Indian Stamp Act

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Why is in news? Why Centre plans to replace the Indian Stamp Act, 1899 with a new law

The Centre has **proposed repealing the Indian Stamp Act, 1899** and bringing in a new law for the **stamp duty regime** in the country.

On January 17, the Ministry of Finance invited suggestions on the draft 'Indian Stamp Bill, 2023' from the public.

Stamp duty:

A stamp duty is essentially a government tax, which is **levied to register documents**, like an agreement or transaction paper between two or more parties, with the registrar.

Usually, the amount specified is fixed **based on the document's nature** or is charged at a certain percentage of the agreement value stated in the document.

Stamp duties can be **levied on bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts**.

Accepted as valid evidence in a court of law, stamp duties are levied by the Centre but appropriated by the concerned states within their territories under **Article 268** of the Constitution.

Why is the Indian Stamp Bill, 2023 being proposed?

According to the statement released by the Ministry of Finance, several provisions of the Indian Stamp Act, 1899 have **now become "redundant" or "inoperative".**

For instance, there is a **lack of provisions for digital e-stamping and a lack of uniform legislation** for all Indian states regarding stamp duties — the 1899 Act extended to 30 states and Union Territories combined while six states followed their own stamp acts and rules.

The Act was **enacted during the British era**, though amendments have been made over time, several provisions have become redundant or inoperative in the face of the current situation and evolving digital era.

There are **many complexities and ambiguities** in the Act's language and its structure can be complex and convoluted, **making it difficult for users to understand** and comply with its requirements.

Due to complexities in the Act it may lead to **confusion, inconsistencies** in interpretation, lead to **inefficient procedures** which is prone to errors and delays.

The **loopholes can be exploited for tax evasion** which can lead to revenue loss for the government and unfairness to compliant taxpayers which indirectly hinders economic activity.

The stamp duty rates **haven't been regularly reviewed or revised** leading to distortions and inequities in the system.

The Act **doesn't address the use of technology** in financial transactions making it less relevant to the digital age.

There are variations in the stamp duty rates and procedures across different States which would create market distortions and hinders inter-state commerce.

Notable provisions of the draft Bill:

The new bill aims to **simplify procedures** by simplifying the language, structure, and processes for stamp duty payment and administration.

"Electronic stamp" or "e-stamp" means an **electronically generated impression** denoting the payment of stamp duty by electronic means or otherwise, according to **Section 2 (18)** of the Bill.

There are also provisions for **digital signatures**. **Section 2 (17)** of the Bill states that the words "executed" and "execution", used for instruments, will mean "signed" and "signature" and include attribution of electronic records and electronic signatures, as defined **under the Information Technology (IT) Act, 2000.**

The IT Act **defines "electronic records"** as "data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated microfiche."

Meanwhile, digital or electronic signature refers to the **authentication of any electronic record** by a subscriber through an electronic method or procedure.

The draft Bill also proposes to **raise penalties**. It seeks to increase the maximum penalty amount from Rs 5,000 to Rs 25,000 for contravening any provisions of the law and impose Rs 1,000 per day for repeated offences.

Indian Stamp Act, 1899:

The basic purpose of the Indian Stamp Act 1899 is to raise revenues for the Government. The Act contains the provisions regarding **levying, collection and payment** of stamp duty.

The Indian Stamp Act, 1899 is a **fiscal or money-related statute** that lays down the **law relating to tax levied in the form of stamps** on instruments recording transactions.

Under the Act, certain documents need to be legitimised by paying applicable stamp duty on them.

The **proceeds of stamp duty leviable** in any financial year are **assigned to the State**.

As the revenue from stamp duty is assigned to the State in which they are collected, each State Government has prescribed by rule that stamps purchased in the particular State alone should be used for instruments executed in it.

Stamp duty is a State subject and hence would vary from State to State. The stamp duty in many States is paid as per the market value as assessed by the stamp office.

However, **parliament can make a law** in respect of stamp duty. It can **prescribe rates of stamp duty**.

The stamp duty rates prescribed by the **Parliament** in respect of **bills of exchange, cheques, transfer of shares etc** will prevail all over India.

The State Governments have powers to **fix stamp duties on all other documents**.

Conclusion:

Stamp duty is a charge imposed by governments on legal papers, which are often used in the transfer of assets or property.

Stamp duties, often known as stamp taxes, are levied by governments on papers that are required to legally record certain sorts of transactions.

This contains legal papers such as marriage certificates, military commissions, and property sales or transfers. Governments have traditionally imposed these fees to collect funds for government operations and initiatives.

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