

Valuation of property

Transfer of shares in company which reckons immovable property

OPTION: Section 24(9) (a) of Registration Duty Act

1. A deed (Transfer of shares) must be submitted to the RGD for registration.
If no specific option is stated in the deed, DUTY/TAX is levied on the value of shares.
 2. Registration duty is paid by transferee.
Land transfer tax is paid by transferor.
If the consideration is >Rs 200,000, certificate from professional accountant is required.
- Registration Duty is levied in accordance with Section 24 (9) (a) of *Registration Duty Act* as follows:

Consideration in deed	Rate applicable
≤ Rs 200,000	5% on consideration stated in the deed
> Rs 200,000	5% on consideration stated in the deed or value of shares specified in the certificate from the Professional Accountant whichever is HIGHER

- If there is a change in control or any increase in shareholding of the controlling shareholder within a period of 12 months from the date of the change of control **Land transfer tax is applicable in accordance with Section 4(1A)(i) of *The Land(Duties and Taxes) Act* as follows:**

Consideration in deed	Rate applicable
≤ Rs 200,000	5% on consideration stated in deed
> Rs 200,000	5% on consideration stated in deed or value of shares specified in the certificate from the Professional Accountant whichever is HIGHER

- Note that if there is no change in control, land transfer tax is not applicable. Only registration duty will apply.

2. After registration, the Lead Analyst will calculate the value of shares transferred in the deed of transfer in accordance with Section 17 of the Registration Duty Act.

3. If the value stated in the deed or in the certificate from the Professional Accountant does not satisfy the Receiver, **a first claim** will be forwarded to transferor /transferee to pay the additional duty/tax.

4. If the transferor or transferee declines to the first claim, the Receiver will appoint an Accountant to inspect the property and report on its value.

5. The Accountant's report will be used by the Receiver to determine the value of shares.

If the value of shares is greater than that declared in the deed of transfer or value of shares specified in the certificate from the Professional Accountant, **a second claim** will be forwarded to the transferor/transferee who has 28 days as from the date of the claim to effect payment of the additional duty/tax.

6. Any person who is aggrieved by the second claim may object by registered letter within 28 days of the date of the claim, provided that the **full amount of the additional duty or tax** is paid.

7. The person will then attend the Objection Unit within a period of 4 months from the date the objection is made.

8. If the person disagrees with the decision of the OU, he may lodge written representations with the Clerk of the Assessment Review Committee.

9. If he is not satisfied with the decision of the ARC, he may appeal to the Supreme Court.

10. A further appeal may be made to the Privy Council if the person disagrees with the Supreme Court's decision.

- Note that if payment is not made, an **inscription of privilege** may be registered on all your properties and the inscription is erased upon settlement of the amount of duty/tax due. An interest of 0.5% per month or part of the month in which the duty or tax is unpaid, up to a maximum of 50% of the total amount of duty or tax remaining unpaid is also applicable.

12. Legal action (**Contrainte**) may also be taken for recovery of debts.

13. If notices are returned undelivered, the Registrar-General may still inscribe a privilege against your properties.

Important to know:

If company reckons Leasehold rights in immovable property (State Land),
Leasehold rights Tax is calculated as follows:

$$20 \% \text{ of } (N \times I/C)$$

Where

N: Number of shares transferred

I: Open Market Value of leasehold rights of Land only

C: Total No of shares issued by the company in which shares are held

After registration, the **Government Valuation Department** will cross check the declared value of the State Land in the deed to ensure that it reflects the open market value.

The Government Valuer has up to **5 months** to submit the report to the RGD.

- If the value of the property is found to be correct, the lead analyst will assess the value of shares under Section 17 of the Registration Duty Act.
- If the property is found to be undervalued, the **Registrar-General** will issue a **notice** (within 7 months of registration of the deed) requesting payment of additional leasehold rights tax/duty from the vendor/purchaser. The procedures under Section 28 of The Land (Duties and Taxes) Act will apply followed by the procedures of Section 17 of the Registration Duty Act.