

Stamp Duty

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Stamp Duty

1. Introduction

- Stamp Duty was first introduced in Sri Lanka under the **Stamp Duty Ordinance** of 1909.
- **Stamp Duty Act No. 43 of 1982** enacted in 1982 replaced the Ordinance
- With the devolution of certain legislative powers to Provincial Councils under the 13th Amendment to the Constitution, the authority to legislate for Imposing Stamp Duty on **transfer of immovable properties, transfer of motor vehicles and documents filed in legal proceedings** is vested with Provincial Councils (w.e.f 1991)
- **Part III of the Finance Act No. 11 of 2002** made provisions for abolishing the operation of Stamp Duty Act No.43 of 1982 (w.e.f. May 2002)
- **Stamp Duty (Special Provisions) Act No.12 of 2006** while imposing Stamp Duty on certain **specified instruments** made provisions for re-operation of **Stamp Duty Act No. 43 of 1982** with limited scope (w.e.f April 04, 2006).

Relevant Gazette Notifications

SD RATES:

Gazette Extra-Ordinary **1439/1** (Dated 03.04.2006) (from 04/04/2006 to 06/10/2006)

Gazette Extra-Ordinary **1465/19** (Dated 05.10.2006) (from 06/10/2006)

Gazette Extra-Ordinary **1439/3** (Dated 03.04.2006) (for North East property transfers)

SD EXEMPTIONS:

Gazette Extra-Ordinary 1439/2 (Dated 03.04.2006) (from 04/04/2006 to 06/10/2006)

Gazette Extra-Ordinary 1465/20 (Dated 06.10.2006) (from 06/10/2006)

Gazette Extra-Ordinary 1478/7 (Dated 01.01.2007)

2. Chargeability (Section 3)

Stamp Duty is charged, **at specified rates** on every, **specified instrument**

- *executed, drawn or presented* in Sri Lanka;
- *executed outside Sri Lanka* in relation to a property in Sri Lanka and presented in Sri Lanka

3. Specified Instruments(Section 4)

- An affidavit
- A policy of Insurance
- A warrant to act as a Notary Public
- A periodic licence to carry on a trade, business, profession or vocation
- A claim or demand from a credit card holder for payment on account of usage of the card
- A share certificate on new or additional issue or on transfer or assignment
- A mortgage for a definite sum of money and affecting any property
- A promissory note
- A lease or hire of any property
- A receipt or discharge given for any money or other property
- Any other specified by the Minister by Gazette Order

(Please note Stamp Duty is chargeable on an instrument; not on a transaction)

4. Mode and Time of payment of SD

Mode

- Affixing (Government) stamps.
- Compounding by Authorized Persons.
- Payments to a prescribed Bank by cash, bank pay order or draft and getting endorsed by CGIR.

Time of Payment

- Stamp Duty should be paid before or at the same time of the execution of an instrument.
- Share transfers executed in Sri Lanka can be stamped within 1 month (Section 8).

5. Who is liable to Stamp Duty and who is eligible to Compound Stamp Duty. (Section 6)

- Section 6 of the Stamp Duty Act (No. 12 of 2006) stipulates the party by whom the stamp duty is payable. It specifies the party in respect of 4 instruments
 - Policy of insurance -- Person effecting the Insurance
 - Transfer or assignment of shares – Transferee or assigned
 - Lease or hire – Lessee
 - Claim by the service provider from the holder of a credit card - Credit Card Holder
 - **In all other cases** – the person drawing, making or executing the instrument.

o Section 7 – **Compounding of Stamp Duty.**

CGIR may permit following persons

- Policy of insurance - Person issuing Insurance Policy
- Licenses – Issuing Authority
- Credit Cards - Service Provider
- Payments to Employees – employer (where employees more than 100)
- **In any other situation**, depending on circumstances - person issuing the instrument (Considering the impracticability/inexpediency of stamping)

The person authorized to compound the Stamp Duty is required to **make certification** on the relevant instrument on a rubber stamp that may be used in the following format.(section 7(2))

FORMAT of the certificate:

“It is hereby certified that a sum of Rs..... payable as stamp duty in respect ofhas been collected and remitted in terms of Section 7 of the Stamp Duty (Special Provisions) Act No.12 of 2006”

Compounded Stamp Duty payment should be remitted to the Commissioner General **quarterly.**

6. *Schedule-Types of Instruments, Rates, Exemptions etc..*

No.	Instrument	Stamp Duty Rate	By whom Payable	Can be Compounded	Who is liable to pay compounded Stamp Duty	Exemptions
1	Affidavit	Rs. 25/-	Person who signs	No	-	Affidavit made on request of any public officer or on a requirement of any written Law.
2	Policy of Insurance	Rs. 00.50 for every Rs. 1000/- or part thereof of the aggregate of the premia payable on the policy	Person affecting the Insurance	Yes	Insurance Co.	* Life, Medical * Plant, Machinery, Equipment used in the civil Construction Industry or agriculture * any motor vehicles (other than motor vehicles used for travelling purpose)
3	Notary Warrant	Rs. 1000/-	The Notary Public	Yes	By Courts	-
4	Periodic Licence to carry on Trade business etc.	Rs. 1000/- or 10% of licence fee which ever is less	Licencee	Yes	Issuing Authority	License - once and for all
5	Credit Card transactions	Rs. 10/- for every Rs. 1000/- or part thereof	Card Holder	Yes	Service provider	-

6	Issue, Transfer or assignment of any shares of a company	Rs. 5/- for every Rs. 1000/- or part thereof	Transferee /Assignee	No	-	*issue,transfer,assignment of a unit in a Unit Trust/Mutual Fund. * Shares transacted in the trade floor on which share transaction levy paid. *Debentures * Certificates issued in lieu of existing shares - shares in Credit Information Bureau.
7	Mortgage (for a definite sum of money which affects to a property)	Rs. 1/- for every Rs. 1000/- or part thereof	Mortgagee	Yes	Bank/relevant Institution	*Given by a public officer in official capacity, on Food crops, on aircrafts, Jewellery (pawning) *On housing loan of Rs. 3 million or less from Bank/ Finance Co., Co-operative society, Public corporation or CGIR approved Provident Fund *(If housing loan exceeds Rs.3 mn. Stamp Duty payable on whole sum)
8	Promissory Note	Rs. 1/- for every Rs. 1000/- or part thereof	Issuer	Yes	Bank/relevant Institution	Commercial Payments
9	(a). Lease or hire of any Property (b).Hire purchase Agreement	Rs. 10/- for every Rs. 1000/- or part thereof, of the aggregate rent or hire. The aggregate rent or hire payable for the whole term comprised in the lease or hire agreement shall be deemed to be the aggregate of the hire or lease payable for the first twenty (20) years of such term.	Lessee	only on movable properties*(Immovable properties payment should be made to Bank)	Leasing co/Bank	*Finance leases or Hire purchase agreement (other than motor vehicles used for travelling purpose) *Rental less than Rs. 5000/- per month on buildings. On Lease/ Rental Agreement(such Receipt is not exempt).
10 (a)	A Receipt or Discharge given for money or property	Rs. 1/- for every Rs. 1000/- or part thereof (maximum Rs. 50/-)	Recipient	Yes	Recipient Authority	*Below Rs. 1000/-, Deposit into/from Bank/Financial Company. *immediate settlement by cash on passing goods/services
10 (b)	Receipt given for Remunerations (Gross)	25,000 - 39,999 = Rs. 25/- 40,000 - 49,999 = Rs. 40/- 50,000 or above Rs. 50/-	Employee	Yes	Employer	*Remuneration payments below Rs. 25,000/-. *Death gratuity/ Compensation for death or injury *Pension Receipts

7. General Exemptions

- Instruments executed by or, on behalf of the **Government of any Country** (in respect of which an Order under S.67(3) of Act No.43 of 1982 is in force)
- Instruments in respect of supply of any goods or service to **Diplomatic Missions** of any State (or an Organization to which the Diplomatic privilege Act No.9 of 1996 is applicable) and reciprocal benefits are available.
- Instruments executed by, or on behalf of, or in favour of a **Co-operative Society**
- Any instrument **in relation to** which the **Government** would be liable to pay SD (if not for this exemption)
- Any instrument **executed by a Regional Development Bank** or
Any instrument executed **in favour of** a Regional Development Bank

8. SD payable to Provincial Councils

Stamp Duty on **transfer of immovable properties** and on **Court documents** are payable to Provincial Councils.

However, such duties **in relation to North and Eastern provinces** (where no any provincial enactment to charge such duties is in operation at present) are payable to Commissioner General of Inland Revenue in accordance with rates specified in the Gazette Extra-Ordinary No. 1439/3 dated April 3, 2006.

❖ *Stamp Duty rates on Transfers (including Gifts) of Immovable Properties within North Eastern Province*

<i>Gift of Property</i>		<i>Other Transfers</i>	
<i>First Rs.50,000/</i>	<i>-3%</i>	<i>First Rs.100,000/</i>	<i>-3%</i>
<i>Balance</i>	<i>-2%</i>	<i>Balance</i>	<i>-4%</i>

(Mode of payment is affixing of stamps or payment to a prescribed bank; cannot be compounded.)

9. Administrative Provisions

1. Procedure adopted in payment of Stamp Duty

1.1 Affixing of Stamps

- Only Govt. Stamps
- Cancellation of Stamps (Sec. 7 of 1982 Act).
Person/s who execute shall cancel the stamp
 - by writing his/ their names
 - and initiating **in ink**.
 - Over Rs. 50/= Stamps shall be cut or punched.

1.2 Compounding the Stamp Duty

In spite of affixing stamps, persons authorized by the CGIR may compound the stamp duty on relevant instruments.

(see; item no.5above)

1.3 Payment to a prescribed bank account

- This type is applicable for
 - Issue / transfer/ assignment of company shares.
 - Leases and mortgages
 - Immovable property transfers in North East provinces.
- The bank account prescribed is A/c No. 204- 1001- 6-0085127 Peoples Bank Headquarters.

- Payments shall be made **by cash/ bank draft/ pay order only.**
- Upon such payment, such instrument shall be certified and endorsed by an Assessor thereon.
(Sec31– 1982 Act)

2. Admissibility of instruments executed during the time 1982 Act was in operation.

- Where such instrument executed before May 2002 is not duly stamped, it shall not be admitted in evidence by any person at any event. However, such instrument may be admitted if the due stamp duty with a penalty not exceeding 300% of the duty is paid.

3. Obligation to give receipts in certain cases (Sec. 23 of 1982 Act)

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Note:

- ❖ *Loans and Advance payments to Employees liable at 10(a) rates. (Rs.1/- for every Rs.1000/- subject to a maximum of Rs.50/-)*
- ❖ *all Payments to employees other than Loans and Advances are considered as remuneration payments including reimbursements paid for the benefit of employees)*
- ❖ *Where salary payments/other remuneration payments accumulated and or added up and one payment is made: Stamp fee is payable as one instrument (Rs. 50/- maximum)*
- ❖ *Contract Agreements, Service Agreements/sales Agreements etc. are not defined as "Specified Instruments" Therefore not subject to Stamp Duty*