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Building pan-India securities market through uniformity in stamp duty on securities market instruments across states, facilitation in ease of doing business

Centralised mechanism for collection of stamp duty on securities market instruments at one place, by one agency (through Stock Exchange or Clearing Corporation authorized by it or by the Depository) on one instrument

Background:

The present system of collection of stamp duty on securities market transactions led to multiple rates for the same instrument, resulting in various issues such as jurisdictional disputes, increase in transaction costs, etc., which prompted the Central Government to develop a legal and institutional mechanism for uniform payment and collection of stamp duty by state governments on securities market instruments. Accordingly, the Government of India (GOI), through Finance Act, 2019, amended the Indian Stamp Act 1899 (Stamp Act) and notified the Indian Stamp (Collection of Stamp-Duty through Stock Exchanges, Clearing Corporations and Depositories) Rules, 2019 (Rules) on 10 December 2019, thereby bringing the concept of centralised collection of stamp duty across states on securities market instruments and provided uniform rates of stamp duty applicable on securities market instruments. The amendment to Stamp Act and Rules were to come into force from 9 January 2020, which was later extended to 1 April 2020. Due to Covid-19 lockdown in India, the implementation of amendment to Stamp Act and Rules was further extended to 1 July 2020. GOI has, by press release dated 30 June 2020, informed the implementation of amendment to Stamp Act and Rules, with effect from 1 July 2020, along with structural reforms to achieve the rationalisation of stamp duty and provide uniformity in the collection mechanism.

Salient features of implementation of amendment to Stamp Act and Rules:

- Stock Exchanges or Authorized Clearing Corporations or Depositories and Registrar to an Issue and / or Share Transfer Agents shall act as collecting agents who shall collect stamp duty on transactions of sale, transfer, and issue of securities on behalf of the state government and transfer the collected amount to account of concerned state government.
- The collecting agents shall transfer the stamp duty within three (3) weeks of the end of each month to the respective state governments, based on state of domicile of the buyer as prescribed in the Rules. Collecting agents may deduct 0.2% of stamp duty collected towards facilitation charges before remittance of the stamp duty collected to the state government.

- In order to avoid multiple incidence of taxation, no stamp duty shall be collected by states on secondary record of transaction on which collecting agents have been authorised to collect the stamp duty.
- Stock Exchanges shall act as collecting agents for secondary market transactions in securities and Depositories shall collect stamp duty for all off–market transactions and initial issue of securities in demat form.
- In order to avoid tax arbitrage, the GOI has notified the Clearing Corporation of India Limited (CCIL) and the Registrars to Issues and/or Share Transfer Agents (RTI/STAs) to act as collecting agents for OTC derivative transactions reported to CCIL and physical space (non-demat) transactions in mutual funds handled through RTI/STAs, under the ambit of stamp duty regime.
- Stamp duty shall be payable by either buyer or seller on a transaction and not both of them, except in case of certain instruments of exchange where the stamp duty shall be borne by both parties in equal proportion.
- All mutual funds transactions shall be liable for stamp duty with standardised charges across states.
- No stamp duty shall be chargeable in respect of the instruments of transaction in stock exchanges and depositories established in any International Financial Services Centre set up under section 18 of the Special Economic Zones Act, 2005.
- The implementation of revised stamp duty regime will lead to overall reduction in stamp duty on various instruments thereby reducing tax burden and uniform rates of stamp duty for issue or re-issue or sale or transfer of securities taking place outside stock exchanges and depositories. The implementation of revised stamp duty regime will also prevent tax arbitrage.
- GOI has authorised RBI and SEBI under the Stamp Act to issue clarificatory circulars / operational guidelines on specific issues to ensure smooth implementation of collection of stamp duty from 1 July 2020.
- Onus of payment of stamp duty:

Particulars	Duty by whom payable
In case of sale of security through stock exchange	By the buyer of such security
In case of sale of security otherwise than through stock exchange	By the seller of such security
In the case of transfer of security through a depository	By the transferor of such security
In the case of transfer of security otherwise than through a stock exchange or depository	By the transferor of such security
In the case of issue of security, whether through a stock exchange or a depository or otherwise	By the issuer of such security
In the case of any other instrument not specified	By the person making, drawing or executing such instrument

- Revised rates of stamp duty:

Instrument	Rate of stamp duty
Stamp duty on debentures	
Issue	0.005%
Transfer and re-issue	0.0001%
Stamp duty on shares	
Issue of security	0.005%
Transfer of security on delivery basis	0.015%
Transfer of security on non-delivery basis	0.003%
Derivatives	
futures (equity and commodity)	0.002%
options (equity and commodity)	0.003%
currency and interest rate derivatives	0.0001%
other derivatives	0.002%
Government securities	0%
Repo on corporate bonds	0.00001%

Conclusion:

The implementation of amendment to Stamp Act and Rules will provide ease of securities market transactions by streamlining and bringing uniformity on the amount of stamp duty paid on securities market instruments and the authority to collect the same. The rationalised and harmonised stamp duty collection system through centralised collection mechanism is expected to ensure minimisation of cost of collection and enhance revenue productivity. It will also lead to development of equity markets across the country and help in ushering in regional development and promote the ease of doing business in India.

Source: Press Release dated 30 June 2020 issued by Press Information Bureau, Ministry of Finance, Government of India.

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