

Stamp Duty on Transfer of Shares In Demat Form – Private Limited Company

Indian Stamp Act, 1899 brought through Finance Act, 2019 - w.e.f 1st July, 2020

(08th February 2025)

The author will cover the "*The rules regarding the stamp duty that applies to the transfer of shares in a private limited company, in the event that the shares are in Demat*" in this column.

The Finance Act, 2019 and the Rules promulgated thereunder have implemented the revised provisions of the Indian Stamp Act, 1899, effective July 1, 2020

SHORT SUMMARY:

When transferring shares of a private limited company, stamp duty is a significant cost factor. The calculation and payment of stamp duty are considerably influenced by the mode of transfer, whether it is in physical or dematerialized (demat) form. The comprehension of these distinctions is essential for financial planning and compliance.

❖ Legal Framework Governing Stamp Duty on Share Transfers

The levy of stamp duty on securities transactions is governed by:

- The Indian Stamp Act, 1899 (Amended in 2019)
- The Depositories Act, 1996
- The Companies Act, 2013
- Securities Transaction Tax (STT) and SEBI Regulations
- Respective State Stamp Acts
- Impact of Finance Act, 2019

1. Que: In the event of a share transfer, who is responsible for the payment of stamp duty?

Who was responsible for paying stamp duty was unclear under the previous system. As previously agreed upon, the buyer or the seller was responsible for

paying the stamp duty. Nevertheless, the new system establishes that stamp duty must be paid depending on the type of transaction: -

S. No.	Nature of Transaction	Responsibility
I.	In case of transfer through stock exchange	Buyer
III.	In case of transfer of securities in physical form	Seller

❖ **Demat of Shares of Private Limited Company:**

The MCA has issued a Notification. Dated: October 27th, 2023 -Subject: Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023.

As per provisions of Companies Act, 2013 MCA has already made it mandatory for Public Companies to keep and transact their shares in Demat w.e.f. 02nd October 2018. At that time it was not mandatory for Section 8 Private Companies to Demat their Shares.

The Ministry of Corporate Affairs in its drive to enhance transparency, investor protection and corporate governance, has notified Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023 effective from 30th September 2024.

In accordance with the said rules, All Non-Small Private Limited Companies need to dematerialize their existing securities and ensure that further issue of securities and transfers are only in dematerialized form.

❖ **Stamp Duty on Private Limited Company:**

Stamp duty is an essential charge that is assessed on a diverse array of financial transactions, including the issuance and transfer of shares. Private limited companies have implemented the dematerialized (demat) form for their shares as a result of the aforementioned provisions of the Companies Act, 2013. In order to comply with legal obligations, it is imperative to understand the extent to which stamp duty applies to demat shares.

In contrast to public companies, private limited companies are subject to limitations on the transferability of their shares. This is a fundamental characteristic of a private limited company: their shares are not readily transferable. Stamp duty obligations arise when shares are issued or transferred, regardless of whether they are in tangible or demat form. The primary distinction is in the manner in which the duty is collected and remitted.

A. STAMP DUTY ON TRANSFER OF SHARES: PHYSICAL VS. DEMAT

I. Stamp Duty on Transfer of Shares in Physical Form

- When shares of a private limited company are transferred in **physical form**, stamp duty is levied at **(0.25% of the consideration amount before July 1, 2020). However**, after Finance Act 2019 the rate of stamp duty on transfer of shares has been changed to 0.015% of the consideration mentioned on transfer Deed i.e. SH-4.
- The duty must be paid by affixing share transfer stamps on the share transfer deed i.e. SH-4. In some states, there is online process also for payment of stamp duty on Transfer of shares.
- The transferor (seller) is responsible for paying stamp duty.

- The transfer deed must be submitted to the company for registration along with the share certificate.
- Stamp Duty paid at the time of execution of Transfer Deed.
- The Central Government is only eligible to levy and collect stamp duty.

II. **Stamp Duty on Transfer of Shares in Demat Form**

- As per the amendments to the Indian Stamp Act, 1899, effective July 1, 2020, stamp duty on the transfer of demat shares is collected electronically by depositories (NSDL/CDSL).
- The applicable rate is 0.015% on delivery-based transfer.
- The transferee (buyer) is responsible for paying stamp duty through depository.
- Stamp Duty paid before execution of transaction.
- The buyer will pay the stamp duty to the Stock Exchange or Clearing Corporation who will further deposit the same to the respective State Governments where residence of buyer is located

Note:

The transfer of shares through demat mode was not subject to stamp duty under the previous regime. However, under the new regime, the transfer of shares in any mode, including demat mode, is subject to stamp duty.

B. Key Differences Between Physical and Demat Share Transfers

Criteria	Physical Share Transfer	Demat Share Transfer
Stamp Duty Rate	0.015% of consideration value	0.015% on delivery-based transfers
Payment Method	Share transfer stamps	Collected electronically by depositories

Responsibility	Transferor (seller) pays duty	Transferee (Buyer) pays duty
Compliance	Requires physical transfer deed	No need for transfer deed
Processing Time	Longer due to manual execution	Faster due to electronic transfer

C. **BENEFITS OF DEMAT SHARE TRANSFERS**

Reduced Stamp Duty: The demat system considerably reduces the stamp duty burden in comparison to physical transfers.

Centralized Collection: Stamp duty is collected by depositories, which guarantees transparency and efficiency.

Smooth Process: Reduces the need for documentation, resulting in more secure and efficient transactions.

Dematerialized shares mitigate risks such as loss, damage, or forgery.

D. **Quick Bites:**

1. **What is stamp duty on transfer of shares in demat form?**

Stamp duty is a tax levied by the government on the transfer of securities, including shares of private limited companies, even when they are in dematerialized (demat) form.

2. **How is stamp duty on demat shares collected?**

As per the amendments to the Indian Stamp Act, 1899, effective July 1, 2020, stamp duty on the transfer of demat shares is collected electronically by depositories (NSDL/CDSL) and remitted to the state government.

3. What is the stamp duty rate for transfer of demat shares?

The applicable rates are:

0.015% on delivery-based transfer of shares

0.003% on intraday transactions

4. Is stamp duty applicable on gifting shares in demat form?

The stamp duty is to be collected on market value based on price or consideration involved. Accordingly, since consideration involved in case of gift is “Nil”, no stamp duty will be levied in such transaction.

5. Is there any stamp duty on the issuance of new shares in demat form?

Yes, stamp duty is applicable on the issuance of new shares as per the state laws where the registered office of the company is located. The rate varies based on the state.

Conclusion:

Streamlined stamp duty collection for private limited companies has been achieved through the implementation of demat shares. From July 1, 2020, companies are required to comply with these regulations following the 2019 amendments and their implementation. To ensure that advisory services are accurate, professionals must remain informed about these provisions. Through a comprehension of the legal framework and procedures, companies can effectively adhere to stamp duty laws and ensure the smooth execution of share transactions.

Author – CS Divesh Goyal, GOYAL DIVESH & ASSOCIATES Company Secretary in Practice from Delhi and can be contacted at csdiveshgoyal@gmail.com).

Disclaimer: The entire contents of this document have been prepared based on relevant provisions and as per the information existing at the time of the preparation. Although care has been taken to ensure the accuracy, completeness, and reliability of the information provided, I assume no responsibility, therefore. Users of this information are expected to refer to the relevant existing provisions of applicable Laws. The user of the information agrees that the information is not professional advice and is subject to change without notice. I assume no responsibility for the consequences of the use of such information.

IN NO EVENT SHALL I SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL OR INCIDENTAL DAMAGE RESULTING FROM, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE INFORMATION