

Stamp Duty & Registration Information

1. What is the extent of application of the Bombay Stamp Act, 1958?

The Act applies to the whole of the State of Maharashtra.

2. What is an "Instrument" under the Act?

"Instrument" includes every document by which any right or liability is or purports to be created, transferred, limited, extended, extinguished or recorded, but 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. What is market value?

Market value in relation to any property which is the subject matter of an instrument means the price which such property would have fetched if sold in the open market on the date of execution of such instrument or the consideration mentioned in the instrument, whichever is higher. The price which such property would have fetched if sold in the open market is determined on the basis of the Ready Reckoner issued each year. Depreciation in stamp duty is available for old buildings and building without lift.

4. When is stamp duty payable on an instrument in Maharashtra?

All instrument are liable to be stamped before or at the time of execution of instrument or immediately thereafter on the next working day following the date of execution, when executed in the State of Maharashtra. Any instrument executed outside the state is liable to duty only on receipt of such instrument in the state, provided it relates to a property situated in the state, or a matter or thing to be done in the state. Stamp duty is not levied on a transaction, but on an instrument.

5. What is the rate at which stamp duty is payable?

Stamp duty is payable at the rate mentioned in Amendment Act, 2004 of the Bombay Stamp Act, 1958.

6. Which documents are required to be compulsorily registered?

Documents listed in Section 17 of the Indian Registration Act, 1908 are to be registered compulsorily. Registration of documents listed in Section 18 of the Indian Registration Act, 1908 is optional. An agreement for leave and licence is required to be compulsorily registered under the Maharashtra Rent Control Act, 1999.

7. Is there a time limit within which documents should be registered?

Yes. Documents must be registered within 4 months of the date of execution. Thereafter, documents can be registered within the next 4 months on payment of penalty.

8. Who is required to pay stamp duty and registration fee on purchase or lease of a flat or office?

A purchaser (whether on first sale from a developer or on resale of a flat) or a lessee of a flat or office is required to pay stamp duty and registration fee.

9. How is stamp duty paid in Maharashtra?

Stamp duty above the value of Rs. 25,000 is payable by a pay order/ demand draft/cheque drawn in favour of "The Superintendent of Stamps, Mumbai". Alternatively, a pay order can be drawn in favour of "The Reserve Bank of India- A/c Stamp Duty, Mumbai". The original instrument is then franked with the value of the stamp duty. Adhesive stamps are no longer used in Mumbai city. Stamp Duty upto the value of Rs.25,000 can be paid in cash. A receipt is issued by the concerned office for the stamp duty amount.

10. What is the procedure for registration of an instrument?

Once adequate stamp duty is affixed on an instrument and it is dated, signed by the parties and attested (where required) by witnesses, it can be lodged for registration after payment of the registration fee. All parties signing the instrument are required to attend the office of the concerned Sub Registrar of Assurances either by themselves or through their constituted attorney under a power of attorney to admit execution of the instrument. A passport size photograph, original power of attorney, personal identification such as passport or income tax PAN Card, adequate xerox copies of the original instrument are some of the essentials required for registration.

After lodging an instrument, it is registered and seal of the Sub Registrar is affixed on the instrument, thereafter the original instrument is returned back to the parties.

11. Is there a restriction on the name in which stamp paper must be purchased?

Yes. Therefore the stamp paper should be purchased in the name of one of the parties who would be signing the instrument.

12. Is there a time frame within which the stamp paper must be used?

Yes. Stamp paper should be used within 6 months from date of purchase. Any stamps not used within this period are invalid.

13. Is there a penalty for not paying the requisite stamp duty?

Yes. Previously the penalty was an amount not exceeding 10 times the amount of the proper duty. As per the recent amendments, penalty of 2% per month on the proper duty for the period of default will be levied, subject to a maximum of 2 times the deficient portion of duty. Instruments are liable to be impounded till proper stamp duty is paid.

14. What are the consequences for not paying stamp duty on an instrument?

In case proper stamp duty is not paid on an instrument, the instrument is inadmissible as evidence.

15. Is it possible to get a refund of stamp duty already paid on an instrument?

Yes. If stamp duty is paid on an instrument but the instrument is not signed by any party then an application is to be made within 6 months of the date of purchase of the stamp paper, to the concerned authorities for refund of stamp duty. The original stamp paper is returned alongwith the application. On receipt of such application, the concerned authorities are empowered to refund the value of stamp duty after deducting such amounts as may prescribed.

16. Is stamp duty payable on a gift or resale of a flat?

Yes. Stamp duty is payable on instrument of gift or resale of a flat.

17. When can an instrument be impounded?

When an instrument is presented for registration and the concerned authorities have reasons to believe that an instrument does not reflect the true market value and they can take steps for recovery of the stamp duty including impounding of instruments. If the collector determines that the proper stamp duty has not been paid then penalty can be levied on such instruments.

18. Is there a procedure for adjudication of stamp duty?

A person can seek the opinion of the Collector of Stamps by making an application to him for adjudication of stamp duty payable by such person on the instrument. For this purpose, the person who is a party to the instrument has to furnish a true copy of the instrument and an affidavit stating the facts and such other evidences as required, along with prescribed fee. The Collector's opinion is final and conclusive. No appeal lies against his order of adjudication.

19. Can a person grant a power of attorney for signing and registering instrument?

Yes. Persons residing abroad or those who travel frequently are advised to grant power of attorneys to facilitate better management of their flats.

20. Can a person grant a power of attorney for registering instruments?

Yes, but his power of attorney must be registered before the Sub Registrar of Assurances.

21. Is an agreement for sale of a flat /shop/office required to be stamped and registered?

Yes. An agreement for sale of a flat /shop/office is required to be stamped and registered as per prevalent law.