideration for transfer of securities is in any currency other than Indian Rupee, the foreign exchange reference rate of RBI for the working day previous to the date of transfer of such securities in the depository system will be considered for arriving at the consideration amount in Indian Rupee.

30. **Which section of the Indian Stamp Act, 1899 is applicable for issue/ transfer or sale or reissue of securities in physical form?**

    **Answer:** Section 9B of the Indian Stamp Act, 1899 is applicable for issue/ transfer or sale or reissue of securities in physical form. Thus, if a company or any other body corporate issues shares in physical form (i.e., outside the Stock Exchange/ Depository), then the said company will have to pay the stamp duty on issued securities, as per provision of sub-section (a) of section 9B read with Article 56 (A) of Schedule I of the Indian Stamp Act, 1899, on market value as defined in Section 2 (16B) of the Indian Stamp Act, 1899. However, in case, the said company or any other body corporate desires to issue securities in dematerialized form, then section 9A of the Indian Stamp Act, 1899 shall be applicable. Further, if 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.

**31. Whether benefit of sub-section 3 of section 4 of the Indian Stamp Act, 1899 is available for issue/sale/transfer/reissue of securities otherwise than through a Stock Exchange or Depository?**

**Answer:** As per section 4(3) of the Indian Stamp Act, 1899, in the case of any issue, sale or transfer of securities, the instrument on which stamp-duty is chargeable through Stock Exchanges/ Depositories 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. Thus, section 4 (3) is not applicable for section 9B. Therefore, in case of issue of securities by the company or any other body corporate otherwise than through a Stock Exchange or Depository, stamp duty will also be additionally applicable on other associated instruments such as share certificates etc. if provided for in the relevant Act/ Rules/ Notifications/ Guidelines governing the stamp duty collection of the concerned State.

**32. What is the mechanism for payment of Stamp Duty under section 9B of the Indian Stamp Act, 1899?**

**Answer:** The payment of stamp duty on securities market transactions under section 9B i.e., otherwise than through Stock Exchanges and Depositories shall be as per the relevant Act/ Rules/ Notifications/ Guidelines governing the stamp duty collection of the concerned State.

**33. What are the stamp duty rates being implemented through the Amended Indian Stamp Act?**

**Stamp Duty Rates w.e.f. 1st July 2020**

| Instrument | Rate |
|---|---|
| Issue of Debenture | 0.005% |
| Transfer and Re-issue of debenture | 0.0001%. |
| Issue of security other than debenture | 0.005% |
| Transfer of security other than debenture on delivery basis; | 0.015% |
| Transfer of security other than debenture on non-delivery basis | 0.003% |
| 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% |
| Government Securities | 0% |
| Repo on Corporate Bonds | 0.00001% |

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