

Talk Tax Article: Stamp Duty on Transfers and Mortgages

As human beings, our needs are pretty basic – food, water, shelter and clothing. However, as we progress in life, we aspire to build on these needs through investments.

The most common investment in Fiji is property investment. Unfortunately, most of us are not aware of how to go from being interested in a property, to actually buying it and calling it our own.

The first step is to find a property that you want to buy. Then you will need to check if it's in your budget. You can find out by asking your bank how much they can lend you for a home loan. You can also check if you have any housing eligibility with the Fiji National Provident Fund (FNPF). Then you will need to hire a lawyer who can help you.

In this article, we talk about Stamp Duty on Transfers and Mortgages of property.

A property can be transferred from one person to another person through sale / purchase, death and in some cases, as gifts through natural love and affection.

Stamp Duty must be paid on certain written / legal documents e.g. sales and purchase agreement, transfer documents which are collectively called instruments. It is payable either at a flat rate or an ad valorem rate (rate based on value of the transaction). When buying a property, you must pay for Stamp Duty within 2 months after the instrument has been signed.

A property is not considered to be sold to the buyer until the document is stamped and duty is paid, and the transfer is registered at the Registrar of Titles Office.

If an instrument is unstamped or was not properly stamped, the following fines will apply;

Time Limit	Late Penalty Payment (LPP)
More than 2 months but less than 3 months from the date of execution	25% of the amount of duty payable or \$2 whichever is greater
3 months after the date of execution	50% of the amount of duty payable or \$4 whichever is greater

Instruments can only be accepted for stamping once the duty has been paid.

However, conditional exemptions are available for conveyance transactions. This applies to instruments such as transfers, mortgages and leases, a lease of land granted for a term of more than 50 years and a mortgage which is the security for the payment or repayment of moneys on a current account to name a few.

As a Fiji citizen, you are conditionally exempt from paying stamp duty, when you buy your first residential property in Fiji. Likewise, a first time residential property owner who sells this property is exempt from paying Capital Gains Tax (CGT).

Example 1 - Calculation of CGT

Mrs. Brown (vendor) owns a residential property which she bought for \$150,000 and sold it to Mr. Jones (purchaser) for \$200,000.

CGT is 10% of the profit made from the sale of the property.

$\$200,000 - \$150,000 = \$50,000 * 10\% = \$5,000.$

In every instrument presented for stamping, the Fiji Revenue and Customs Authority (FRCA) will evaluate the application to;

1. Assess the liability to stamp duty
2. Determine the correct duty payable and fine where applicable
3. Determine where duty is not payable
4. Receipt payment where the duty and penalty are applicable
5. Frank the instrument
6. Sign and seal the instrument

In some cases, instruments presented for assessment can be seized until all duty and fines have been paid. Once the Chief Executive Officer's (CEO) seal is placed on an instrument, this means that all necessary duties have been paid.

In cases where an incorrect assessment has been made, FRCA will recover the underpaid tax within six months after the date of stamping. If it remains unpaid, it will be treated as a debt to the State.

When paying stamp duty, you have the option of paying cash or by cheque. Cheques must be made payable to the Commissioner of Stamp Duties. Postdated cheques will not be accepted. Cheques must reach FRCA before the due date to avoid late payment fines. There is no time to pay arrangements.

Stamp Duty on Land Transfer

When you buy a property in Fiji, you need to pay stamp duty to the Fiji Government. The amount is based on the market value or purchase price of the property, whichever is greater. In some cases, you may be eligible for an exemption or concession.

Registration Fees on a Property Purchase

Whenever a property is bought or sold, a Transfer of Land document must be lodged and registered (usually by your lawyer) to record the change of ownership. The cost to register this title varies in Fiji.

Registration Fees on a Mortgage Document

In addition to the registration fee for the Transfer on Land document above, there is also a registration fee to register the mortgage document. This fee is usually paid to the Titles Office on your behalf by your lender (Bank).

Title Search Fees

Whenever a property changes ownership, a search of the Certificate of Title is obtained from the Title Office. This is to check if there are any encumbrances (things like mortgages, caveats and restrictive covenants) on the title. This search is also used to check that the details on the Certificate of Title are correct. The cost of the search varies and is usually paid on your behalf by your lawyer or lender (Bank).

Some Examples of Stamp Duty Costs

Example 1 - Calculation of stamp duty on Transfer documents

Mr. Amena (vendor) owns a commercial property and sold it to Mr. Finiasi (purchaser) in 2013. The value of the property at the time of the sale was \$100,000. The stamp duty payable was calculated as follows:

$$\begin{aligned}\text{Stamp Duty Payable} &= \text{Value of property} * 3\% \text{ (rate for duty payable from schedule)} \\ &= \$100,000 * 0.03 \\ &= \underline{\underline{\$3,000.00}}\end{aligned}$$

Example 2 - Calculation of stamp duty on Mortgage documents

Mr. Kumar (mortgagor) took a loan from Home Finance Ltd (mortgagee) for \$120,000 to purchase a property in Pacific Harbor. Mr. Kumar needs to pay stamp duty on the mortgage documents.

$$\begin{aligned}\text{Stamp Duty Payable} &= \text{Consideration Amount} * 1.75\% \text{ (rate for duty payable)} \\ &= \$120,000 * 0.0175 \\ &= \underline{\underline{\$2,100.00}}\end{aligned}$$

The stamping of documents is done within a day provided all required documents are presented. The stamped documents are then taken to the Titles Office for the registration of transfer of property ownership.

Once this process is completed, you become the proud owner of your own property.