

Email / Speed Post

From, Inspector General of Registration/
Commissioner of Stamp,
Uttar Pradesh.

To, Mr. Gopalkrishna Iyer,
Senior General Manager
Membership Department
Bombay Stock Exchange
24th Floor, P.J. Tower,
Dalal Street, Fort Mumbai-400001

Letter No. 613 shi./kaa./lko./2019

Date: 27-03-2019

Sub : **Collection of Broker Turnover Stamp duty by Agency on Transaction of Security & Commodity through Brokers for the State of UTTAR PRADESH.**

Dear Sir / Madam,

With reference to the above, we hereby inform your exchange that an agreement between Government of UTTAR PRADESH & BOI Shareholding Ltd. has been executed on 25-03-2019 vide which BOI Shareholding Ltd. has been authorized for collection of Broker Turnover Stamp duty on transaction of Securities & Commodities w.e.f 01-05-2019 for the month of April, 2019 and thereafter.

As per the above said agreement between Government of Uttar Pradesh & BOI Shareholding Ltd., we hereby direct you to submit the details of transaction executed by member broker either for its clients or by the firm for itself or by proprietor for himself. The segmentwise Turnover Data such as Cash, Derivatives, Debt (WDM), Currency, Commodity and Member Brokers Master list along with its registered office address, contact details and email Id's in soft copy to BOI Shareholding Ltd. on monthly basis on or before 5th of every month.

Please inform all the member brokers of your exchange about this arrangement and also notify the rates of stamp duty on different types of transactions (copy of applicable rates are attached herewith). Members can pay their stamp duty by using web-based portal of BOI Shareholding Ltd. by 10th of every month. (<https://www.boisldp.com/boislst>).

Yours Sincerely

Aty 27/3/19

(Ministry S.)
I.A.S.

Inspector General of Registration/
Commissioner of Stamp,
Uttar Pradesh.

Letter No. shi./kaa./lko./2019

Date: -03-2019

CC: Mr. Bikas Chakravarti, Managing Director, BOI Share holding, Mumbai.

(Ministry S.)
I.A.S.

Inspector General of Registration/
Commissioner of Stamp,
Uttar Pradesh.

title in the said property. It was held that the instrument was a conveyance.¹

13. An affidavit executed on behalf of the Central Government is not chargeable with duty under this Article in view of the second proviso to Section 3. Giving this decision the Court observed—According to Section 2(23) of the General Clauses Act, unless there is something repugnant in the subject or context the expression 'Government' and all Central Acts and Regulations made after the commencement of the said Act, includes both Central and State Government. Though various amendments have been made in the Stamp Act in U.P., yet the expression which requires interpretation, is one which finds place in the Central enactment.²

14. *Kinds of stamps to be used.*—Ordinarily affidavits may be written on general stamps of the proper value. But in case of affidavits meant for being filed in Courts duty can be paid by affixing Court fee stamps of the proper value (Sec Rule 30(f) of the U.P. Stamp Rules quoted in notes under Section 11. There is a little technical complexity in accepting this view in as much as the said Rule 30(f) says that the duty chargeable under Article 4(a) can be paid by means of Court fee labels, while after the amendment of this Article by Act 22 of 1998 there is no Clause (a) to Article 4.

Description of instrument	Proper stamp duty
5. Agreement or memorandum of an agreement :	
(a) if relating to the sale of a bill of exchange	Ten rupees
✓ (b) if relating to the sale of Government security or share in an incorporated company or other body corporate.	Subject to a maximum of Rs. 1000, Rs. 10 for every Rs. 20,000 or part thereof the value of the security or share.
(b-1) If relating to the sale of an immovable property where possession is not admitted to have been delivered, nor is agreed to be delivered without executing the conveyance :	The same duty as on conveyance [No. 23 Clause (a)] on one half of the amount of consideration as set forth in the agreement.

Description of instrument	Proper stamp duty
Provided that when conveyance in pursuance of such agreement is executed the duty paid under this clause, in excess of the duty payable under Clause (c), shall be adjusted towards the total duty payable on the conveyance.	(See item 152 Appendix II)
(b-2) If relating to construction of a building on a land by a person other than the owner, or lessee of such land, and having a stipulation that after construction, such building shall be held jointly or severally by that other person and the owner or the lessee, as the case may be, of such land, or that it shall be sold jointly or severally by them or that a part of it shall be held jointly or severally by them and the remaining part thereof shall be sold jointly or severally by them.	The same duty as a conveyance [No. 23 Clause (a)] for a consideration equal to the amount or value of the land.
Explanations— For the purposes of this clause—	
(1) the expression 'land' shall include things attached to the earth, or permanently fastened to anything attached to earth.	
(2) the expression 'lessee' shall mean a holder of a lease in perpetuity or for a period of thirty years or more.	
(3) the expression 'building' shall mean a building having more than one flat or office accommodation or both and the expression 'flat' shall have the meaning assigned to it in the Uttar Pradesh Ownership of Flats Act, 1975.	

1. CCRA v. Ghirghadu, AIR 1973 Mad 1.

2. Basti Sugar Mills v. Union of India, AIR 1974 All 125.

Description of instrument	Proper stamp duty
(c) If not otherwise provided for.	One hundred rupees.
Exemptions	
Agreement or memorandum of Agreement—	
(a) Deleted by U.P. Act No. 14 of 1963.	
(b) made in the form of tender to the Central Government for, or relating to any loan.	

Notes

The Article stands as amended by Act 22 of 1998 which took effect on 1-9-1998. According to this amendment the duty due under Clause (a) has been raised to Rs. 10. Duty due under Clause (b) has been raised to Rs. 10 for every Rs. 20,000 with a maximum of Rs. 1000. Prior to this it was 30 paise for every Rs. 10,000 with a maximum of Rs. 45.

2. Duty of Rs. 100 under Clause (c) was fixed by Ordinance No. 40 of 1991 with effect from 1-11-1991. Prior to that it was Rs. 6 with effect from 15-6-1982. Prior to 15-6-1982, it was Rs. 5.

3. Exemption (a) as it existed before 1963 was omitted by Act 14 of 1963.

4. The term 'agreement' is not defined in the Stamp Act. Therefore, it should be understood in the sense connoted by the definition contained in Section 2 of the Contract Act. According to that definition 'every promise and every set of promises, forming the consideration for each other is an agreement.'

5. A record of an oral agreement is a memorandum of agreement. Whenever an offer is made and the offer is accepted by another person, an agreement comes into existence.¹

6. Clause (a).—An agreement relating to sale of bill of exchange cannot be deemed to be equivalent to actual sale of the bill. Ownership of a bill can only be transferred by an instrument of sale and duty on such a transfer will be calculated under Article 23. It is possible that an agreement for sale of a bill of exchange may be made between the parties but the actual sale may be completed by delivery and no formal deed of sale may be executed. If the parties choose to be satisfied with only a contract of sale, without actual deed of conveyance, stamp duty on the agreement cannot be charged under Article 23.²

1. *Sheikh Kallan v. Municipal Board Aligarh*, 1986 ALJ 715.

2. *In re Swadeshi Mills*, AIR 1932 All 291.

7. Clause (b-i) applies to agreements to sell immovable property, where the possession is not transferred or agreed to be delivered before the execution of the sale deed. The duty due is to be calculated under Article 23 any one half of the agreed consideration set forth in the agreement. It is to be noted that the advantage of reduced duty one conveyance falling under Article 23 will not be available to agreements referred to in this clause. Duty will have to be paid the rates mentioned in Article 23.

8. It is noteworthy that no provision has been made in this Article of agreements to sell immovable property where possession is transferred immediately or before the execution of the regular sale deed. An explanation has, however, been added to Article 23 of Schedule I-B which provides that an agreement to sell immovable property, where the possession is given immediately, or is agreed to be given before the execution of the sale deed, shall be deemed to be a conveyance and duty shall be accordingly payable thereon. It is extremely doubtful if, without including such agreements in the definition of conveyance as occurring in Section 2(10), such agreements could be held chargeable under Article 23, because Article 23 specifically mentions that the conveyance chargeable under that Article shall be as defined in Section 2(10). It seems to be understood that such agreements would be chargeable to duty according to the reduced rates of duty applicable to conveyances falling under that Article.

9. Clause (c).—This clause contains a general provision that covers all other agreements, not covered by any other provision of the Schedules. An agreement is an instrument whereby parties put down the terms by which they intend to be mutually bound. It is not necessary that an instrument, which can come within the scope of this clause, should be executed by both the parties to the contract. But the contract between the two parties should be clearly indicated. There can be an instrument which is executed by one party alone *e.g.*, an agreement to sell property, but it should appear from the instrument that the other party has consented to it.

10. Certain classes of agreements have been specially made chargeable under other Article. These are :

1. An agreement to divide property is chargeable as an instrument of partition.
2. An agreement to let is chargeable as a lease deed.
3. An agreement to settle is chargeable as a settlement.
4. An agreement to sell immovable property without delivering possession is chargeable under Article 5(b-1).
5. An agreement to sell immovable property along with delivery of possession is chargeable as a conveyance.

5. It may be noted that though the Notaries' Act does not limit the scope of attestation of affidavits to any particular class of documents, yet, attestation by a Notary of affidavits meant for being produced in a Court is not permissible due to restrictions contained in Section 139 of the Code of Civil Procedure, which provides that the affidavits attested by Oath Commissioners, appointed by the High Court, for purposes of that Court and by District Judge, for the District Courts, shall only be valid for those Courts. However, if a Notary attests or endorses such an affidavit, it will be a notarial act for purposes of the Stamp Act and would be chargeable with duty under this Article even though it may not be acceptable by a Court.

6. Magistrates and Presiding Officers of Courts and many other officers verify affidavits or attest powers of attorney, under their inherent powers. Such attestations or endorsements are not Notarial Acts for purposes of the Stamp Act.

7. The notaries are not authorised to attest true copies of documents. This power has not been conferred on them. But if a Notary, acting as such attestis such a copy, the attestation would be a Notarial Act under this Article.

8. Verification of a power of attorney executed out of India, but relating to anything done or to be done in India and received in India, would not be chargeable with duty in India, though duty on the power of attorney as due in India (or the State where it is produced) shall have to be paid under Section 3 proviso one. The Notarial Act performed outside India does not relate of anything done or to be done in India, and the act is supposed to have exhausted itself as soon as the verification had been done. Similarly, in the case of an affidavit executed and attested by a Notary outside U.P. but in India, no additional duty if any, due in U.P., will have to be paid on the Notarial Act, though additional duty, if any, due in U.P. will have to be paid.

9. An endorsement by a Notary on an affidavit that oath has been administered on the executant is an endorsement made in the performance of his duties as a Notary, and the endorsement would fall under Article 42.¹

10. Stamp duty payable under this Article has to be paid by means of adhesive stamps overprinted with the words 'notarial'.

Description of instrument	Proper stamp duty
43. Note or Memorandum—sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal—	

¹ Kashin Prasad v. Government of M.P., AIR 1969 M.P. 195.

Description of instrument	Proper stamp duty
(a) of any goods exceeding in value two hundred rupees.	Ten rupees
(b) of any stock or marketable security exceeding in value twenty rupees	Subject to a maximum of Rs. 1000, ten rupees for every Rs. 20000 or part thereof of the value of the stock or securities.

Notes

1. The text of the Article is as amended by Act 22 of 1998 effective from 1-9-1998.

2. The class of instruments referred to in this Article, is not an agreement between the seller of goods and the buyer or his agent. Even before the deletion of exemption (a) to Article 5, instruments falling under this Article were not entitled to the benefit of that exemption. A note sent by a Pakka Adharniya to his constituent, intimating the purchase or sale of goods on behalf of the constituent, and himself undertaking the risk as regards the other party, is not a memorandum sent by a Broker or agent to the principal and is not liable to duty under this Article.¹

Description of instrument	Proper stamp duty
44. Note of protest—by the Master of a ship Order for payment of money—See bill of exchange (No. 13)	Ten rupees

Note

The duty under this Article has been fixed by Act 32 of 1998 effective 1-9-1998. Prior to that it was Rs. three.

Description of instrument	Proper stamp duty
45. Partition—instrument of defined by Section 2(15)	The same duty as bond (No. 15) for the amount of the value of the separated share or shares of the property.

¹ Superintendent of Stamps v. Ramkeshwar AIR 1927 Bom 343.

5. The term 'lease' as used in this Article, should not be taken in the narrow meaning assigned to it in the Transfer of Property Act (Section 105). It should be taken in the wider meaning assigned to it under Section 2(16) of the wider meaning assigned to it under Section 2(16) of the Stamp Act. But in all such cases there must be a written lease. An instrument by which a non-occupancy tenant surrendered his holding in favour of the landlord together with the sugarcane crop standing thereon for a consideration for a consideration of Rs. 21, was held by the U.P. Board to be a release chargeable under Article 55, because there was no written lease for it. (Board's file No. 173/16)

6. Improvement Trust Kanpur leased out a plot of land to a mill. The Development Board, which succeeded the Trust asked the mill to surrender the plot. The mill re-conveyed the plot in favour of the Board after receiving the amount of original premium and other expenses incurred by the mill. It was held that the instrument was not an assignment of lease but was a surrender of lease in favour of the lessor's successor in interest, the Board. (U.P. Board file No. 173/42/31)

7. While surrendering a lease, the lessee transfers some moveable property or buildings standing on the land to the lessor, the instrument will be chargeable as an conveyance of that property along with the duty on the surrender.¹

8. Duty under this Article has to be paid on the surrender of the lease, even if a part of the lease-hold is surrendered, because the duty on a surrender has to be paid equal amount payable on the lease, subject to a maximum.

9. According to U.P. Stamp Manual Part I (1962 Edition) page 207 a transfer of a lease (No. 63) would be exempt from stamp duty, not only in cases where the lease is, by law, exempt from duty but also in cases where the duty has been remitted under Section 9. This observation may also be applied to the application of the exemption contained in this Article.

<i>Description of instrument</i>	<i>Proper stamp duty</i>
<p>✓ 62. Transfer—(whether with or without consideration)—</p> <p>(a) See Schedule I-A).</p> <p>(b) Of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by Section 8.</p>	

1. CCRA v. Bhagya Laxmi, AIR 1958 Mad 535.

Description of instrument	Proper stamp duty
When the value of the share or the face amount of the debenture does not exceed Rs. 500.	Ten rupees
Where it exceeds Rs. 500 but does not exceed Rs. 1000	Twenty rupees
and for every Rs. 500 or part thereof in excess of Rs. 1,000	Ten rupees
(c) of any interest secured by a bond mortgage deed or policy of insurance—	
(i) If the duty on such bond, mortgage deed or policy does not exceed one hundred rupees.	The duty with which such mortgage deed or policy is chargeable:
	Provided that the duty payable shall be rounded to the next multiple of ten rupees.
(ii) In any other case	One hundred rupees :
	Provided further that the duty payable shall be rounded off to the next multiple of ten rupees :
	Provided that, if by any instrument the interest secured by several bonds, mortgage deeds or policies of insurance is transferred, the duty payable in respect of such instrument shall be the aggregate of the duties which would have been payable if separate instruments of transfer were

Description of instrument	Proper stamp duty
(d) of any property under the Administrator General's Act, 1913, Section 25	executed in respect of each such bond, mortgage deed or policy of insurance. One hundred rupees
(e) of any trust property without consideration from one trustee to another trustee or from a trustee to a beneficiary.	Seventy rupees.
<i>Exemptions</i>	
Transfer by endorsement—	
(a) of a bill of exchange, cheque or promissory note;	
(b) of a bill of lading delivery order, warrant for goods or other mercantile document of title to goods;	
(c) of policy of insurance;	
(d) of securities of the Central Government or the State Government;	
(See also Section 8)	

Notes

1. This Article stands as amended by Act 22 of 1998 effective from 1-9-1998.
2. 'Marketable security'—This expression is defined in Section 2(16-A) of the Act as a security of such a description as to be capable of being sold in any stock market. Debentures, by their very nature are marketable securities and can be transferred by endorsement, or by a separate instrument or by mere physical delivery. Where the debentures are transferred by delivery, no instrument would be created, not even an endorsement and as such, no duty could be attracted by this transaction.
3. Duty on transfer of debenture is calculated on the face amount of the debenture, and not on current market value or the consideration, if any.
4. Stamp duty on a transfer of debenture can be paid by means of adhesive stamps over-printed with the words 'share transfer' use of stamp sheets is also not prohibited.