

**THE INDIAN STAMP (DELHI AMENDMENT) BILL, 2012**  
**A**  
**BILL**

Further to amend the Indian Stamp Act, 1899 in its application to the National Capital Territory of Delhi.

BE it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Sixty-third Year of the Republic of India as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Indian Stamp (Delhi Amendment) Act, 2012.

(2) It extends to the whole of the National Capital Territory of Delhi.

(3) It shall come into force on such date as the Lieutenant Governor of the National Capital Territory of Delhi may, by notification in the Delhi Gazette, appoint.

2. Amendment of Schedule I-A.- In the Indian Stamp Act, 1899(2 of 1899) as in force in the National Capital Territory of Delhi, in Schedule I-A, in Article No. 10 for clauses (a) and (b), the following clauses shall be substituted, namely:-

**10. ARTICLES OF ASSOCIATION OF A COMPANY**

Description of Instrument	Proper Stamp Duty
"(a) When the Authorized capital of the Company does not exceed rupees on lakh;	0.15% of the Authorized share capital
(b) In other cases;	0.15% of the Authorized share capital with a monetary ceiling of rupees twenty five lakhs
(c) When the Authorized share capital is increased	0.15% of the increase in Authorized share capital with a monetary ceiling of rupees twenty five lakhs."

(Vijay Kumar Dev)  
Pr. Secretary (Revenue)

## STATEMENT OF OBJECTS AND REASONS

In the Indian Stamp Act, 1899 as applicable in National Capital Territory of Delhi, presently, the Articles of Association of a company are chargeable with stamp duty in respect of authorized share capital of the company as per article 10 of Schedule 1-A of the Indian Stamp Act, 1899 and the Indian Stamp (Delhi Amendment) Act, 2001, applicable in National Capital Territory of Delhi.

In the case of increase in Authorized share capital, companies pay the stamp duty as per Article 10( b) of Schedule 1-A.

M/s S. E. Investment Ltd. by filing a WP (C) NO. 2393 OF 2010 in the High Court of Delhi challenges the chargeability of stamp duty in the case of increase/enhancement in authorized share capital of company on the ground that there is no clause under the above Article 10 which may impose stamp duty on the increase in authorized share capital. Hon'ble High Court of Delhi accepted his plea and passed orders in the matter, which resulted in Revenue loss to Government and unless the principal Act is amended in its application in NCT of Delhi to bring in clarity, other companies will also take benefit of this order and the State will lose its legitimate revenue. The operative part of the order of the Hon'ble High Court of Delhi is reproduced as under:-

*“this Court is unable to approve of the decision dated 11th August 2010 of Respondent No. 4. It is directed that the ROC will now proceed to accept the Petitioner's Form 5 and record the increased authorized share capital without insisting on the Petitioner paying stamp duty thereon. This will however not enable the Petitioner to claim refund of any stamp duty paid earlier by it for increase in authorized share capital. The writ petition and the pending application are disposed of in the above terms.”*

Hence, it is proposed to amend the Schedule I-A of the Indian stamp Act, 1899 in its application to the National Capital Territory of Delhi and substitute clauses (a) and (b) thereof by the following clauses, namely: -

### **“10 Article of Association of a Company**

<b>Description of Instrument</b>	<b>Proper Stamp Duty</b>
<b>(a) When the Authorized capital of the Company does not exceed rupees one lakh;</b>	<b>0.15% of the Authorized share capital</b>
<b>(b) In other cases;</b>	<b>0.15% of the Authorized share capital with a monetary ceiling of rupees twenty five lakhs.</b>
<b>(c) When the Authorized share capital is increased</b>	<b>0.15% of the increase in Authorized share capital with a monetary ceiling of rupees twenty five lakhs.”</b>

(Dr.A.K.Walia)

## FINANCIAL MEMORANDUM

The Indian Stamp (Delhi Amendment) Bill, 2012 requires approval of Government of India. It will help the Government to collect its legitimate stamp duty amounting up to twenty five lakhs rupees on increase in authorized share capital by companies which the Government is likely to lose due to the decision of Hon'ble High Court of Delhi against the Delhi Government in the matter of M/s SE Investment Limited vs Government of Delhi.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The Indian Stamp (Delhi Amendment) Bill, 2012 does not seek to confer powers of legislation on any subordinate functionaries.