

Rationalization of Stamp Duty

State Level Reform

1. The Reform

The Jawaharlal Nehru National Urban Renewal Mission (JNNURM) *inter alia* aims at an efficient real estate market where transactions, i.e., sale and purchase of properties, can take place smoothly, without any barriers, and in a transparent manner. The real estate market in India, as is widely known and acknowledged, is narrow and extremely cumbersome. One of the many barriers to the efficient functioning of the real estate market has been, and continues to be, the high rates of stamp duty on conveyance transactions. Although a few states have taken steps to bring down the stamp duty rates, in several states, the rates are in excess of 10 percent, deterring individuals, businesses and industry from registering properties at actual, or market values. The JNNURM requires the rates of stamp duty to be brought down to 5 percent or less, within the Mission period.

2. Rationale for the reform

High rates of stamp duty and their adverse effects on the economy, and consequently the need to reduce them, have long been underlined by various committees and experts. They have pointed out the high cost that stamp duties impose on the economy and economic growth. Specifically, they have argued that:

- high rates of stamp duty lead to undervaluation of properties, resulting in substantial loss of revenue to the states and the ULBs. Undervaluation of properties is commonly observed and is the main source of corruption and black money in the country.
- high stamp duty rates hamper development of the economic system, and adversely affect growth.
- existence of high duty rates in some states and low or moderate duty rates in others lead to diversion of economic activity, which is often unhealthy and economically inefficient.

The JNNURM recognizes the adverse effects of high stamp duty rates. As pointed out, it requires the states to reduce the rates to 5 percent or less (including the surcharge that ULBs levy in several states). It expects that a reduction in the rate will help develop a healthy real estate market, provide fillip to the growth of the economy, and reduce the size of the black money. It also expects that reduction in stamp duty rates will lead to an increase in revenues both for the states as well as the ULBs.

3. Steps to implementing the reform and timelines

Stamp duties, it must be pointed out, are an important source of revenues for the state governments. The total revenues from stamp duties (and registration) were of the order of Rs. 30,903 crore or about 1.2 % of the total tax revenues of state governments (2006/07). In states such as Bihar, Gujarat, Kerala, Punjab and West Bengal, stamp duties are the second most important source of revenue, next to VAT/sales tax, and in others, the third most important revenue source. It follows that any reduction in stamp duty rates that is undertaken as a part of the JNNURM should not result in revenue loss to the states or the ULBs. It is, therefore, important that reduction in stamp duty rates is carried out with adequate preparation and in a systematic manner.

The JNNURM envisages it to be a four-step exercise.

- i. **Fixing of the “guidance values”** - Guidance values are values that are used for registering properties and other conveyance-related transactions. These reflect the market values of properties, and are therefore assumed to be appropriate for registration purposes. Many states have been using the “guidance values” (instead of the values that the buyer/seller may indicate in the registration form). Fixing the guidance values is a professional exercise. In order to impart professionalism, it is essential that the state governments set up a valuation board or a valuation committee, like the Central Valuation Board in West Bengal, whose principal task should be to fix the “guidance values” for the different parts of cities, towns, and villages. It is important to maintain the autonomy of such professional bodies. Many of the states have instituted the system of “guidance values”, which are published with due processes of public scrutiny such as their publication prior to finalization, inviting objections, criteria used for determining the values, etc.
- ii. **Statutory backing to guidance values** – It is important that guidance values, which are determined with due processes, enjoy the statutory backing, and are not laid down purely *via* administrative decisions. A specific provision for the fixation and annual revision of guidance values is thus essential in the State Stamp Acts.
- iii. **Reduction and gradual elimination of stamp duty remissions** – In many states, stamp duty remissions are commonly extended to specific groups of individuals, business and industry. Apart from the fact that such remissions have weak reasoning, they reduce the revenue productivity of stamp duty and adversely affect the revenues from this revenue source. Doing away with such remissions should be an integral part of public policy.
- iv. **Widening the scope of the definition of conveyance** - It is currently not uncommon to define the term “conveyance” in a narrow sense, excluding other instruments involving transfer of property, e.g., power of attorney, development agreements, Courts Orders, decrees, etc. For realizing the full benefits of stamp duty reform, it is important to widen the definition of the term “conveyance” so as to widen the tax base, and further reduce the stamp duty rate.

4. Measuring Achievement/Outcomes

The JNNURM thus expects the following milestones to accompany stamp duty reform:

Establishment of a professional body for fixation of guidance values.
Preparation of guideline values.
Provision in the State Act for annual revisions in the guidance values.
Amendment to provide statutory backing to guidance values.
Amendment in the Act to widen the scope of the definition of conveyance.
Reduction and gradual elimination of stamp duty remissions.

The timetable for reduction of stamp duty rates to 5 percent is as follows.

	<i>Year 1</i>	<i>Year 2</i>	<i>Year 3</i>	<i>Year 4</i>	<i>Year 5</i>	<i>Year 6</i>	<i>Year 7</i>
Stamp Duty (%)							

Expected Outcomes:

1. An environment that will have a broad-based development of the real estate market, with enhanced flows of FDI and NRI investment.

2. Purchase and sale of properties to become convenient for traders, developers and the common man, resulting in an increase in the volume of transactions and economic activities.
3. Legal and administrative remedies proposed along with rationalization of rate of duty to result not only in checking evasion and avoidance of duty but also in enhancing revenue from other taxes like property tax and wealth tax.
4. The temporary loss in revenue from stamp duties, if it occurs, to be compensated by better valuation, checking of non-registration of property transfers, and increase in the volume of registered documents.