

Liberal translation of circular dated 30-3-2017 issued by stamp office stating stamp duty not to be paid again for the existing area by members of the same is paid on development agreement  
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No.K.5/Stamp-17/Pra.Kr.10/13/303/17  
inspector General of Registration &  
Controller of Stamps  
(Maharashtra State), Gr. Floor  
New Administrative Building  
Opp. Vidhan Bhawan, Pune-1.

Date: 30.03.2017

**CIRCULAR:**

Subject: Regarding stamp duty on the document executed in favour of a member after redevelopment of the property of Co-op. Housing Society is completed.

Reference: Circular No. K.15/Bamudat/ Margarshak Suchana/621 dt. 23.06.2015 of the office of Inspector General of Registration.

**INTRODUCTION:**

1) It has been made clear vide Government Revenue & Forest Department Circular No. Petition-2013/1425/ Pra.Kra. 260/M-1 dt. 09.05.2014 that, while transferring the built up area to the owner vide the incidental document to be executed as per the development agreement executed between the owner of the property and the developer, the property does not get transferred, hence stamp duty on such documents should be charged as per Sec. 4 of Maharashtra Stamp Act.

2) Pursuant to the above, clarification as to how the stamp duty should be charged while giving premises in the new building in redevelopment project of old building of the co-operative housing society (i.e. when the original owner is a certain housing society), has been given in Circular No. K.15/Bamudat/ Margadarshak Suchana/ 621 dt. 23.06.2015 issued by the office of Inspector General of Registration, in which it has been clearly stated that,

A) If a development agreement has been entered into between the housing society (original owner) and developer and when the incidental agreement in compliance of the said agreement is executed in favour of housing society, the stamp duty on such incidental agreement should be charged as per Sec. 4 of Maharashtra Stamp Act.

B) However, if the development agreement has been executed only between the housing society (original owner) and developer, the document transferring the flat/unit in individual favour of the original member of the housing society will not be treated as an incidental document made for compliance of the original development agreement, but will be an independent document. Therefore, the stamp duty for the area approved by the housing society for the flat to be transferred through such document, should be charged on the construction cost.

3) National Real Estate Development Council, Mumbai and other various units had called for detailed explanation of this clarification from this office. It was especially demanded that, the document to be executed

in individual favour of the member in compliance of the tripartite development agreement entered into between the developer, housing society and member, is required to be treated as the incidental document of the original development transaction/agreement, hence the provisions of Section 4 should be made applicable to such agreement.

On deliberations of the above factors, following explanation is being given:

- (1) In cases where the development agreement has been made only between the housing society (owners) and developers, the individual member is not a party to such development agreement, hence the provision of Section 4 will not be applicable to the transfer document in his (member) favour and the stamp duty will have to be charged as mentioned in 2(B) in the Introduction above.
  
- (2) In cases where the following criterion are being complied with –
  - (a) if a tripartite development agreement has been made between the housing society (original owner), member and developer, And,
  - (b) if a condition of making separate transfer document of new flat in favour of each member is incorporated in the original development agreement, And,
  - (c) if there is limited objective of transferring the built-up area in the transfer document in favour of the said member as per the terms and conditions of the original development agreement. And,
  - (d) if the housing society is a consenter party in the transfer document in favour of such individual member,

in such circumstances, the transfer document in favour of the

individual member shall be treated as incidental document of the original development agreement and the provision of Sec. 4 should be made applicable to it.

- (3) Here, it is clarified that the above explanation will be applicable only to the area agreed in the development agreement. In case the member is getting / purchasing more than the said agreed area, the stamp duty should be charged on the valuation arrived at as per the Annual Market Value Rate Chart for such additional area (flat / shop unit / office / industrial) or the consideration amount, whichever is more, as clarified in the circular under reference.
- (4) However, in regard to the criterion regarding the document in favour of individual member as mentioned in Sr.No.2 above especially regarding confirmation about the compliance of the Criteria ©, is a quasi-judicial process. Hence the directions are also being given that, if the parties in such document are of the opinion that these criterion in regard to the document are being complied with and that the provision of Sec. 4 is becoming applicable, then they may get one such transfer document in the redevelopment scheme adjudicated from the Collector of Stamps and accordingly the Sub Registrar may directly register other similar documents having same draft in the scheme as per the adjudication decision.

A copy of this circular is available on website [www.igrmaharashtra.gov.in](http://www.igrmaharashtra.gov.in) of Registration & Stamp Department under the category Publication at 'Circulars'.

- 1) All the Collectors of Stamps
- 2) All Sub Registrars

Copy for information and action to:

- 3) Jt. Inspector General of Registration, Office of Inspector General of Registration, Pune.
- 4) Dy. Director, town Planning, Mumbai Territorial Valuation, Mumbai.
- 5) Asst. Director, town Planning, Valuation, Kokan/Pune/ Nasik/ Aurangabad/ Amravati/ Nagpur
- 6) Dy. Inspector General of Registration & Dy. Controller of Stamps (H.Q.), Pune
- 7) Dy. Inspector General of Registration & Dy. Controller of Stamps (Computers), Pune

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- 8) Dy. Inspector General of Registration & Dy. Controller of Stamps, Mumbai/ Kokan / Pune / Nasik / Aurangabad/ Latur /Amravati / Nagpur for information and necessary action.

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- 9) All Desk Officers, Office of Inspector General of Registration, Pune.

Issued

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Jt. Inspector General of Registration &  
Supdt. of Stamps (H.Q.), Maharashtra