

Stamp Duty

Stamp duty is a pre-requisite condition, which has to be paid before taking possession of the flat. It is essential to pay the requisite stamp duty every time one purchases a new flat or even when it is transferred within the family.

(i) Stamp Duty for Flats

Present rates of stamp duty for residential premises in the city of Mumbai above Rs.5,00,000/- is Rs.8750/- plus 5%

(ii) Stamp Duty for Shops/ Galas/ Office Premises & Garage

The rate of Stamp Duty for Shops/Galas/Office Premises and Garage even if used for car parking is 5% in Mumbai.

If the authorities are demanding more stamp duty than the agreement value then a representation should be made to the authorities emphasizing the below mentioned points (as may be applicable)

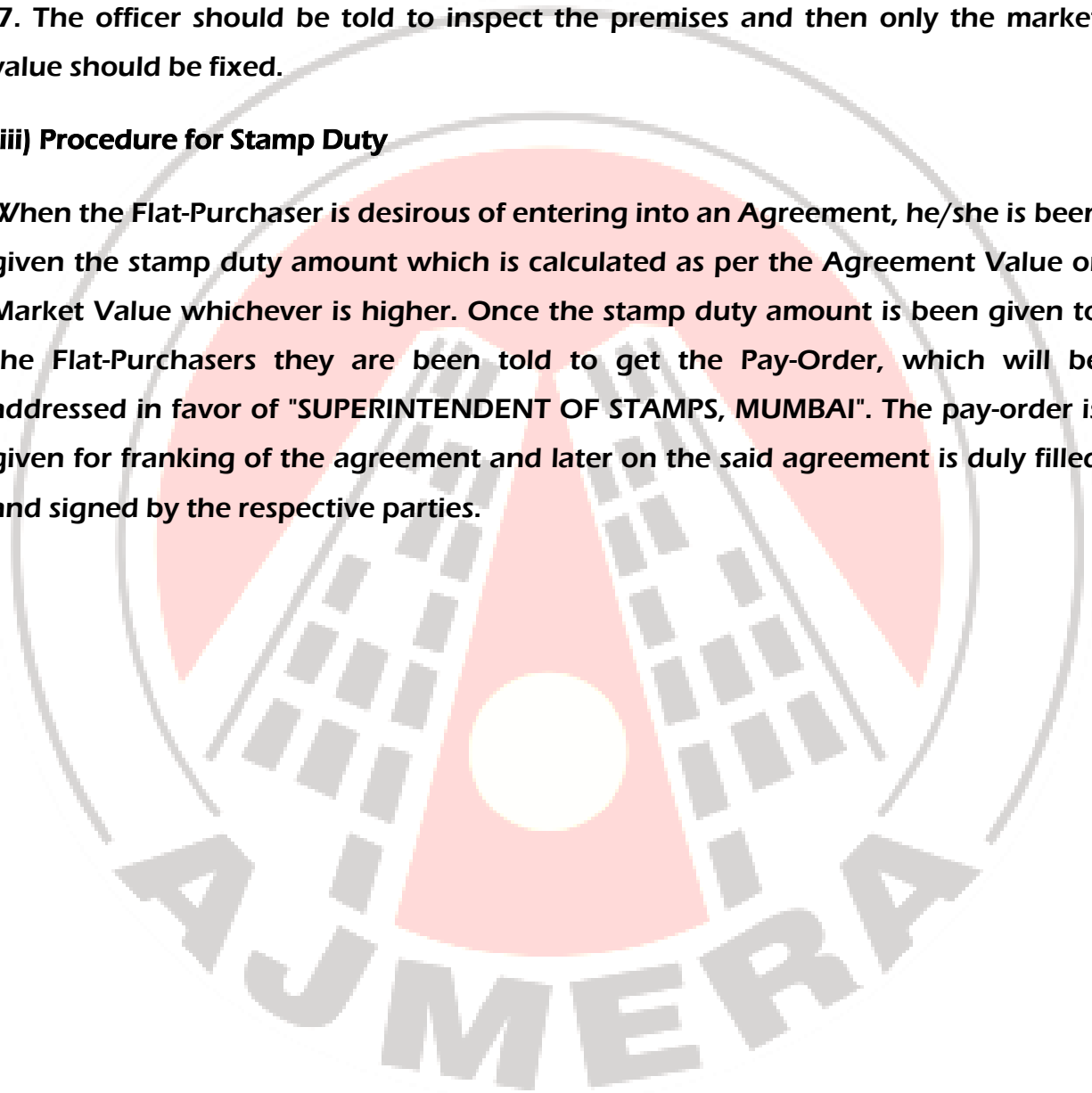
1. Possession of the premises will be acquired at a later date. (10% reduction in the market value is normally given by the town planners if possession is not given to the purchaser at the time of execution of the agreement).
2. The duty has to be paid on Sq. Meter's built up area and not on super built up area.
3. If payments have been made in say 1995 and the agreement has been executed in 1998 then the market value of the year 1995 has to be taken as per the Principles Of Land Acquisition Act.
4. There are reductions in the market value if the size of the shop is big.
5. The area is lacking in infrastructural facilities.

6. There is a defect in the title of the property and therefore, market value will also be reduced.

7. The officer should be told to inspect the premises and then only the market value should be fixed.

(iii) Procedure for Stamp Duty

When the Flat-Purchaser is desirous of entering into an Agreement, he/she is been given the stamp duty amount which is calculated as per the Agreement Value or Market Value whichever is higher. Once the stamp duty amount is been given to the Flat-Purchasers they are been told to get the Pay-Order, which will be addressed in favor of "SUPERINTENDENT OF STAMPS, MUMBAI". The pay-order is given for franking of the agreement and later on the said agreement is duly filled and signed by the respective parties.



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Stamp Duty (Buyer's Guide)

The information on this page addresses the most common queries and concerns of buyers with regard to stamp duty levied on property transactions in India.

- **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 applicable law.

- **In whose name should the stamp paper be purchased? Can the client exercise the document on a stamp paper purchased by an Advocate?**

As per Sec. 34 of the Bombay Stamp Act, the stamp papers should be in the name of one of the parties who have signed the documents. If the stamp paper has been purchased in the name of an Advocate, C.A., etc., then such instrument shall be treated as an instrument not duly stamped and shall be inadmissible in evidence.

- **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 in person or through their constituted attorney to admit execution of the instrument. If the signatory to the instrument is different than the person present for registration, the power of attorney in such case will require registration. A copy of the PAN Card is essential for registration.

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

- **Is there a time frame within which the stamp document must be executed?**

A stamped document should be executed within six months from the date of stamping.

- **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 to the concerned authorities for refund of stamp duty within six months from the date of stamping. On receipt of such application, the concerned authorities are empowered to refund the value of stamp duty after deducting such amounts as may prescribed.

- **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 has to submit the instrument and other evidences as required, along with the prescribed fee. The Collector's opinion is final and conclusive.

- **In case of resale of the flat who has to pay the stamp duty, the purchaser or the seller?**

The parties can themselves decide who shall pay the stamp duty. If nothing is mentioned in the agreement then as per Section 30 of the Bombay Stamp Act, if the transaction relates to resale of flats, the stamp duty will have to be paid by the purchaser.

- **Will Stamp Duty have to be paid if there is a deed of family settlement and a flat is transferred amongst family members?**

Yes, as per the provisions of Bombay Stamp Act, Stamp Duty will have to be paid on a deed of Family Settlement.

- **Will Stamp Duty have to be paid if the flat is gifted by a Donor?**

Yes.

- **What is meant by the market value of the property and is Stamp Duty payable on the market value of the property or on consideration as stated in the agreement?**

Market value means the price at which a property could be bought in the open market on the date of execution of such instrument. The Stamp Duty is payable on the agreement value of the property or the market value whichever is higher.

- **Which are the instruments that attract payment of Stamp Duty on?**

The instruments like Agreement to sell, Conveyance Deed, Exchange of Property, Gift Deed, Partition Deed, Power of Attorney, Settlement and Deed and Transfer of Lease attract Stamp Duty on market value of the property.

- **When is Stamp duty payable on an instrument in Maharashtra?**

All instruments are liable to be stamped before or at the time of execution of instrument when executed in the State of Maharashtra.

- **How is stamp duty paid in Maharashtra?**

Various Banks and Financial Institutions have been authorised with a stamping / franking facility at some of their branches. Stamp duty can be paid by a pay order / demand draft drawn in favour of the concerned Bank / Financial Institution. The pay order / demand draft is to be accompanied with a covering letter from the issuing bank that the same is for payment of Stamp Duty. A receipt is issued by the concerned Bank / Financial Institution for the stamp duty amount.

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