CHAPTER SEVEN:

STAMP_DUTY

Proc. No 110/1998

- **Unit summary**
- Stamp duty is one form of tax, but related only with **documents**. Individuals are imposed for they use stamps affixed to ***authenticate*** a document. The base of taxation is thus documents that vary from simple rewards to contractor agreements and memoranda thereof.
- ***The rates*** applied in stamp duty are ***either flat*** that are similar or variable depending on the value of the property for which the document is prepared. In the latter case, ***proportional taxation*** is used. Similarly, manner and time of payment are discussed in the chapter.

- Not all documents that bear stamp are subject to taxation. Exemption is also one character of stamp duty. Public bodies covered under proc No. 57/96, goods imported for sale, and documents exempted in accordance with international agreements are few to mention.
- Like others to have better implementation, the proclamation provides penalties that create obscure, being from inside or outside.

- Stamp duty is another form of taxation basically imposed on the services given to individuals through affixing seals
- Stamp is an official mark or seal placed on a document especially to indicate that a requirement tax has been paid. Thus, stamp duty is a tax raised by requiring stamps sold by the government to be affixed to designed documents, which form one kind of revenue to the governments treasury.
- As can be easily understood from the preamble of stamps duty proclamation proc. No. 110/1998, it has became necessary to amend the stamp study levied on documents in a manner which would contribute to the development of art, the activities of financial and the transfer of capital assets; thus it was appropriate to come up with new legislation so as to strengthen the means of raising revenue from different bases of taxes.

Bases of the Duty

- Identifying the bases up on which tax is to be imposed is the first question that shall be addressed before furthering to other activities. we have said above that, stamp duty is imposed on documents. Art 3 of the stump duty proclamation exhaustively lists instruments chargeable with stamp duty in the following manner:
- Memorandum and articles of association of any business, organization, cooperative or any other form of association.
- award
- bonds
- ware house bond
- contractor agreements and memoranda thereof
- security deeds
- collective agreement

- contract of employment
- Lease, including sub-lease and transfer of similar rights.
- natural acts
- power of attorney
- documents

- Before directly addressing the rationales behind each document or instrument, it is appropriate to define what a document (instrument) is.
- An instrument as per Art 2(5) of stamp duty proclamation is a written document by which any right or obligation is or purports to be created, recorded, transferred, extinguished or by which its scope is limited or extended.
- Memorandums and articles of association are constitutional documents of any business organization, cooperatives or association. They indicate the powers that such entities can engage. For instance, in case the memorandum of association is that of business organization, the type of activity be it commercial or non-commercial that helps to earn benefit shall be clearly stipulated.

- The existence of articles of association, that governs the internal relationships that should exist among members (common in case of companies) whatever be the case memorandum of association and articles of association, be it for business organizations, cooperatives or associations, can serve as a base up on which stamp duty is to imposed.
- An award is similarly subject to stamp duty. An award is defined under Art 2(1) to mean a decision rendered in writing by arbitrator(s) on a reference made otherwise than by order of court in the course of suit by parties to a compromise, conciliation or arbitral submission or other similar matters. Whatever be the award is, as far as made in written from, such document is taken as base of taxation.

- In similar fashion bond under Art 2(2) is described as any instrument where by a person obliges himself to pay money to another, on condition that the obligation shall be void if a specific act is performed or is not performed, as the case may be: or any instrument attested by a witness and not payable to order on bearer, where by a person mobilizes himself to pay money to another. Bond, as can be inferred easily is a document showing that the holder is the creditor of the issuer person. It is one means of raising funnels, most used in case of companies. The document to have valid effect shall be a tested and this a iteration is the base to impose duty.

Rates and Mode of Valuation of stamp Duty

- Under stamp duty proclamation too, rates and mode of valuation are treated. Accordingly, As per Art 4 (1) (2) the applicable rates are those specified in the schedule attached to he proclamation which is considered as integral part of the former. In case a document is to be executed subsequently, a **flat rate** attached as a schedule in the proclamation is applied accordingly.
- The rates might be flat or they may depend on the value of the property for which a document is prepared under the schedule for memorandum and articles of associations of business organizations and any association a flat rate of 350. birr (at first execution) and a flat rate of birr 100 (for subsequent exceptional) in imposed. Similar way of flat rating system is extended to memorandum and article of association of cooperatives, contracts and agreements and memoranda thereof, collective agreements, natural acts, and power of affiance.

- On the other hand, rather than flat rate system **proportiona**l taxation is imposed on other kinds of documents. In case of property taxation, the value to be collected that will due from taxation increases not be cause the rate grows, but for the fact that the value (the values of the base subject to tax increases) to mention instances of this kind are: Awards, bonds, Ware house bond, security deeds, leases and registered title to property. (try to have a look at the schedule attached to the proclamation).

Exemptions from Stamp Duty

For economic, Social, or administrative reasons, exemptions are common under tax laws of legal system of different nations. But variations are observed from one state to an other. Under Ethiopian stamp duty proclamation Art 7, the following are exempt from the liability of payment of same:

- Public bodies on which the federal government of Ethiopia financial Administration proclamation No. 57/1996 applies.
- Goods imported for sale by traders having import license, when first registered in the name of the trader.
- Documents that are exempted in accordance with international agreements and conventional approved by Ethiopian government.
- Subject to reciprocity embassies, consulates and missions of foreign states may be exempted.
- Share certificates are exempt from stamp duty payable on the register of title of property.