

**F.No.H.4/3/2009-SEZ Government of India**  
Ministry of Commerce and Industry  
Department of Commerce

Udyog Bhawan, New Delhi  
Dated the 2<sup>nd</sup> July 2009

OFFICE MEMORANDUM

**Sub: Guidelines regarding the transactions related to SEZs consequent upon amendment to Section 3 of the Indian Stamp Act 1899 through Section 57 of the SEZ Act, 2005.**

Sir,

The undersigned is directed to enclose herewith guidelines regarding transactions related to SEZs consequent upon amendment to Section 3 of the Indian Stamp Act 1899 through Section 57 of the SEZ Act, 2005, for information and necessary action of all concerned.

2. This issues after due consultation with Department of Revenue.

Sd/-  
**(T. Srinidhi)**  
Director  
Tel:23063265

To:

- (1) All Chief Secretaries of State Governments.
- (2) All DCs, SEZs with the request that the guidelines may kindly be circulated amongst developers/units.
- (3) DG, EPCES (Dr. L.B. Singhal).

Copy for information to:

- i. Shri K. Jose Cyriac, Additional Secretary, Dept. of Revenue, New Delhi ii. AS(DKM)/JS(AM)



## Department of Commerce (SEZ Section)

### Subject: Guidelines regarding the transactions related to SEZs consequent upon amendment to Section 3 of the Indian Stamp Act 1899 through Section 57 of the SEZ Act, 2005.

The Indian Stamp Act, 1899 as amended through Section 57 of the SEZ Act 2005 includes in proviso (3) to Section 3 that no duty shall be chargeable in respect of any instrument executed by or on behalf of or in favour of the Developer or Unit or in connection with the carrying out of purposes of the Special Economic Zone.

2. Consequent upon this amendment to the Indian Stamp Act 1899, clarifications have been sought by the States, regarding treatment of certain transactions related to SEZ for the purpose of application of Stamp duty.
3. The issues raised have been examined in the Department of Commerce and the following guidelines are issued in this regard.
  - (i) Whether exemption or refund of stamp duty can be given in respect of purchase of land by the Developer for the purpose of setting up of a SEZ, even if eventually no SEZ is set up?

*Clarification:* - There are 3 stages of approvals for setting up an SEZ. The Ministry of Commerce & Industry (MOCI) first issues an in-principle approval, thereafter a formal approval and finally the SEZ notification. The full land has to be purchased and be in the possession of the developer before the MOCI issues the SEZ notification. For the purchase of the land after the formal approval (which will be after the in-principle approval, but before the SEZ notification), the State Governments are expected to give full exemption of stamp duty as provided for in the SEZ Act. For the purpose of land before the formal approval, but after the in-principle approval, the State Government may either give the exemption of stamp duty up front (subject to final setting up of the SEZ) or insist that the developer pay the stamp duty but refund the same after the formal SEZ notification is issued. For the purpose of land even before the in-principle approval, the potential developer has to pay the stamp duty up front, but it may be refunded by the State Government after the SEZ notification is issued. In all cases, if the SEZ is not actually commissioned within the time indicated by the MOCI in the approval, or if the SEZ notification is cancelled, the State Governments will be entitled to withdraw the concession of stamp duty and recover the same from the developer.

