

**OFFICE OF THE DIVISIONAL COMMISSIONER  
GOVERNMENT OF NCT OF DELHI  
5 SHAM NATH MARG, DELHI**

No.F.1(2)/Regn./Div Com./2004/5511-7/

Dated: 27/08/07

**ORDER**

Sub.: **Calculation of Stamp Duty and Transfer Duty on Lease hold Property in perpetuity.**

Several instances have come to the notice of this office where Collectors of Stamps are taking different views in the method of calculation of duty on lease hold property in perpetuity for purposes of levy of stamp duty under Article 35 of Indian Stamp Act, 1899 and transfer duty under section 147 of the Delhi Municipal Corporation Act (66 of 1957). Consequently, uniformity is not being maintained in the assessment of duty. Thus not only the general public is put to avoidable inconvenience but also the revenue loss is caused. With a view to streamlining the method of assessment of duty on transfer of property, clarification is necessary to bring uniformity to be adhered to by all concerned Collectors of Stamps. For the purposes of calculation of stamp duty on Perpetual Lease, under Article 35 of Schedule 1A of Indian Stamp Act, 1899, the formula for calculation of stamp duty can be summarized as equal to  $[\text{Premium} + (\text{Annual Avg. Rent} \times 4)] \times 5\%$ . Further, under section 147 of the DMC Act, inter-alia, the transfer duty is leviable in lease hold of immovable properties as under:-

Description of instrument	Amount on which duty should be levied
(v) Lease in perpetuity of immovable property/	The amount equal to one-sixth of the whole amount or value of the rent which would be paid or delivered in respect of the first fifty years of the lease as set forth in the instrument


The above provisions are being misinterpreted and subsequently different modes of assessment of duty are being made.

It may be clarified that lease amount is nothing but a rent in respect such property which is leased out by the transferor to transferee, therefore, as per particular lease deed stipulations are made with regard to the payment of lease money. For example, in one case there can be payment of whole amount of lease money in one go, that is, in the beginning itself and no further amount on account of ground rent etc. is charged. Thus, in such a case, one-sixth of the whole amount will be the value of the property for purposes of levy of transfer duty. In other cases, the lease amount is payable partly in lump sum and partly in deferred payments spread over the tenure of the lease. In common parlance, it is called

'ground rent' payable on the initial amount paid by the lessee to the lesser as a given percentage. In such a case for assessment of transfer duty, rent of first 50 years is calculated on the basis of the initial amount of lease money, commonly known as 'premium'. This ground rent varies from case to case but generally in government leases, it is Rs.1/- p.a. for first five years and 2.5% of the premium amount per annum for next 25 years. After 30 years, or so, the ground rent is increased by a given percentage (by 50% in case of residential properties and 100% in case of commercial properties). For purposes of assessment of transfer duty rent of first 50 years is taken into account which is added to the initial amount of lease and thereafter amount equal to one-sixth of the said amount is taken into account as value of the property for purposes of levy of transfer duty. The following illustration will give the clear picture as to how the stamp duty and transfer duty are to be calculated:-

Details of calculation of Stamp and Transfer Duty		Residential Properties	Commercial Properties
1.	Premium Say 10,000	10,000	10,000
2.	Ground rent for 50 years		
	i) Ground rent for first 5 years @ Rs.1/- p.a.	5	5
	ii) Ground rent for next 25 years @ 2.5% of premium p.a.	6,250	6,250
	iii) Ground Rent for next 20 years = 1.5 x ground rent @ 2.5% of premium p.a. (Residential) = 2 x ground rent @ 2.5% of premium p.a. (Commercial)	7,500 N.A.	N.A. 10,000
	Total: Ground rent for 50 years = 2(i)+2(ii)+2(iii)	13,755	16,255
	Average annual rent = (total ground rent ÷ 50)	275.1	325.1
3.	<b>Stamp Duty</b> =[ Premium + 4 x (50 years average annual rent)] x 5% <b>Stamp duty in %age of premium</b>	$[10000+4(275.1)] \times 0.05$ = 555 <b>5.55%</b>	$[10000+4(325.1)] \times 0.05$ = 565 <b>5.65%</b>
4.	<b>Transfer duty</b> = [ (Premium + 50 years rent) ÷ 6] x 3%  <b>Transfer Duty in %age of premium</b>	$\frac{(10000+13755)}{6} \times 0.03$ = 119 <b>1.19%</b>	$\frac{(10000+16255)}{6} \times 0.03$ = 131 <b>1.31%</b>
5.	Total Duty = Stamp Duty + Transfer Duty	<b>6.74%</b>	<b>6.96%</b>

All the Collectors of stamps are hereby directed to adopt the above for assessment of transfer duty and stamp duty in respect of lease hold properties for both residential and commercial as illustrated above. There should be no variation in the method of assessment in any case which shall be viewed seriously. It is further directed that all the cases of transfer of lease hold properties, both residential and commercial, within last two years should be scrutinized therein, duty has not been assessed on the aforesaid method. The difference of each should be worked out and recovered from the parties concerned by taking necessary steps in this behalf. If there is any confusion, clarification may be sought from this office so that a uniform method may be adopted in every case.

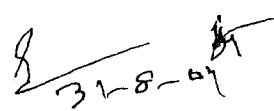

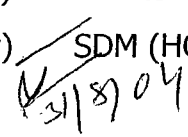
  
[ G.K. Marwah ]  
26/8/2004

o/c Divisional Commissioner, Delhi

No.F.1(92)/Regn./Div Com./2004/ 2511-71

Dated: 27/08/04

Copy for information and necessary action to the:

- i) All Deputy Commissioners/ADMs/SDMs/SRs.  32-8-04
- ii) P.S. to Divisional Commissioner, Delhi.  31/8/04
- iii) P.A. to ADM (HQ), Government of Delhi, Delhi.
- iv)  31/8/04  
SDM (HQ-I) / Registration Branch, O/o Divisional Commissioner's Office.

 27/8/04  
[ S.K. Jha ]  
o/c Addl. District Magistrate (HQ)