

**THE INDIAN STAMP (HIMACHAL PRADESH AMENDMENT) ACT,
1952**

ARRANGEMENT OF SECTIONS

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**THE INDIAN STAMP (HIMACHAL PRADESH AMENDMENT) ACT,
1952**

(ACT NO. 4 OF 1953)

(Received the assent of the President on the 5th February, 1953, and was published in Gazette. of India, Part III, Sec. 3, dated the 28th February, 1953).

An Act to provide for the amendment of the Indian Stamp Act, 1899 (II of 1899) in its application to the Himachal Pradesh.

Amended, repealed or otherwise affected by:-

- (i) The Union Territories (Stamp and Court-Fees Laws) Act, 1961 (Central Act No. 33 of 1961) read with G.S.R. 518 (F. 4/4/63-UTL-65) dated the 18th March, 1964 (published in Gazette of India, Extra., Part II, Sec. 3 (i), dated the 25th March, 1964) issued under section 2 thereof.
- (ii) H.P. Act No. 16 of 1970¹, assented to by the President on the 26th June, 1970, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 31st July, 1970, pp. 613-636.

1. For Statement of Objects and Reasons, see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 31st May, 1969, p. 445.

- (iii) H.P. Act No 37 of 1976¹, assented to by the Governor on the 4th October, 1976, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 6th October, 1976, pp. 1775-1778, effective from 1st April, 1976. (*repealed vide section 3 of H.P. Act No. 5 of 2013*).
- (iv) H.P. Act No. 19 of 1978², assented to by the Governor on the 26th April, 1978, published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 29th April, 1978 pp. 404-405(*repealed vide section 3 of H.P. Act No. 5 of 2013*).
- (v) H.P. Act No. 11 of 1991³, assented to by the Governor on the 23rd April, 1991,published in Rajpatra, Himachal Pradesh (Extra-ordinary), dated 24th April, 1991, pp. 849-854. (*repealed vide section 3 of H.P. Act No. 5 of 2013*).
- (vi) H.P. Act No. 9 of 1992⁴, assented to by the Governor on the 2nd May, 1992, published both in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 5th May, 1992, pp. 1923-1928.
- (vii) H.P. Act No 5 of 2013⁵ assented to by Governor, Himachal Pradesh on 5th January, 2013, published both in Hindi and English in the Rajpatra, Himachal Pradesh, dated 16th January, 2013, pp. 5970-6006.
- (viii) H.P. Act No 3 of 2014⁶ assented to by Governor, Himachal Pradesh on 27th January, 2014, published both in Hindi and English in the Rajpatra, Himachal Pradesh, dated 1st February, 2014, pp. 6430-6431.

It is hereby enacted as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Indian Stamp (Himachal Pradesh Amendment) Act, 1952.

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1. For Statement of Objects and Reasons, See the Rajpatra, Himachal Pradesh(Extra-ordinary), dated 30th August, 1976, p. 1593.
 2. For Statement of Objects and Reasons, See the Rajpatra, Himachal Pradesh(Extra-ordinary),dated 8th April, 1978, p. 334.
 3. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, See the Rajpatra, Himachal Pradesh(Extra-ordinary),dated 21st March, 1991, pp. 451and 454.
 4. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons, see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 28th March, 1992, pp. 1671 and 1675.
 5. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see Himachal Pradesh, dated 31st August, 2012, pp. 3305-and 3308-3309.
 6. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see Himachal Pradesh, dated 21st December, 2013, pp. 5315 and 5319.

(2) It extends¹ to the whole of the Himachal Pradesh.

(3) It shall come into force on such date² as the State Government may by notification in the Gazette of India, appoint in this behalf.

2. Amendment of section 2.- In clause (10) of section 2 of the Indian Stamp Act, 1899, hereinafter referred to as the said Act, for the colon shall be substituted a comma, followed by the words “or by Schedule I-A as the case may be”.

3. Amendment of section 3.- In section 3 of the said Act-

(1) After clause (c), the following proviso shall be inserted, namely:-

“Provided that, notwithstanding anything contained in clauses (a), (b) or (c) of this section or in Schedule I, and subject to the exemptions contained in Schedule I-A, the following instruments shall be chargeable with duty of the amount indicated in Schedule I-A, as the proper duty therefor, respectively, that is to say:

(aa) every instrument mentioned in Schedule I-A as chargeable with duty under that Schedule which, not having been previously executed by any person is executed in the Himachal Pradesh on or after the date of commencement of this Act;

(bb) every instrument mentioned in Schedule I-A as chargeable with duty under that Schedule, which, not having been previously executed by any person, is executed out of Himachal Pradesh, on or after the date of commencement of this Act and relates to any property situated, or to any matter or thing done or to be done in the Himachal Pradesh, and is received in the Himachal Pradesh”.

(2) Between the word “Provided” and the words “that no duty” the word “also” shall be inserted.

4. Amendment of section 4.- In sub-section (1) of section 4 of the said Act-

(a) for the word and figure “Schedule I” the word, figure and letter “Schedule I-A” shall be substituted, and

(b) for the words “one rupee”, the words “two rupees” shall be substituted.

1 The Act extended to Bilaspur by H.P. Act No. 14 of 1954 and enforced there effective from 1st March, 1955 by Notification No. R. 1-12/55, dated the 12th February, 1955, published in the Rajpatra, Himachal Pradesh, dated the 19th February, 1955, p. 62. The Act extended to the areas added to H.P. u/s 5 of the Punjab Re-organisation Act, 1966, by H.P. Act No. 16 of 1970.

2 The Act enforced from 1st April, 1953 by Notification No. R. 1-31/52, dated the 9th March, 1953, published in Gazette of India, part III, Sec. 3, dated the 14th March, 1953.

5. Amendment of section 6.- In section 6 of the said Act-

(1) After the word and figure “Schedule I” the words, figure and letter “or Schedule I-A” shall be inserted.

(2) In the proviso, for the words “one rupee” the words “two rupees” shall be substituted and after the words “has been paid” the following shall be added, namely;-

“unless it falls within the provisions of section 6-A”.

6. Addition of a new section 6-A.- After section 6 of the said Act, the following new section shall be inserted:-

“6-A. Payment of Himachal Pradesh stamp duty on copies, counter-parts or duplicates when that duty has not been paid on the principal or original instrument.- (1) Notwithstanding anything contained in sections 4 or 6 or in any other law, unless it is proved that the duty chargeable under the Indian Stamp (Himachal Pradesh Amendment) Act, 1952 has been paid:-

- (a) on the principal or original instrument as the case may be; or
- (b) in accordance with the provisions of this section, the duty chargeable on an instrument of sale, mortgage or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would, when received in Himachal Pradesh, have been chargeable, under the Indian Stamp (Himachal Pradesh Amendment) Act, 1952, with a higher rate of duty with which the principal or original instrument would have been chargeable under section 19-A.

(2) Notwithstanding anything contained in section 35 or in any other law, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon:

Provided that a court before which any such instrument, counterpart, duplicate or copy is produced, shall permit the duty chargeable under this section, to be paid thereon and shall then receive it in evidence.”

7. Addition of a new section 19-A.- After section 19 of the said Act the following new section shall be inserted, namely:-

“19-A. Payment of duty on certain instruments liable to increased duty in Himachal Pradesh under clause (bb) of section 3.-

Where any instrument has become chargeable in any part of India and thereafter becomes chargeable with higher rate of duty in the Himachal Pradesh under clause (bb) of the first proviso to section 3 as

amended by the Indian Stamp (Himachal Pradesh Amendment) Act, 1952-

- (i) notwithstanding anything contained in the said proviso, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule- I-A less the amount of duty, if any already paid on it in India,
- (ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same person as though such instrument were an instrument received in India for the first time at the time when it became chargeable with the higher duty.”

8. Amendment of section 23-A.- In sub-section (1) of section 23-A of the said Act, for the word and figure ‘Schedule-I’ the word, figure and letter “Schedule I-A” shall be substituted.

9. Amendment of section 24.- In the proviso to section 24, of the said Act, for the full stop shall be substituted a comma followed by the words “or Schedule I -A, as the case may be”.

10. Amendment of section 32.- In section 32 of the said Act-

(1) in clause (a) of the proviso, after the words “any instrument” the words “other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3 as amended by the Indian Stamp (Himachal Pradesh Amendment) Act, 1952” shall be inserted.

(2) the word “or” at the end of clause (b) of the proviso shall be omitted,

(3) after clause (c) of the proviso the word “or” shall be inserted, and the following new clause shall be added:-

“(d) any instrument chargeable with duty under clause (bb) of the first proviso to section 3 as amended by the Indian Stamp (Himachal Pradesh Amendment) Act, 1952, and brought to him after the expiration of three months from the date on which it is first received in Himachal Pradesh.”

11. Amendment of section 77.- At the beginning of section 77 of the said Act the following words shall be inserted, namely:-

“Except for the provisions as to copies contained in section 6-A”.

12. New Schedule I-A.- After Schedule to the said Act the following shall be inserted, namely:-

¹[SCHEDULE I-A

RATES OF STAMP DUTY ON CERTAIN INSTRUMENTS

Note.—The Articles in Schedule I-A are numbered so as to correspond with similar Articles in Schedule I, of the Indian Stamp Act, 1899.

<i>Art.No.</i>	<i>Description of Instrument</i>	<i>Rates of Stamp Duty</i>
1.	Acknowledgement of a debt. —exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt, in any book (other than a Banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: Provided that such acknowledgement does not contain any promise to pay the debtor any stipulation to pay interest or to deliver any goods or other property.	Ten rupees
2.	Administration Bond. —including a bond given under section 6, of the Government Savings Bank Act, 1873, or section 29, 375 and 376 of the Indian Succession Act, 1925-in every case.	One hundred rupees.
3.	Adoption-Deed. — that is to say, any instrument (other than a Will), recording an adoption, or conferring or purporting to confer an authority to adopt. Advocate. — <i>See</i> Entry as an Advocate (No. 30).	One hundred rupees.
4.	Affidavit. —including an affirmation or declaration in the case of persons by law allowed affirming or declaring instead of swearing.	Ten rupees

Exemptions

Affidavit of declaration in writing when made—

- (a) as a condition or enrolment under the Army Act, 1950; or Air Force Act, 1950;

1. SCHEDULE I-A inserted vide H.P. Act No. 4 of 1953, substituted vide H.P. Act No. 16 of 1970, amended vide H.P. Act No. 11 of 1991, H.P. Act No. 9 of 1992, again substituted vide H.P. Act No. 5 of 2013, amended vide H.P. Act No. 3 of 2014.

- (b) for the immediate purpose of being filed or used in any court or before the officer of any Court; or
- (c) for the sole purpose of enabling any person to receive any pension or charitable allowance.

5. **Agreement or Memorandum of an Agreement.**— if relating to the sale of a bill of exchange or sale of a government security or share in any incorporated company or other body corporate or not otherwise provided for. Fifty rupees.

Exemptions

Agreement or memorandum of agreement-

- (a) for or relating to the sale of goods or merchandise exclusively, not being a Note or Memorandum chargeable under No. 43;
- (b) made in the form of tenders to the Central Government for or relating to any loan.

Agreement to Lease.—*See* Lease (No. 35).

6. **Agreement relating to Deposit of Title-Deeds, Pawn or Pledge.**— that is to say any instrument evidencing an agreement relating to-

deposit of title-deeds or instrument constituting or being evidence of the title to any property whatever (other than a marketable security) or the pawn or pledge of movable property where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt.

0.05% of the secured amount, subject to the minimum of rupees one hundred and maximum rupees one thousand and duty rounded off to nearest rupees Ten.

Exemption

Instrument of pawn or pledge of goods if unattested.

Comments

An agreement of hypothecation and question of stamp duty.— There is distinction between a transaction of hypothecation and a transaction of pledge. Because unlike a pledge

where the possession of the goods pledged must pass on to the pawnee, no such possession passes on to the creditor in case of hypothecation. As the document in the present case, sought to create two rights in favour of the Bank, i.e. one pertaining to hypothecation of the property and the other pertaining to creation of attorneyship a total stamp of Rs. 11.50 was chargeable to in respect of the document under section 5 of the Stamp Act. Thus the document has been duly stamped being neither a pledge nor a pawn but an agreement of hypothecation covered by Cl. (e) of Art. 5 of Schedule-I to the Stamp Act with a covenant to confer rights of an attorney of the defendant on the plaintiff.

Deed of Pawn or Pledge.—There is no dispute between the parties, and rightly so, because even on a plain reading of Cl. 6 of the agreement it transpires that the possession of the goods hypothecated was to remain with the debtor itself. That being so, this deed cannot be held to be a deed of pawn or pledge so as to attract the mischief of Art. 6(2) of Schedule-I to the Stamp Act.

7. **Appointment in execution of a Power.**— One hundred rupees.
whether of trustees or of property movable or immovable, where made by any writing not being a Will.
8. **Appraisal or Valuation.**— made otherwise than under an order of the Court in the course of a suit—
in every case. Fifty rupees.

Exemptions

- (a) Appraisal or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or of operation of law.
- (b) Appraisal of crops for the purpose of ascertaining the amount to be given to a landlord as rent.
9. **Apprenticeship-Deed.**— including every writing relating to the service or tuition of any As in Schedule-I.

apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being articles of clerkship (No. 11).

Exemption

Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of, any public charity.

10. **Articles of Association of a Company.**—
in every case. Two hundred rupees.
- Exemption*
- Articles of any Association not formed for profit and registered under section 25 of the Companies Act, 1956.
- See also Memorandum of Association of a Company (No. 39).
11. **Articles of Clerkship.**—
Assignment.— See Conveyance (No. 23) Transfer (No. 62) and Transfer of Lease (No. 63), as the case may be. As in Schedule-I.
Attorney.—See Entry as an Attorney (No. 30), and Power of Attorney (No. 48).
Authority to Adopt.—See adoption deed (No. 3)
12. **Award.**— that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the court in the course of a suit—
for every amount or value of the property as set forth in such award. Five hundred rupees.
13. **Bill of Exchange.** As in Schedule-I
14. **Bill of Lading (including a through bill of lading).** As in Schedule-I
15. **Bond.**— as defined by section 2(5), not being a debenture (No. 27), and not being otherwise provided for by this Act or by the Court-fees 0.05% of the secured amount, subject to the minimum of

Act, 1870.

rupees one hundred and maximum rupees one thousand and duty rounded off to nearest rupees Ten.

See Administration Bond (No.2), Bottomry Bond (No.16), Custom Bond (No.26), Indemnity Bond (No.34), Respondentia Bond (No.56), Security Bond (No.57).

Exemption

Bond when executed by any person for the purpose of guaranteeing that the local income derived from private subscription to a charitable dispensary or hospital or to any other object of public utility, shall not be less than a specified sum per mensem.

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| 16. | Bottomry Bond. —that is to say, any instrument whereby the master of a sea-going ship borrows money on a security of the ship to enable him to preserve the ship or prosecute her voyage. | 0.05% of the secured amount, subject to the minimum of rupees one hundred and maximum rupees one thousand and duty rounded off to nearest rupees Ten. |
| 17. | Cancellation. —Instrument of (including any instrument by which any instrument previously executed is cancelled) if attested and not otherwise provided for.

<i>See</i> also Release (No. 55), Revocation of Settlement (No. 58-A), Surrender of Lease (No. 61), Revocation of Trust (No. 64-B). | Fifty rupees. |
| 18. | Certificate of Sale. —(in respect of each property put up as a separate lot and sold), granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue Officer. | 5.00% of the market value of the property or to the amount of purchase money, "whichever is higher", subject to the minimum of rupees one hundred and duty rounded off to nearest rupees Ten. |

19. **Certificate or other Document.**— evidencing the right or title of the holder thereof, or any other person, either to any shares scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body. Ten rupees.
20. **Charter Party.**— that is to say, any instrument (except an agreement for the hire of a tug steamer), whereby a vessel or some specified principal part thereof is let for the specified purposes of the Charterer, whether it includes a penalty clause or not. Ten rupees.
21. **Cheque.**— [***]. Omitted by Act No. 5 of 1927.
22. **Composition-Deed.**—that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business under the supervision of inspectors or under letters of license, for the benefit of his creditors. One hundred rupees.
23. **Conveyance.**— as defined by section 2(10) not being a Transfer charged or exempted under No. 62-
 where the conveyance amounts to sale of immovable property. ¹[4.00% for women and 6.00% for other persons, of the market value of the property or of the amount of purchase money", "whichever is higher", subject to the minimum of rupees one hundred and duty rounded off to nearest rupees Ten.

Exemption

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1. Substituted for the figures, signs and words “5.00% of the market value of the property or consideration amount” vide H.P. Act No. 3 of 2014.

Assignment of copyright.—under the Copyright Act, 1957, Section 18.

Co-partnership-deed.—See Partnership (No. 46).

Comments

Conveyance of Property.—There is no difference between a case of retirement and that of dissolution. A partner stands on the same footing in relation to partnership as a co-owner. In the present case the document executed by the firm relinquishing the rights in favour of the former partner could only be a release. It was not a transfer having not been made in favour of a partner who had no interest in the property. The document executed does not transfer property; hence it was not a conveyance.

- 23(A) **Conveyance in the Nature of Part Performance.**—Contracts for the transfer of immovable property in the nature of part performance in any Union territory under section 53 A of the Transfer of Property Act, 1882. As in Schedule-I.
24. **Copy or Extract.**—certified to be true copy or extract, by or by order of any public officer and not chargeable under the law for the time being in force relating to court fees, in every case. Ten rupees.

Exemptions

- (a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.
- (b) Copy of, or extract from, any register relating to births, baptisms, namings, dedications, marriages, divorces, deaths or burials.
- 25 **Counterpart or Duplicate.**— of any instrument chargeable with duty and in respect of which the proper duty has been paid, for every case. Ten rupees.

Exemption

Counterpart of any lease granted to a cultivator, when such lease is exempted from duty.

Comments

Whether the stamp duty payable is payable on a counterpart.-Article 25 of the First Schedule to the Indian Stamp Act simply states the stamp duty payable on a counterpart or on a duplicate. Hence, an unstamped counterpart can be validated by payment of proper stamp duty and penalty therefor.

26. **Customs-Bonds.**-in every case. One hundred rupees.
27. **Debenture.**- (where a mortgage debenture or not), being a marketable security transferable-
- (a) by endorsement or by a separate instrument of transfer; As in Schedule-I.
- (b) by delivery. As in Schedule-I.

Explanation.-The term "Debenture" includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.

Exemption

A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part their property to trustees for the benefit of the debenture holders; provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.

See also Bond (No. 15) and sections 8 and 55.

Declaration of any trust-See Trust (No. 64).

28. **Delivery Order in respect of Goods.** One hundred rupees.
- Deposit of Title-Deeds-** See Agreement Relating to Deposit of Title-Deeds, Pawn or Pledge (No. 6).

- Dissolution of Partnership-** See Partnership (No. 46).
29. **Divorce, Instrument of.**—that is to say, any instruments by which any person effects the dissolution of his marriage. One hundred rupees.
- Dower, Instrument of-** See Settlement (No. 58).
- Duplicate-** See Counterpart (No. 25).
30. **Entry as an Advocate, Vakil or Attorney on the Roll of the High Court.**—
in the case of an Advocate or Vakil or an Attorney. One thousand rupees.
- Exemption*
- Entry as an Advocate, Vakil or Attorney on the roll of any High Court, when he has previously been enrolled in any other High Court.
31. **Exchange of Property, Instrument of.** 0.05% of the higher value value of exchanged property, subject to the minimum of rupees one hundred and maximum rupees one thousand and duty rounded off to nearest rupees Ten.
- Extract-** See Copy (No.24).
32. **Further Charge, Instrument of.**— that is to say, any instrument imposing a further charge on mortgaged property-
- (a) if at the time of execution of the instrument of further charge, the possession of the property is given or agreed to be given under such instrument; 5.00% of the market value of the property or consideration amount, "whichever is higher", subject to the minimum of rupees one hundred and duty rounded off to nearest rupees Ten.
- (b) if possession is not so given. 0.05% of the secured

- amount, subject to the minimum of rupees one hundred and maximum rupees one thousand and duty rounded off to nearest rupees Ten.
33. **Gift, Instrument of.**—not being a Settlement (No. 58) or Will or Transfer (No. 62). ¹[4.00% for women and 6.00% for other persons,] of the market value of the property, subject to the minimum of rupees one hundred and duty rounded off to nearest rupees Ten
- Hiring Agreement or Agreement for Service.**—*See* Agreement (No. 5).
34. **Indemnity Bond.**—
in every case. One hundred rupees.
- Inspectorship-Deed.**— *See* Composition-Deed (No. 22).
35. **Lease.**— including an under-lease or sub-lease and any agreement to let or sublet- 5.00% of the market value of the leased property, subject to the minimum of rupees one hundred and duty rounded off to nearest rupees Ten.
- (a) where the lease purports upto one hundred years or exceeding hundred years; *Formula for calculating the stamp duty on Lease Deeds :-* $5\% \times \text{Market Value} \times (\text{Period of Lease}) / 100$
- (b) where the lease purports in perpetuity and does not purport to be for any definite term and time. 5.00% of the market value of the leased property or the whole lease amount

1. Substituted for the figures and signs “5.00%” vide H.P. Act No. 3 of 2014.

which would be paid or delivered under such lease, if any, "whichever is higher," subject to the minimum of rupees one hundred and duty rounded off to nearest rupees Ten.

Exemption

Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year or when the average annual rent reserved does not exceed one hundred rupees.

In this exemption a lease for the purposes of cultivation shall include a lease of lands for cultivation together with a homestead or tank.

Explanation.—When a lessee undertakes to pay any recurring charge such as Government revenue, the land-lords share of cesses, or the owner's share of municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.

Comments

Any agreement to let-Whether amounts to a lease.- Article 35 would indicate that it is not only a lease which is covered by this Article, but also any agreement to let. An agreement to let need not be a lease. In order to determine whether in any given case, it is reasonable to infer the existence of agreement one has to see if one party has made an offer and the other party has accepted the same. To constitute an agreement, it is necessary that the intention of the parties must be definite and common on both. This can be achieved if

the terms and conditions are expressly arrived at or could impliedly be found.

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| 36. | Letter of Allotment of Shares. | Ten rupees. |
| 37. | Letter of Credit.
Letter of Guarantee.– See Agreement (No. 5). | As in Schedule-I. |
| 38. | Letter of License. —that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion. | Fifty rupees |
| 39. | Memorandum of Association of a Company.—
(a) if accompanied by articles of association under sections 26, 27 and 28 of the Companies Act, 1956;
(b) if not so accompanied. | One hundred rupees.

Two hundred rupees. |
| <i>Exemption</i> | | |
| Memorandum of any association not formed for profit and registered under section 25 of the Companies Act, 1956. | | |
| 40. | Mortgage-Deed. — not being an agreement relating to deposit of Title-deeds, Pawn or Pledge (No. 6), Bottomry Bond (No. 16), Mortgage of a crop (No. 41), Respondentia Bond (No. 56), or Security Bond (No. 57),- | |
| | (a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given; | ¹ [4.00% for women and 6.00% for other persons,] of the market value of the property or consideration amount, "whichever is higher", subject to the minimum of rupees one hundred and duty rounded off to nearest rupees Ten. |

1. Substituted for the figures and signs “5.00%” vide H.P. Act No. 3 of 2014.

(b) when possession is not given.

0.05% of the secured amount, subject to the minimum of rupees one hundred and maximum rupees one thousand and duty rounded off to nearest rupees Ten.

Explanation.- A mortgagor who gives to the mortgagee a Power-of-Attorney to collect rents or a lease of the property mortgaged or part thereof is deemed to give possession within the meaning of this article.

Exemption

Instrument, executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists Loans Act, 1884, or by their sureties as security for the repayment of such advances.

Comments

Undertaking affidavit whether could be charged as a mortgage-deed.-The undertaking affidavit has to be charged as a mortgage deed, which has to suffer stamp duty as prescribed under Art. 40 of Schedule-I to the Indian Stamp Act. Thus Art. 40 and not Art. 57 of Schedule-I to the said Act is the appropriate article applicable to the instant case.

41. **Mortgage of a Crop.**- including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage-
for every sum secured.

0.05% of the secured amount, subject to the minimum of rupees one hundred and maximum rupees one thousand and duty rounded off to nearest rupees Ten.

42. **Notarial Act.**—that is to say, any instrument, endorsement, note, attestation certificate or entry not being a Protest (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public. Ten rupees.
See also Protest of bill or note (No. 50).
43. **Note or Memorandum.**— sent by a broker or agent to his principal, the purchase or sale on account of such principal—
of any goods or of any stock or marketable security. Fifty rupees.
44. **Note of Protest by the Master of a Ship.** Ten rupees.
45. **Partition.**—Instrument of as defined by section 2(15). 0.05% of the market value of the property being partitioned subject to the minimum of rupees one hundred and maximum of rupees one thousand and duty rounded off to nearest rupees Ten.
46. **Partnership.**—
A. Instrument of— Two hundred rupees.
for every capital of the partnership.
B. Dissolution of— Fifty rupees
- Pawn or Pledge.**—*See* Agreement relating to Deposit of Title-Deed, Pawn or Pledge (No. 6).
47. **Policy of Insurance.**— As in Schedule-I.
48. **Power of Attorney.**— as defined by section 2(21), not being a Proxy (No. 52),-
(a) when authorizing one or more persons to act jointly and severally in a single transaction for sole purpose (including suit or proceedings); One hundred rupees.
(b) when authorizing one or more persons One hundred and

	to act jointly and severally in more than one transaction or generally;	fifty rupees.
	(c) in any other case.	Two hundred rupees.
		N.B.- The term "registration" includes every operation, incidental to registration under the Indian Registration Act, 1908.
	<i>Explanation.</i> —For the purposes of this article more persons than one when belonging to the same firm shall be deemed to be one person.	
49.	Promissory Note.	As in Schedule-I.
50.	Protest of Bill or Note. — that is to say, any declaration in writing made by a Notary Public or other person lawfully acting as such, attesting the dishonour of a Bill of Exchange or Promissory Note.	Ten rupees.
51.	Protest by the Master of a Ship.	As in Schedule-I.
52.	Proxy.	As in Schedule-I.
53.	Receipt.	As in Schedule-I.
54.	Re-Conveyance of Mortgaged Property. — in every case.	One hundred rupees.
55.	Release. — that is to say, any instrument (not being such a release as is provided for by section 23-A) whereby a person renounces a claim upon another person or against any specified property- in every case.	0.05% of the market value of the released property, subject to the minimum of rupees one hundred and maximum rupees one thousand

and duty rounded off
to nearest rupees
Ten.

Comments

A release deed-whether can transfer title.-

A release deed would not be effective to transfer title. A release deed can only feed title but cannot transfer title.

Renunciation or relinquishment.-

If the appellant had no title to the property at the time of renunciation except the off-chance of succeeding by survivorship to the estate after the death of his father, the renunciation or relinquishment under the deed would not clothe him with any title to the property. Renunciation must be in favour of a person, who had already title to the estate, the effect of which is only to enlarge the right.

56. **Respondentia Bond.**—that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.
- 0.05% of the secured amount, subject to the minimum of rupees one hundred and maximum rupees one thousand and duty rounded off to nearest rupees Ten.

Revocation of any Trust or Settlement.—*See* Settlement (No.58), Trust (No.64).

57. **Security-Bond or Mortgage Deed.**—executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract or the due discharge of a liability—
- in every case.
- 0.05% of the secured amount, subject to the minimum of rupees one hundred and maximum rupees one thousand and duty rounded off to nearest rupees Ten.

Exemption

Bond or other instrument when executed—

- (a) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility, shall not be less than a specified sum per mensem;
- (b) by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturist's Loans Act, 1884, or by their sureties, as security for the repayment of such advances;
- (c) by officers of Government or their sureties to secure the due execution of an office, or the due accounting for money or other property received by virtue thereof.

Comments

Undertaking affidavit-Whether amounts to a mortgage deed.-The undertaking affidavit has to be charged as a mortgage deed, which has to suffer stamp duty as prescribed under Art. 40 of Schedule-I to the Indian Stamp Act. It was not correct to say that the affidavit merely disclosed an undertaking and if at all it was chargeable it could be only under Art. 57 (b) of Schedule-I to the Indian Stamp Act.

58. **Settlement.**—

A-Instrument of (including a deed of dower).	0.05% of the market value of the settled property, subject to the minimum of rupees one hundred and maximum rupees one thousand and duty rounded off to nearest rupees Ten.
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Exemption

Deed of dower executed on the occasion of a marriage between Muhammadans.

B-Revocation of-

- See also* Trust (No. 64). Fifty rupees.
59. **Share Warrants.**—to bearer issued under the Companies Act, 1956. The same duty as payable on a mortgage deed with possession [40(a)] for the amount equal to the nominal amount of the shares specified in the warrant.

Exemptions

Shares warrant when issued by a company in pursuance of the Companies Act, 1956, section 114, to have effect only upon payment, as composition for that duty, to the Collector of stamp-revenue of-

- (a) one-and-a-half percentum of the whole subscribed capital of the company; or
- (b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital-one-and-a-half percentum of the additional capital so issued.
60. **Shipping Order.** Ten rupees
61. **Surrender of Lease.** in every case. One hundred rupees.

Exemption

Surrender of lease, when such lease is exempted from duty.

62. **Transfer.**— (whether with or without consideration)- As in Schedule-I.
- (a) of shares in an incorporated company or other body corporate;
- (b) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8; The same duty as Debenture (No.27) as levied by this Act, for a consideration equal to the face

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| | amount of the debenture. |
| (c) of any interest secured by a bond, mortgage-deed or policy of insurance; | The same duty with which such bond, mortgage-deed or policy of insurance is chargeable subject to the minimum of rupees one hundred and maximum rupees one thousand and duty rounded off to nearest rupees Ten. |
| (d) of any property under the Administrator-General's Act, 1913, Section 25; | One hundred rupees. |
| (e) of any trust-property without consideration from one trustee to another trustee, or from a trustee to a beneficiary. | Two hundred rupees. |

Exemption

Transfers by endorsement—

- (a) of a bill of exchange, cheque or promissory note;
- (b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods;
- (c) of a policy of insurance;
- (d) of securities of the Central Government.

See also section 8.

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| 63. Transfer of Lease. —by way of assignment, and not by way of under lease. | The same duty as Article (No. 35) as levied by this Schedule, for the same amount of such transfer. |
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Exemption

Transfer of any lease exempt from duty.

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| 64. Trust. — | |
| A. Declaration of-of, or concerning any property when made by any writing not being a Will; | Two hundred rupees. |

B. Revocation of-of, or concerning any property when made by any instrument other than a Will.

Fifty rupees.

See also Settlement (No. 58), Valuation- *See* Appraisalment (No. 8), Vakil-*See* Entry as Vakil (No. 30).

Comments

Religious or charitable endowment- Whether fall within the purview of the Trusts Act.- Religious or charitable endowments, whether public or private, do not fall within the purview of the Trusts Act. Article 64 of the Stamp Act provides for the levy of stamp duty on trust. Accordingly, Art. 64 cannot be pressed into service in case which deals with charitable trusts.

65. **Warrant for Goods.**— that is to say, any instruments evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be. Ten rupees.
