

Indian Stamp (Collection of Stamp-Duty through Stock Exchanges, Clearing Corporations and Depositories) Rules, 2019

UNION OF INDIA

India

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Rule

INDIAN-STAMP-COLLECTION-OF-STAMP-DUTY-THROUGH-STOCK-EXCHANGES-AND-DEPOSITORY-RULES-2019

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Indian Stamp (Collection of Stamp-Duty through Stock Exchanges, Clearing Corporations and Depositories) Rules, 2019Published vide Notification No. G.S.R. 901(E), dated 10.12.2019Last Updated 9th January, 2020G.S.R. 901(E). - In exercise of the powers conferred by section 73A of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby makes the following rules to regulate the liability of instruments of transaction in stock exchanges and depositories to duty, namely: -

1. Short title and commencement.

(1)These rules may be called the Indian Stamp (Collection of Stamp-Duty through Stock Exchanges, Clearing Corporations and Depositories) Rules, 2019.(2)They shall come into force on the [1st day of April 2020] [Substituted '9 day of January, 2020' by Notification No. G.S.R. 19(E), dated 8.1.2020 (w.e.f. 10.12.2019)].

2. Definitions.

(1)In these rules, unless the context otherwise requires, -(a)"Act" means the Indian Stamp Act, 1899 (2 of 1899);(b)"buyer" means, -(i)the person purchasing securities; or(ii)the person buying the base currency (the first currency appearing in a currency pair quotation) in the forward leg; or(iii)the

person paying the fixed rate in a fixed-floating swap instrument; or(iv)any one of the contracting persons in a floating-floating swap instrument; or(v)borrower of repo on corporate bonds;(c)"collecting agent" means a stock exchange or clearing corporation authorised by it or a depository which is empowered to collect stamp-duty on securities on behalf of the State Government in accordance with the provisions of the Act and these rules;(d)"domicile State" means: -(i)the State of the buyer as it appears in the "permanent address" in India on the settlement day, and in case the same is not available, as it appears in the "correspondence address" in India, as per the records of stock exchange or clearing corporation or depository ; or(ii)in case the State of buyer is not available in the "permanent address" or "correspondence address" in India, the State having the registered office of the member, through whom the trade or transfer was executed, and in case the same is not available, the State having the registered office of the participant or custodian through whom the trade was effected.(e)"first leg of the cash flow" in respect of a swap agreement means the notional or gross value of the contract for the buyer;(f)"market transfer" means transfer of securities effected towards the completion of a transaction carried out on the stock exchange or as reported to the stock exchange or clearing corporation on which either the stock exchange or clearing corporation collects the required stamp-duty;(g)"Member" means a trading member or broker of a stock exchange or a clearing member of a clearing corporation, who trades on behalf of his clients as well as for himself and shall include a trading-cum-clearing member or any person directly participating on the stock exchange as per the bye-laws of the stock exchange;(h)"off-market transfer" means transfer of securities other than a market transfer;(i)"participant" means a participant of a depository defined under clause (g) of sub-section (1) of section 2 of the Depositories Act, 1966 (22 of 1996);(j)"principal officer" means any officer appointed either by name or by designation, by a collecting agent for the purposes of the Act and these rules;(k)"seller" means the counter-party in a transaction with the buyer;(l)"settlement day" means the day on which, -(i)a transaction is settled by a stock exchange or an authorised clearing corporation, by completing the delivery of funds to the seller and delivery of underlying securities corresponding to those funds to the buyer; or(ii)it is reported to a stock exchange or a clearing corporation specifying that the transaction in securities has been carried out provided the security is not held in dematerialised form with any of the depositories; or(iii)an issue or transfer has been effected in a depository in respect of securities held in dematerialised form which may have to be later reported to the stock exchange or a clearing corporation.

2. Words and expressions used and not defined in these rules but defined in the Act, or the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Securities and Exchange Board of India Act, 1992(15 of 1992), or the Depositories Act, 1996 (22 of 1996) or the Payments and Settlement Systems Act, 2007 (51 of 2007) and the rules and regulations framed there under, shall have the meanings respectively assigned to them in those Acts, rules and regulations.

3. Collection of stamp-duty by stock exchange or clearing corporation.

(1)The stamp-duty leviable under clause (a) of sub-section (1) of 9A of the Act in respect of sale of any securities made through the stock exchange including sale in respect of any listed units of any registered pooled arrangements or scheme, or tripartite repo, shall be collected on the settlement day, by a stock exchange or clearing corporation authorised by it, at the rates specified in Schedule I of the Act, from the concerned persons specified in section 29 of the Act.(2)In case of option instruments including instruments with zero or near zero premium, the buyer of the option contract has to clearly identify premium payable by him on each constituent transaction and report it to the collecting agent.(3)In case of the transactions arising from tender offer, open offer or offer for sale or private placements executed through stock exchange, the stamp-duty shall be collected from the offeror, on the market value of the security being acquired or sold out, at the offer price, once the offer is successfully completed.(4)In case of transactions in securities reported to a stock exchange, the stamp-duty shall be collected on the entire sale consideration when transfer is reported, even if the consideration is paid in part or in instalments to be paid in future.(5)In case of transactions reported by the depositories under sub-rule (6) of rule 5, the stock exchange shall not collect the stamp-duty.(6)The sale consideration reported to a stock exchange shall be considered as the actual sale value.(7)A stock exchange or a clearing corporation shall intimate the relevant depository about the market transfers executed on its platform on the day on which settlement obligation is determined by the clearing corporation, on which stamp-duty is leviable, in case of transactions involving securities held in dematerialised form.(8)In the case of transactions which are merely reported to the stock exchange, the stamp-duty shall be collected by the stock exchange and the reporting intermediaries shall report domicile details of the clients to the stock exchange.

4. Determining transactions as on delivery basis or non-delivery basis, differential duty, etc.

(1)The nature of a particular transfer of securities through a stock exchange or clearing corporations whether to be treated as on delivery basis or on non-delivery basis shall be determined by the clearing corporation at the time of settlement, as per established principles governing delivery.(2)In case of inter-operability of clearing corporations, the trades of a client across the stock exchanges shall be considered for determining whether the same would result in a delivery or not.

5. Collection of stamp-duty by depositories from transferor.

(1)The stamp-duty leviable under clause (b) of sub-section (1) of section 9A of the Act shall be collected before execution of all off-market transfers involving transfer of securities in the depository system including over the counter trades occurring in dematerialised or electronic form.(2)A depository shall collect stamp-duty on the consideration amount specified by the transferor in the delivery instruction slip (electronic or otherwise) and the consideration as reported to the depository shall be considered as the actual consideration amount.(3)In case of inter-depository off-market transfers, the transferee's depository shall intimate the transferor's depository, within one day, about the transferee's domicile State so as to enable the transferor's

depository to remit the stamp-duty so collected to the buyer's State.(4)A depository shall put in place a system for,-(a)identifying market transfers and sale consideration;(b)mandatory disclosure of the reasons for transfer of securities in its system and the consideration amount, if applicable, whether to be paid in full or in part, or in instalments to be paid in future.(5)If the consideration is paid in part or in instalments, stamp-duty shall be collected by the depository on the entire sale consideration when a transfer is effected.(6)A depository shall intimate the stock exchange or clearing corporation as the case may be, about those dematerialised transfers, which may have to be later reported to the stock exchange or clearing corporation, on which stamp-duty has already been collected by it.(7)In the case of transfer of securities pursuant to invocation of pledge, duty shall be collected from the pledgee on the market value of the securities.

6. Collection of stamp-duty by depositories from issuer.

(1)The stamp-duty leviable under clause (c) of sub-section (1) of section 9A of the Act on creation of new security and change in records in the depository upon issue of securities shall be collected from issuer before executing any transaction in the depository system.(2)Issuer of securities shall submit to the depository, the allotment list in respect of initial or further issue of securities or its private placement and purchases made after an open offer or tender offer or offer for sale, at the time of allotment of securities.(3)A depository shall not collect stamp-duty on creation or destruction of securities on account of corporate actions such as stock split, stock consolidation, mergers and acquisitions, or such similar actions, etc., if it does not involve a change in beneficial ownership:Provided that if there is a fresh issue to an investor as part of a corporate action, such issue shall be subject to stamp-duty.(4)In case of transactions arising from tender offer or open offer or offer for sale or private placement conducted through a depository, stamp-duty shall be collected from the offeror, on the market value of the security being acquired or sold out, at the offer price, once the offer is successfully completed.(5)In case of acquisition of shares of minority shareholders by majority shareholders under section 236 of Companies Act, 2013 (18 of 2013), implemented by way of a corporate action, the stamp-duty on such transfers shall be collected by the depository from the issuer, instead of from the transferor.

7. Transfer of stamp-duty to States.

(1)The collecting agent shall transfer the stamp-duty to the State Government in accordance with the provisions of sub-section (4) of section 9 of the Act.(2)The collecting agent shall transfer the stamp-duty collected 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.(3)The value of stamp-duty collected by collecting agent shall be rounded off to the nearest rupee, and for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored.(4)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.(5)The State Government may appoint a nodal officer for all official communications with the principal officers for the purposes of collection of stamp-duty in accordance with these rules.(6)The collecting agent shall appoint a principal officer

within fifteen days from the date of publication of these rules or within fifteen days of a notification issued under sub-clause (ii) of clause (27) of section 2 of the Act.(7)The collecting agent shall take all necessary steps to implement the provisions of the Act and these rules and also disseminate the same on their websites.(8)The stamp-duty collected on behalf of State Government shall not be utilised 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.

8. Return of stamp-duty.

(1)The collecting agent shall submit a return of stamp-duty collected on various transactions to the State Government including details of defaulters in the Form appended to these rules on a monthly basis to be furnished manually or electronically within seven days of the succeeding month.(2)The collecting agent shall furnish a consolidated return of stamp-duty collected during a financial year manually or electronically on or before the 30th June immediately following that financial year to the concerned State Government and the Accountant General of each State.(3)The State Government may provide an online facility by which a collecting agent shall upload State wise monthly and yearly returns.(4)The return shall be signed and verified in the case of a collecting agent, -(i)being a company, by the Managing Director or a designated Director thereof in his absence; and(ii)in any other case, by the principal officer thereof.

9. Erroneous entries.

(1)If a transfer was erroneously indicated as not involving sale consideration and the person wishes to rectify it, he shall do so, by informing the collecting agent within three weeks from the end of the month and pay the required stamp-duty.(2)If a person changes his domicile State, the collecting agent shall transfer the stamp-duty to that State Government as per the changed address, from the day the records of collecting agents are updated.(3)If a transfer was erroneously made to a State Government or there is a statutory order or orders of the court for reversal of a transaction on which stamp-duty was already collected and transferred to the State Government, the collecting agent shall rectify the same by withdrawing an equivalent amount by making adjustments in the next immediate remittance occurring after the detection of the error, till such erroneous payments are compensated for, provided the concerned State Government has been informed in writing about the error or statutory orders or directions of the court in this regard and in case, the State Government is not satisfied with the reasons submitted by the collecting agent, it shall proceed against the collecting agent as per the provisions of the Act.(4)Any fresh or revised demand of stamp-duty payable pursuant to any dispute or adjudication proceedings may be recovered by the State Government in accordance with the provisions of the Act.

Form(See rule 8)[Return of Stamp-Duty Collected (Monthly/yearly)]Name of the stock exchange / depository:Address of the stock exchange / depository:Name of clearing corporation authorised to collect the Stamp duty:Address of the authorised clearing corporation:Period for which stamp-duty collection is being reported:Details of stamp-duty collected:

Sl. No	Security Code	Nature of the security	Value of transactions	Rate of Stampduty	Total billed amount of	Total stampduty	Total stamp-duty	Remarks, if any
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(debenture, on which applied stamp-duty collected not
share, etc.) stamp duty recovered
is leviable

Details of transfer of stamp-duty:

Sl.No.	Total Stamp-duty collected (A)	Amount of facilitation charges deducted (B)	Total Amount transferred to the State Government(A-B)
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Details of defaulters:

Sl. No.	Details of the defaulters	Remarks, if any
	Name	Address PAN

Verification I, _____ (full name in block letters), son/ daughter of _____ solemnly declare to the best of my knowledge and belief that the information given in this Form is correct and complete and that the total value of stamp duty collected on the transactions and other particulars shown therein are truly stated and the same are in accordance with provisions of Part AA of Chapter II of the Indian Stamp Act, 1899 (2 of 1899) and the Indian Stamp (Collection of Stamp-Duty through Stock Exchanges, Clearing Corporations and Depositories) Rules, 2019. I further declare that I am making this return in my capacity as _____ and also competent to make this return and verify it. (Name and signature of authorised officer of collecting agent) Date: Place: