

FREQUENTLY ASKED QUESTIONS ON STAMPD DUTY MATTERS

1. What is meant by Stamp Duty?

Ans:-Stamp duty is a kind of tax levied on instruments(documents)

2. What are the documents on which Central Government can only prescribe stamp duty?

Ans:-Union Government can fix stamp duty in respect of the following instruments-

- Bill of exchange
- Cheques
- Promissory Note
- Bill of landing
- Letter of Credit
- Policy of Insurance
- Transfer of Shares
- Debenture and Receipt..

3. What are the documents for which State Government can prescribe Stamp duty?

Ans:-Other than the above mentioned (question No.2) instruments, on any other instrument, the State legislature can fix the stamp duty. Example: Affidavit, adoption deed, sale deed, gift deed, lease deed, mortgage, license, partition deed and settlement deed etc.

4.How to pay stamp duty and where it can be paid?

Ans:-Stamp duty can be paid through

a) Purchase of impressed stamps from treasury or licensed stamp vendors or from sub-registrar offices
OR

b) Purchase of adhesive stamps OR

c) Payment to the Government through DD / pay order issued by any nationalised bank / scheduled bank or challan. OR

d) Instrument (document) can be written on plain paper and stamp duty can be paid through DD / pay order issued by any nationalised bank / scheduled bank or challan within one year from the date of execution of the instrument (document) and get it Certified by the jurisdiction District Registrar under Section 41 of Indian Stamp Act, 1899. In Uttarakhand, the Government has introduced the challan system in respect of documents come for registration. Now, in Uttarakhand the Non-Judicial Stamp papers up to Rs.100/- only available. So, the people who require to get their document registered may use these low denomination NJ Stamp papers.

For example, if an instrument has to be stamped with Rs.10000/-. The parties may buy 5 NJ Stamp papers of Rs.100/- value. Therefore, they have paid Rs.500/- stamp duty. Remaining stamp duty of Rs.9500/- shall be paid through challan. Each Sub Registrar Office has been tagged with a designated branch of SBH/SBI bank. The parties after filling the challan shall pay the amount through the challan provided by the Sub Registrar. A copy of challan shall be

produced before the SR in evidence of the payment of stamp duty. The SR will register the document on the basis of the challan produced before him. A safe mechanism has been in place to check the genuineness of the challans produced by the parties.

5. Can a stamp paper used for one purpose be used for another transaction?

Ans:- No. A stamp paper once used for a purpose cannot be used for another purpose. Example: An affidavit executed for a purpose cannot be executed for another purpose.

6. When stamp duty is to be paid?

Ans:-(a) Generally stamp duty shall be paid before or at the time of executing a document.

(b) Instrument (document) can be written on plain paper and stamp duty can be paid through DD / pay order issued by any nationalised bank / scheduled bank or challan within a year from the date of execution of the instrument (document) and get it Certified by the jurisdictional District Registrar.

7. How to pay stamp duty in respect of a document executed out of India to be used in Uttarakhand? What is the procedure to be followed?

Ans:- Stamp duty can be paid within three months from the date of receipt of such document in India. Document may be produced before the District Registrar. Who will certify on payment under Section 18 of Indian Stamp Act, 1899.

8. Is it mandatory to pay stamp duty as per schedule-IA or Indian Stamp Act as applicable in the State of AP to a document relating to property situated in AP which is executed in other states of India? What is the procedure to be followed?

Ans:- When a document is executed on stamp paper purchased in other state and executed in other state but it is in respect of property situated in Uttarakhand, if such duty is less than the duty prescribed under the Indian Stamp Act, the deficit duty shall be paid. Example: A power of attorney is executed in favour of a person other than family member, 1 percent stamp duty on value of the property shall be made good after deducting stamp duty, if any, already paid in that state.

9. Is it mandatory to pay stamp duty on interest to be accrued on the loan in respect of documents executed as a security for such loan?

Ans:- No. Stamp duty is to be paid on loan amount. No duty needs be paid on interest to be accrued.

10. Is there deduction of stamp duty in respect of sale deed relating to property executed in favour of mortgagee of the same property?

Ans:- Yes. Deduction to the extent of duty paid on mortgage deed is available.

11. What is the stamp duty to be paid in respect of instruments in which amount is to be paid in annuity or periodically?

Ans:-In respect of instruments executed to pay amount annually or periodically, stamp duty is to be paid as follows depending on the circumstances.

Where the sum payable during the period is previously ascertained, stamp duty is to be paid on whole of the amount.

Where the sum payable is in perpetuity or for an indefinite time not terminable with any life, stamp duty shall be on the sum payable during the period of 20 years calculated from the date on which the first payment becomes due.

Where the sum payable for an indefinite time terminable with any life, the stamp duty shall be paid on the sum payable during the period of 12 years calculated from the date on which the first payment becomes due.

12. Generally there are two parties to a document i.e. executing party and claiming party. Who is liable to pay stamp duty among them?

Ans:-In the absence of agreement to the contrary, the expense of providing the proper stamp shall be borne-

- In the case of mortgage by way of deposit of deed, hypothecation, further charge, indemnity bond, bond, mortgage, settlement, by the person drawing making or executing such instrument;
- In case of conveyance (sale etc.) deed including re-conveyance by the grantee, Example: in case of sale deed purchaser is liable to pay stamp duty.
- In case of lease –lessee
- In case of power of attorney executing party
- In case of Certificate of sale on auction of property -the purchaser,
- In case of exchange deed both parties equally
- In case of partition deed, all the parties in proportion to their share are liable to pay stamp duty.

13. Is there any provision to get authentic opinion on the duty payable on any document when it is doubtful? What is the procedure if such a provision exists?

Ans:-In case of any doubt about the duty payable on any instrument (document), application may be made to the District Registrar under Section 31 of Indian Stamp Act, 1899 with following records:

- Draft of the proposed deed or deed itself.
- Affidavit (on stamp paper of Rs.20) Fee Rs.15.

14. What are the consequences of non-payment of stamp duty?

Ans:-When Stamp duty leviable on a document is not paid it cannot be accepted or received in evidence. No transaction is valid if done on the basis of instrument not duly stamped. Instruments presented to any public officer (excluding police) will be impounded. Stamp duty and penalty will be levied.

15. What is the procedure to be followed after a document is impounded?

Ans:-(a) A public officer impounding an instrument will send it to Collector (District Registrar) concerned to determine the stamp duty to be paid. District Registrar will determine the stamp duty to be paid after giving opportunity to the party concerned to put forth his arguments on the duty to be paid. He may levy penalty of minimum of Rs.5 or up to ten times of the deficit total duty to be paid depending on the case, if he finds the document was not duly stamped. Appeal can be preferred to the Chief Controlling Revenue Authority (Commissioner and Inspector General of Registration and Stamps, Uttarakhand) in first instance, and then to the High Court if the parties are aggrieved.

16. Is there a provision to write document on the stamp paper available and pay deficit duty afterwards in urgent situations?

Ans:- Yes there is a provision, if the party concerned voluntarily comes forward to pay deficit stamp duty within one year from the date of execution (signature). District Registrar will accept deficit stamp duty and certify accordingly on the document without levying penalty under Section 41 and 42 of Indian Stamp Act, 1899.

17. Is there a provision to get refund of penalty paid in case of impounded document?

Ans:- Yes there is a provision. Chief Controlling Revenue Authority (IGR & S) may order refund on appeal, if he found the penalty levied is on higher side.

18. Stamp duty is levied on market value of property involved in sale, gift, exchange or settlement. How to know the market value of property?

Ans:-

(a) As defined under Sec.47A of the Indian Stamp Act, 1899, market value of property is the value it would fetch if sold in the open market.

(b) Government has formed Committees to estimate market value of properties. They would survey and enquire regarding open market values of different localities. They would collect the data from different sources like open auctions conducted by HUDA and other urban development authorities, Banks, Financial Institutions, registered document reflecting real consideration, land acquisition compensation, etc. The committee will estimate the value from time to time as per laid down norms and principles and publish the same for information of public. The committees after hearing the objections, if any from the public will modify/amend the proposals or if they found the objections are unfounded, then they may go ahead to approve the proposed values. We have urban and rural committees to fix market values. Revenue Department, Municipal, ZillaParishad, Registration Department officials are part of this committee. From the year 2010, the market value guidelines registers are being published and sold through Sub Registrar and District Registrar Offices.

(c) When a document is presented to the Sub Registrar for registration, he will give market value slip in prescribed form about the market value of property as the market value estimated by the committee. If the party concerned agrees to pay the stamp duty on such value, he will register the document.

(d) If parties to the document do not agree to pay stamp duty on the market value informed above, Sub Registrar will keep the document pending and refer the document for

determination of market value after collecting 50% of the deficit stamp duty as a deposit to refer it to the Collector (District Registrar) under Section 47A.

(e) District Registrar will hear the parties and determine market value after spot inspection if necessary.

(f) Appeal may be preferred to the Civil Court within 60 days from the date of receipt of order of the District Registrar.

19. Is there provision to get refund of value of stamp papers not used or spoiled etc?

Ans:- Yes, there is a provision to refund of value of NJ Stamp papers not used or spoiled under Indian Stamp Act, 1899. But in the State of Uttarakhand, the NJ Stamp papers are available up to Rs.100/- denomination only. Therefore, this provision serves no better purpose. But, the Government of Uttarakhand issued a G.O., allowing refund of the amounts paid through challan system. A copy of the G.O., may be seen by clicking here.

20. Is there time limit for the usage of the stamp papers purchased?

Ans:- No, there is no time limit. They may be used anytime

21. How to prevent use of fake stamps?

Ans:- In Uttarakhand State sale of Non-judicial stamp papers is restricted to the denomination maximum of Rs.100/-. Therefore, in a way, the Government has checked effectively the circulation of fake stamps. Purchase the stamps from only authorized/licenced Stamp Vendors or from Government Offices (Sub Registrar and District Registrar Offices). Remaining stamp duty can be paid through challan.

22. What is the stamp duty and registration fee payable for partition among joint family?

Ans:- 1% stamp duty on the market value of the value of separated share. Example: If there are three parties by name A, B and C in a partition deed. Party by name 'A' got Rs.500000/- value of property. Party B got Rs.400000/- and Party C got Rs.300000/-. Now, the parties have to pay the stamp duty on the value of separate share means on Rs.4 and 3 lakhs exempting Rs.5 lakh. A stamp duty of Rs.7000/- has to be paid on the instrument of partition. In case all the shares are of equal value, then one share has to be exempted from calculation to levy stamp duty.

23. What is the stamp duty payable on gift settlement made in favour of a family member?

Ans:- 3% stamp duty on the market value of the property. Family includes, mother, father, son, daughter, brother, sister, wife, husband, adopted father, adopted mother, adopted son, adopted daughter, grandfather, grandmother, grandson, granddaughter.

24. Is there any concession of stamp duty on mortgage deeds executed by agriculturists to obtain loan from banks for agricultural improvements?

Ans:- There is full exemption of stamp duty for the instrument executed by farmers, in favour of commercial/co-operative bank, societies or other recognized financial institutions to obtain

any amount of loan. But there is no concession of registration fee if they are to be registered instead of sending under Sec.89 of the Registration Act.

25. Is there any concession for sale deeds made in favour of educational institutions while registering their buildings?

Ans:- There is concession of stamp duty to the extent of 50 percent.

26. Is there any concession for the mortgage deeds executed by State Government employees to obtain loan for house building /repair/advance? If so to what extent?

Ans:-There is cent percent exemption from payment of stamp duty