



SAMOA

STAMP DUTY ORDINANCE 1932

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STAMP DUTY ORDINANCE 1932

1932

No. 1

AN ORDINANCE to impose stamp duty on specified instruments.

[Assent and commencement date: 10 October 1932]

1. Short title - This Ordinance may be cited as the Stamp Duty Ordinance 1932.

2. Interpretation – In this Ordinance, unless the context requires a different interpretation:

“agreement for sale” means an agreement for the conveyance on sale of any property whether by way of actual sale, exchange or otherwise howsoever for valuable consideration;

“bank” has the same meaning as in section 2 of the Central Bank of Samoa Act 2015;

“bill of exchange” means a bill of exchange, promissory note or cheque within the meaning of the Bills of Exchange Act 1976.

“bill of lading” includes any receipt given in lieu thereof by the master, mate, owner, or agent of any vessel;

“capital assets” has the meaning under the Income Tax Act 2012;

“capital gains” has the meaning under section 62 of the Income Tax Act 2012;

“consideration” or “valuable consideration” means valuable consideration in money or money's worth;

“conveyance”, “transfer”, or “assignment” means the transfer of any property from one person to another whether by the owner of that property or by any other person in the exercise of a power of sale or appointment or otherwise howsoever;

“conveyance on sale” means a conveyance of property for valuable consideration whether by way of sale, exchange, or otherwise howsoever and shall include an agreement for sale made after the coming into operation of this Ordinance; and “a voluntary conveyance” means a conveyance of property otherwise than for valuable consideration;

“declaration of trust” means an instrument creating an express trust or acknowledging the existence of a trust already created, whether such instrument is executed by the creator of the trust or by the trustee, and whether the creator of the trust and the trustee are the same or different persons;

“duty” means stamp or other duty imposed by this Ordinance;

“executed” with reference to instruments means signed by any one or more of the parties thereto or in the case of a corporation sealed with

- its seal; and “execution” has a meaning corresponding thereto;
- “Gazette” means the Samoa Gazette;
- “impressed stamp” means:
- (a) a stamp impressed or imprinted by means of a die; or
 - (b) a record imprinted or made by means of any machine or implement;
- “instrument” includes every written document not being a will or other instrument operating by way of testamentary disposition only;
- “land” means land in Samoa;
- “lease” means an instrument whereby a leasehold interest in land is created whether at law or equity;
- “license” means an instrument wherever executed creating at law or in equity any easement over land or any right, privilege or license entitling the grantee to enter upon land or to use the same or to take timber, minerals, crops or other profits therefrom.
- “Minister” means the Minister of Finance;
- “mortgage” means a mortgage of land and includes an equitable mortgage or agreement to mortgage land whether to secure the payment of money or to secure the performance of any other obligation;
- “prescribed officer” means an officer prescribed under section 4(2) or by regulations;
- “presented for stamping” means delivered whether personally or otherwise at the office of the prescribed Officer for stamping;
- “property” means every description of property or proprietary right and every estate or interest in property whether legal or equitable and whether corporeal or incorporeal and includes goodwill;
- “Registrar” or “Registrar of Land” has the same meaning as “Registrar” in section 2(1) of the Land Titles Registration Act 2008;
- “shares” means shares in the capital of any company registered in Samoa or elsewhere and includes stock;
- “stamp” means a stamp lawfully created under the Post Office Act 1972 for stamp duty purposes or under this Act.”
- “writing” includes every mode in which words or figures can be expressed and “write” has a meaning corresponding thereto.

3. Imposition of stamp duty – (1) Subject to the provisions hereinafter appearing and to the exemptions set out in the Schedule, there shall be charged upon the instruments specified in the Schedule the several duties therein set opposite the same respectively.

(2) The duties shall become due and payable by the persons described in the Schedule as being primarily liable immediately upon the first execution of such instruments.

(3) All duties and additions thereto by ways of penalty payable under this Ordinance shall from and after the date on which the same become due and payable be deemed to be debts due to the Government of Samoa jointly and severally by a person primarily liable for the payment thereof and shall be recoverable accordingly.

(4) To avoid doubt, no stamp duty shall be charged in respect of any application for incorporation of a company under the Companies Act 2001, or in respect of any rules of incorporation adopted by a company under that Act, whether at the time of incorporation or otherwise.

4. Stamping instruments – (1) Except where otherwise specifically provided in that behalf, instruments to which this Ordinance applies and which are charged with stamp duty shall be stamped by the prescribed officer after the execution thereof in accordance with the provisions hereinafter appearing and not otherwise.

(2) The prescribed officer for:

- (a) instruments relating to land is the Registrar of Land; and
- (b) all other instruments is the prescribed officer of the Ministry of Finance.

(3) An instrument (to effect a sale or disposal of a capital asset) to which a stamp duty applies, will not be accepted for stamping, until the capital gains tax is paid on capital gains realised from the sale or disposal of the capital asset.

(4) For the purpose of subsection (3), the person presenting the instrument for stamping must provide written confirmation from the Ministry for Revenue that capital gains tax has been paid.

(5) The Registrar of Land or Chief Executive Officer may seek verification from the Ministry for Revenue, of any information or document provided by a person under subsection (4).

4A. Creation, custody and sale of impressed stamps – (1) The creation, custody and sale of impressed stamps shall be prescribed by regulations made under this section.

(2) Without limiting the regulations made under subsection (1), regulations may:

- (a) fix the design or designs and the values of the impressed stamp or stamps to be used in accordance with this Act; and
- (b) provide proper dies and other implements for impressing or imprinting stamps to denote stamp duties required by law to be denoted or expressed by means of such stamps, or make any other provision relative to the provision and use of such dies and implements as considered expedient;
- (c) prescribe the manner in which impressed stamps may be denoted or expressed;
- (d) prescribe the manner in which impressed stamps may be cancelled;
- (e) prescribe the manner in which impressed stamps which have become unusable or destroyed without being used, may be dealt with and allowed for;
- (f) prescribe the places where impressed stamps shall be kept for public sale and the particular values of the stamps that shall be kept for sale at such places or any of them;
- (g) create offences and penalties for forging or counterfeiting an impressed stamp, or using an impressed stamp knowing the same to be forged or counterfeited or to have been previously cancelled or used.

(3) All duties derived from the stamping of instruments relating to land shall be paid into the bank accounts designated by the Chief Executive Officer of the Ministry of Finance for that purpose and such accounts shall form part of the General Revenue Fund.

4B. Use of stamps – All stamps created under section 4A shall be available for the purposes of this Act.

5. Presentation for stamping – (1) Any instrument to which the last preceding section applies may at any time after the execution thereof be presented to the prescribed officer for stamping.

(2) If the instrument is liable to duty the prescribed officer shall assess the amount of such duty and on the payment thereof he or she shall cause the instrument to be stamped with an impressed or adhesive stamp indicating the amount of the duty and any addition thereto by way of penalty.

(3) If the instrument is not liable to duty the prescribed officer shall cause it to be stamped with an impressed or adhesive stamp indicating that the instrument is not liable to duty and every adhesive stamp so used shall be cancelled by impressing thereon the official seal.

(4) Every instrument so presented for stamping shall be assessed for stamp duty within one month from the date of presentation.

6. Penalties for late presentation – (1) Every instrument so presented for stamping within 1 month after and exclusive of the day of the execution thereof or in the case of an instrument executed out of Samoa within 1 month after it has first been received in Samoa shall be charged with the proper stamp duty only without penalty.

(2) If any instrument is so presented for stamping later than the period limited by the last preceding subsection but within 3 months after and exclusive of the day of the execution thereof (or in the case of an instrument executed out of Samoa within 3 months after it has first been received in Samoa) it shall be charged, in addition to the proper stamp duty, with a penalty equal to one-fourth of that duty.

(3) If any instrument is not presented for stamping within 3 months after and exclusive of the day of the execution thereof (or in the case of an instrument executed out of Samoa within 3 months after it has first been received in Samoa) it shall be charged in addition to the proper duty with a penalty equal to that duty but not less in any case than \$25.

7. Bills of exchange – (1) The stamp duty payable under this Ordinance on bills of exchange shall be denoted by one or more adhesive stamps which shall be affixed by any one of the persons primarily liable for the payment thereof:

PROVIDED THAT provision may be made by the Head of State on the advice of Cabinet by regulations under the principal Ordinance for exempting bills of exchange and promissory notes payable on demand from stamp duty in consideration of the payment by a bank operating in Samoa as nominated by the Ministry, of sums by way of commutation of that duty.

(2) It shall be the duty of the person so affixing an adhesive stamp or stamps to cancel the same by writing on or across each stamp his or her name or initials or the name of his or her firm together with the true date of his or her so signing.

(3) A person into whose hands any bill of exchange comes before it has been duly stamped shall, before he or she presents it for payment

or endorses, transfers or in any way negotiates it or accept it, or pays it, affix thereto the proper adhesive stamp and cancel it in manner provided in subsections (1) and (2) but no person shall thereby be relieved from liability for any offence theretofore committed by him or her against this Ordinance in respect of that bill.

(4) A person who fails, neglects or refuses duly and efficiently to affix and cancel a stamp in accordance with the provisions of this section shall be guilty of an offence and liable to a penalty of 1 penalty unit.

8 and 9. Repealed

10. Miscellaneous instruments – (1) The stamp duty payable under this Ordinance on:

- (a) agreements as provided by Item number 1 of the Schedule hereto;
- (b) appraisement or valuations;
- (c) bills of lading;
- (d) charter parties,-

may be denoted by one or more adhesive stamps affixed by any one of the persons primarily liable for the payment thereof at the time of execution.

(2) The person so affixing an adhesive stamp or stamps shall cancel the same forthwith by writing on or across each stamp his or her name or initials together with the true date of his or her so signing.

(3) A person who fails or neglects to cancel a stamp in manner provided by the last preceding subsection shall be guilty of an offence and shall be liable to a penalty of 1 penalty unit.

11. Consideration for instruments may be increased – (1) To the extent to which in the opinion of the prescribed officer the value for the consideration for an instrument of conveyance, lease or license is inadequate having regard to the value of the property conveyed, leased or granted thereby or is not ascertainable with reasonable accuracy he or she may in assessing duty on the instrument disregard the consideration shown therein and treat it as if it did not exist.

(2) In such case the instrument is deemed to be a voluntary conveyance to the extent of any resulting inadequacy in the consideration therefor and shall be chargeable with conveyance duty accordingly or the prescribed officer may assess the instrument with a

duty not exceeding the sum of \$50 in respect of the consideration so far as it is deemed to be unascertainable.

12. Appeals against assessment – (1) A person who is dissatisfied with the assessment of duty or penalty made in respect of any instrument presented by him or her or on his or her behalf for stamping may within 21 days after the date of such assessment and on payment of the duty and penalty (if any) so assessed appeal to the Supreme Court against such assessment.

(2) An appeal under this section shall be by way of motion in accordance with the rules of the Supreme Court.

(3) The Supreme Court has the power on any such motion:

- (a) to affirm or cancel the assessment or increase or reduce the amount thereof; or
- (b) to refer the assessment back to the prescribed officer to be altered in accordance with the directions of the Court; or
- (c) to make such order as it thinks fit in respect of the costs of and incidental to the motion.

13. Unstamped instrument in judicial proceedings – (1) Upon the production of an instrument chargeable with duty as evidence in any Court notice shall be taken by the Court of any omission or insufficiency of the duty thereon and if the instrument is one which may be stamped by the prescribed officer after the execution thereof it may, on payment into Court of such sum as may appear to the Court to be the amount of the unpaid duty and the penalty (if any) payable on the stamping thereof, be received in evidence saving all just exceptions on other grounds.

(2) The Court shall detain the instrument and transmit it to the Chief Executive Officer together with the duty and penalty so received and the instrument shall thereupon be assessed and stamped by the Chief Executive Officer as if it had been presented for stamping in the ordinary course and the provisions of this Ordinance as to stamping or instruments by the prescribed officer shall apply accordingly.

(3) Save as aforesaid no instrument chargeable with duty shall (except in criminal proceedings) be pleaded or given in evidence or admitted to be good, useful or available in law or equity unless it is stamped in accordance with this Ordinance.

14. Conveyance of land subject to encumbrances – A conveyance whereby property is transferred to any person subject whether certainly or contingently to any mortgage, charge or other security for money owing or to become owing shall to the extent of the sum secured by such mortgage, charge or security (together with the further consideration, if any, given for the property) be deemed to be a conveyance on sale and the sum shall be deemed to be the whole or part, as the case may be, of the consideration for such sum and conveyance duty on the instrument of conveyance (subject to the provisions of section 11) be computed and charged accordingly.

15. Conveyances by direction – (1) When property is conveyed by one person to another:

- (a) by the direction or at the request or with the consent of a third person (hereinafter called the intermediary) who under an agreement for sale or a trust or otherwise howsoever has the right to call for a conveyance of the property to himself or herself or to any other person; or
- (b) in pursuance of any derivative title obtained by the transferee from or through the intermediary by way of an agreement of sale or otherwise howsoever,-

the instrument of conveyance shall be subject to conveyance duty as if it was both a conveyance of the property by the transfer or to the intermediary and also a conveyance of the property by the intermediary to the transferee.

(2) The instrument of conveyance shall recite such direction, request, consent or derivative title and if the instrument is executed without such recital every person executing the same shall be guilty of an offence and liable to a penalty of 1 penalty unit.

(3) Nothing in this section applies if the instrument under which the intermediary has the right to call for a conveyance of any property has been executed before the coming into operation of this Ordinance.

16. Agreements for sale and purchase – Stamp duty paid on an agreement for sale and purchase shall be refunded if and so far as the prescribed officer is satisfied that the agreement of sale was unenforceable by reason of fraud, misrepresentation or defect of title and has been rescinded accordingly or has not been substantially performed or carried into effect whether directly or indirectly in favour of the purchaser or of any person claiming under him or her or otherwise

and that application for such refund has been made by the person entitled thereto within 12 months after the execution of the said agreement.

17. Fraudulent dealing with stamps – A person commits an offence and is liable to imprisonment for 3 months or to a fine of 5 penalty units who:

- (a) fraudulently removes or causes to be removed an adhesive stamp from any instrument or document; or
- (b) fraudulently affixes to any instrument or document an adhesive stamp which has been removed from any other instrument or other document; or
- (c) in any other manner fraudulently deals with any stamp with intent to defraud the Government of Samoa; or
- (d) by means of any false date, recital or statement in any instrument or by any false representation whatsoever defrauds or attempts to defraud the Government of Samoa of any duty or other money payable under this Ordinance whether by himself or herself or by any other person; or
- (e) is knowingly concerned in any offence under the last preceding subparagraph hereof.

18. Head of State may remit duty – (1) If the Head of State is satisfied that the exaction of the stamp duty or any penalty payable under this Ordinance will entail undue hardship to any person or is inequitable, the Head of State may, by warrant signed by him or her, exempt any instrument from the payment thereof or if the instrument has been duly stamped order a refund thereof.

(2) The exemption from or refund of stamp duty or penalty under subsection (1) may extend to the whole or such part thereof as to the Head of State shall seem fair and equitable in the circumstances.

(3) The prescribed officer shall without further authority and notwithstanding anything to the contrary in this Ordinance, stamp all instruments or refund stamp duties or penalties as the case may require in accordance with the provisions of any warrant made under this section.

19. Powers of the Chief Executive Officer – (1) For the purpose of obtaining information respecting the liability of any person to pay

any stamp duty or penalty under this Ordinance the prescribed officer may summon any person before him or her and examine that person on oath and may require that person to produce any document in that person's possession and control which contains or may be supposed to contain any such information.

(2) If any person so summoned refuses or wilfully neglects to appear before the prescribed officer in obedience to the summons or to take an oath as witness before the prescribed officer or if any person having been sworn as a witness at any such enquiry refuses or wilfully neglects to answer any question put to him or her touching the subject-matter of the enquiry or to produce to the prescribed officer and such document as aforesaid such person shall be guilty of an offence and liable to a fine of 5 penalty units.

(3) The prescribed officer may impound and detain any document which comes into his or her hands until the proper stamp duty and penalty (if any) assessed as payable thereon have been paid.

(4) All actions and proceedings to recover any stamp duty or penalty payable under this Ordinance may be commenced and prosecuted by the prescribed officer in his or her official name for and on behalf of the Government of Samoa.

20. Official seal – The official seal for the purpose of this Ordinance shall be the words "Stamp Duties Office Samoa" encircling the badge depicted in the public seal of Samoa.

21. Repeal and savings – (1) The Ordinance made by the Administrator of Samoa during the British Military Occupation thereof (known as Proclamations 53 and 58) and which shall be deemed to have been in full force and effect up to the coming into operation of this Ordinance is repealed.

(2) All acts of authority which originated under the Ordinances hereby repealed or either of them and are subsisting and in force at the commencement of this Ordinance shall ensure for the benefit of this Ordinance as fully and effectually as if they had originated thereunder.

22. Transitory provisions - (1) The provisions of this Ordinance with respect to stamp duty shall apply to all instruments which within the meaning of this Ordinance are executed after the commencement thereof.

(2) In the case of all other instruments the provisions with respect to stamp duty contained in the said Ordinances hereby repealed shall continue to apply as if they had remained in full force and effect.

(3) When the liability of an instrument to stamp duty depends in any manner on the payment of duty on any other instrument the payment of duty on that other instrument under this Ordinance hereby repealed shall have the same effect as the payment of the like duty under this Ordinance.

(4) Every instrument which is or purports to have been executed prior to the date of assent of the Omnibus Charges and Fees Amendment Act 1986 which is not presented to the prescribed officer for stamping within one month after that date of assent shall be deemed to have been executed on that date of assent.

23. Special valuations – (1) Where the value of any land or of any building is to be determined for the purpose of duty such value shall be determined by a valuer appointed by the Head of State. Such value shall be the amount of a special valuation made by such valuer of such land or building for the purposes of this Ordinance as at the date of execution of the instrument and the value shall for the purposes of duty be deemed to be the value determined as aforesaid.

(2) Where the value of any property other than land or buildings is to be determined for the purpose of duty such value shall be determined by the prescribed officer. Such value shall be the amount of a special valuation made by the prescribed officer of such property for the purposes of this Ordinance as at the date of execution of the instrument and the value shall for the purposes of duty be deemed to be the value determined as aforesaid.

(3) In respect of such special valuations there shall be payable by the persons liable to duty on the instrument such fee as may be prescribed by the Head of State by regulations under this Ordinance, and such fee shall be recoverable at the suit of the prescribed officer as a debt due to the Government of Samoa.

(4) The Head of State shall have power to make the appointment referred to in subsection (1) and the regulations referred to in subsection (3).

(5) When any special valuation has been so made any person liable to pay stamp duty in accordance with such valuation may within one month after the date of such assessment appeal to the Supreme Court against such assessment.

(6) Every appeal under this section shall be by way of motion in accordance with the rules of the Supreme Court.

(7) The Supreme Court shall have power on any such motion:

- (a) to diminish, increase or confirm the amount of the special valuation; or
- (b) to refer the special valuation back to the valuer or the Chief Executive Officer, as the case may be, to be altered in accordance with the directions of the Court; or
- (c) to make such order as it thinks fit in respect of the cost of any incidental to the motion.

24. Presentation of instrument and Government's right to sue

– The presentation of any instrument for stamping, or the assessment of duty or penalty in accordance with the provisions hereof, shall not constitute a condition precedent to the right of the Government of Samoa to sue for and recover any duty or penalty payable on that instrument.

25. Separate matters in instrument to be separately charged –

An instrument containing or relating to several distinct matters is to be separately and distinctly charged as if it were a separate instrument with duty in respect of each of those matters.

26. Penalty for understating value of property – (1) If any instrument liable to duty is so drawn or worded as to appear on the face of it to be exempt from duty, or to be liable to a less duty than that actually chargeable thereon, the instrument shall be liable to duty computed at double the rate which would otherwise have been chargeable and not less in any case than \$50.

(2) Nothing in this section shall render any person liable for such additional duty by reason merely of a bona fide error in stating the value of any property to which the instrument relates.

27. Penalty for failing to produce unstamped instrument – (1)

If the prescribed officer has reason to believe or suspect that any dutiable instrument executed after the coming into operation of this Ordinance has not been stamped, the prescribed officer may, by notice in writing, require any person whom he or she believes to be liable for the payment of duty on that instrument, or to have the possession or control of that instrument or of any duplicate, counterpart, or copy

thereof to produce it for inspection and assessment at the office of the prescribed officer.

(2) Any person to whom such notice has been given and who fails without reasonable cause (the burden of proof whereof shall be on him or her) to comply with the requirements of such notice shall be guilty of an offence, and shall be liable to a fine of 5 penalty units.

28. Penalty for failing to produce documents for inspection –

(1) All public officers and all other persons having in their custody or possession any rolls, books, records, registers, papers, or other documents the inspection whereof may tend to secure the payment of any stamp or other duty under this Ordinance, or to the proof or discovery of any fraud or omission in relation to any such duty, shall at all reasonable times, notwithstanding anything to the contrary in any other Act, Order or Ordinance in force in Samoa, permit any person authorised by the prescribed officer to inspect all such documents and to make such copies thereof or extracts therefrom as he or she may deem necessary, without fee or reward.

(2) A person who refuses to permit, or obstructs any such inspection or the making of any such copies or extracts commits an offence, and is liable to a fine of 5 penalty units.

29. Duty to be calculated in Samoa currency – Where an instrument is charged with ad valorem duty in respect of money in any currency other than that of Samoa, such duty shall be calculated on the value of such money in the currency of Samoa at the time of the execution of the instrument.

30. Duty on one of several instruments in respect of same transaction – Where 2 or more instruments of agreement have been executed in respect of the same agreement of the sale it shall be sufficient if any one of them is presented for stamping and stamped with conveyance duty, together with such penalty, if any, as may have been already incurred by reason of default in presenting the earliest of such instruments for stamping.

31. Agreement for sale followed by conveyance – When an agreement of sale is carried into effect in whole or in part by the execution of a conveyance to the purchaser, which is executed and presented for stamping within one month after the execution of the

instrument or earliest instrument of agreement of sale, the conveyance may be stamped with ad valorem duty as a conveyance on sale and the instrument of agreement shall thereupon to the extent to which it has been so carried into effect become exempt from duty.

**SCHEDULE
(Section 3)**

Item No.	Nature of Document	Duty	Person primarily liable
1.	Agreement or Memorandum of Agreement including contracts of agency made by deed: <u>Exemptions</u> (a) Government: any agreement to which Government is a party (b) Deed: any agreement which if made by Deed would be exempt from stamp duty (see Item No.11) (c) Otherwise charged: any agreement otherwise chargeable under this Schedule (d) Under \$100: any agreement the subject matter whereof is less than the value of \$100 (e) Charges under the Personal Property Securities Act 2013 – any fee prescribed under the Personal Property and Securities Act 2013. Nothing in this paragraph exempts a mortgage of land, variation of priority of mortgage of land from liability for duty	\$20.00	The parties thereto
2.	Appointment of new Trustees: for every Instrument of Appointment	\$20.00	The person making the appointment

	<p><u>Exemptions</u> (a) Orders of the Supreme Court (b) Wills</p>		
3.	<p>Appraisalment or Valuation <u>Exemptions</u> (a) Appraisalment of information of one party only (b) Appraisalment for or on behalf of the Government</p>	\$20.00	The person making the same
4.	Assignment for benefit of Creditors	\$20.00	The Assignee
5.	<p>Award Exemption Award made in any matter in which the Government is a party</p>	\$20.00	The person making the same
6.	<p><u>Bill of exchange</u> (a) Every Bill of Exchange payable on demand (b) Every Bill of Exchange payable otherwise for every \$100 or fractional part of \$100 of the amount thereof (c) Bill of Exchange drawn in a set shall be charged the same duty as if a single Bill had been drawn for the amount <u>Exemptions:</u> (a) Bills of Exchange drawn or made on behalf of the Government (b) Bank notes (meaning promissory notes issued by any person, firm or corporation carrying on the business of banking and payable on demand)</p>	0.50	Maker, drawer or acceptor
7.	<p><u>Bill of Lading</u> Bill of Lading for any goods, merchandise or effects to be carried to any place beyond</p>	\$20.00	The Consignor

	<p>Samoa <u>Exemption</u> A Bill of Lading issued for goods the property of the Government</p>		
8.	<p><u>Charter Party</u>-Charter Party for conveyance beyond Samoa <u>Exemption</u>-Charter Party when Government is charterer</p>	\$20.00	Charterer
9.	<p><i>Repealed by the Company Law Reform (Transitional Provision) Act 2006</i></p>		
10.	<p><u>Conveyances</u> For every conveyance on sale or voluntary conveyance with the following property values:</p> <p>(a) less than \$50,000</p> <p>(b) equal to \$50,000 or less than \$100,000</p> <p>(c) equal to \$100,000 or less than \$200,000</p>	<p>1% of the property value</p> <p>\$500 plus 2% of the excess above</p> <p>\$50,000 \$1,500 plus 3% of the excess above \$100,000</p>	

	<p>(d) equal to or more than \$200,000</p> <p><u>Exemptions</u></p> <p>(a) <i>Repealed by 1991, No.22</i></p> <p>(b) Chattels: a transfer of legal ownership of chattels or other property transferable by delivery merely</p> <p>(c) Government-</p> <p>(i) conveyance to the Government of any property</p> <p>(ii) transfer of legal ownership of bond debentures and other public securities issued by the Government</p> <p>(d) Gifts: the amount of gift duty payable under the Death Duties Order 1922 shall be deducted from the duty which would otherwise be payable but if there is no residue the instrument shall be charged with a stamp duty of \$20.00 in lieu of the conveyance duty payable under this item</p> <p>(e) Highway dedication: an instrument of a dedication of a highway</p> <p>(f) Instruments otherwise chargeable: an instrument of conveyance or transfer otherwise chargeable under this Schedule</p> <p>(g) Insurance: transfer of a policy or contract of insurance</p> <p>(h) Securities: Conveyance by way of security merely and any re-conveyance of property so</p>	<p>\$4,500 plus 4% of the excess above \$200,000</p>	
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	<p>conveyed on the discharge of the security: Transfers referred to in item No.16(c) (i) Transfer of shares (j) Ships: Transfer of the legal ownership of a ship or of any share therein (k) Trust Property: (i) Conveyance from a trustee to a trustee on the appointment of a new trustee or on the retirement of a trustee (ii) <i>Repealed by 1991, No.22</i></p>		
11.	<p>Deeds not charged otherwise: For every deed of any kind executed in Samoa or relating to any property situated in Samoa or to any matter or thing done or to be done in Samoa, and for which a specific stamp duty is not chargeable elsewhere in this Schedule</p> <p><u>Exceptions</u> (a) Apprenticeship any deed of apprenticeship (b) Any fee prescribed under the Personal Property Securities Act 2013. (c) Instruments: any instrument by way of deed exempted from payment of the stamp duty specified in any other item in this Schedule (d) Insurance: policies or contracts of insurance and transfer or mortgages of policies or contracts of insurance (e) Company Charges: (i) any charge document</p>	\$20.00	All parties thereto

	<p>within the meaning of clause 1 of Schedule 1 of the Companies Act 2001;</p> <p>(ii) any alteration document within the meaning of clause 1 of Schedule 1 of the Companies Act 2001</p> <p>Nothing in this paragraph exempts a mortgage, variation of priority of mortgage, or a variation or release of a mortgage from liability for duty</p>		
12.	<p>Duplicates and Counterparts: Every duplicate or counterpart of an instrument chargeable with stamp duty and duly stamped shall be liable for the same duty as the original instrument but with a maximum of</p> <p>Exemptions (a) Non- negotiable duplicated or counterparts of bills of lading (b) Duplicates of any instrument retained by the Registrar of Land appointed under the Samoa Land Registration Order (N.Z) to form records of the office of the Registrar of Land</p>	\$5.00	Person primarily liable under the original instrument
13.	<p>Guarantee: for every instrument guaranteeing or promising to answer for the debt or default of any other person and signed by the party to be charged where such guarantee or promise is the principal object of the instrument</p>	\$20.00	
14.	<p>Leases (see definition section 2) (a) For every agreement or deed of lease: for \$100 or part of \$100</p>	0.40	The Lessee

	<p>of the annual rent;</p> <p>(b) Where the consideration for a lease consists of money paid by way of a premium an additional stamp duty shall be payable on the amount of the premium as on a conveyance;</p> <p>(c) Where a lease includes not merely land but also chattels or other property the stamp duty shall be computed on the whole rent without apportionment;</p> <p>(d) Where the lease provides for an increase in the annual rental, the annual rental for the purposes of stamp duty shall be the highest rental payable in any one year during the demised term;</p> <p>(e) A lease granted without consideration shall be charged with duty as if it were a voluntary conveyance, and such duty shall be computed on the value of the leasehold interests so created;</p> <p>(f) A lease granted for an inadequate consideration shall, in respect of the consideration therefore, be charged in accordance with the foregoing provisions of this item, and shall also be charged with duty as if it were a voluntary conveyance in respect of the value of the leasehold interest after deducting the amount of such consideration;</p> <p>(g) Where duty has been paid on an agreement to lease an actual lease thereafter executed in pursuance of the agreement shall</p>		
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	<p>be charged with a duty of \$2.00 only.</p> <p><u>Exemption</u> Leases to the Government</p>		
15	<p>Licences (see definition section):</p> <p>(a) For every agreement or deed of licence: for every \$100 or part of \$100 which in a lease would be deemed to be rent</p> <p>(b) Where the consideration for a licence consists of money paid by way of a premium an additional stamp duty shall be payable on the amount of the premium as on a conveyance;</p> <p>(c) The provisions of sub-items (e) and (f) of item 14 hereof shall (mutatis mutandis) apply to the licences;</p> <p>(d) Where duty has been paid on an agreement to licence an actual licence thereafter executed in pursuance of the agreement shall be charged with a duty of \$2.00 only</p> <p><u>Exemption</u> Licences to and in favour of the Government</p>	0.30	The licensee
16.	<p>Mortgages (see definition section 2):</p> <p>(a) for every mortgage</p> <p>(b) for every release or partial release of mortgage</p> <p>(c) for every transfer of a mortgage, debenture or of money payable or to become payable, or of anything in action or any interest in a trust fund: for every</p>	<p>\$5.00</p> <p>\$20.00</p> <p>0.40</p> <p>0.40</p>	<p>The mortgagor</p> <p>The transferee</p> <p>The transferee</p>

	\$100 or part of \$100 for the consideration for transfer, or of the value of the property transferred in the case of a voluntary transfer or a transfer for an inadequate consideration; (d) where duty has been paid on an agreement to mortgage an actual mortgage thereafter executed in pursuance of the agreement shall be charged with a duty of \$2.00 only		
17.	Partitions: (a) for every instrument of partition where a consideration is paid by way of equality: for every \$100 or part of \$100 if the equality; (b) for every other instrument of partition	\$20.00 \$20.00	The party by whom the equality is payable All parties threto
18.	Policies of Sea Insurance: (a) Upon every policy of marine insurance of any voyage: For every voyage \$200 and every part of \$200 thereby insured; (b) Upon every policy of marine insurance for time, for every \$200 and every part of \$200 thereby insured: Where the insurance is made for any time not exceeding 6 months; For any time exceeding 6 months <u>Exemption</u> Insurance of goods the property of the Government	\$20.00 \$20.00	The party issuing the policy The party issuing the policy
19.	Shares: For every transfer of shares or of any equitable interest in shares in any company: for	\$0.50	The transferee

	every \$100 or part of \$100 of the consideration for transfer or of the value of the property transferred in the case of a voluntary transfer or a transfer for an inadequate consideration		
20.	<p>Declaration of Trust of any Property: Despite the exemptions under item 10 hereof the duty shall be one half of the duty set opposite items 10, 16(c) or 19 hereof, as the case maybe, as if it were a conveyance, transfer or assignment of the equitable title to the property by the creator of the trust to the beneficiaries:</p> <p>(a) Government: Declaration of trust in favour of the Government of any property;</p> <p>(b) Gifts: The amount of gift duty payable under the Death Duties Order 1922 shall be deducted from the duty which would otherwise be payable but if there is no residue the instrument shall be charged with a stamp duty of \$5.00 in lieu of the duty payable under this item;</p> <p>(c) Instruments otherwise chargeable: An instrument of declaration of trust of any property otherwise chargeable under this Schedule</p> <p>(d) Securities: Declaration of trust of any property by way of security merely and any re-conveyance of such property on the discharge of the security.</p>		The creator of the trust

REVISION NOTES 2008 – 2020/3 March 2021

This is the official version of this Ordinance as at 3 March 2021.

This Ordinance has been revised by the Legislative Drafting Division from 2008 to 2020/3 March 2021 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Amendments have been made to up-date references to offices, officers and statutes.
- (c) Insertion of the commencement date
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
 - (i) “Every” and “any” changed to “a”
 - (ii) “shall be” changed to “is” and “shall be deemed” changed to “is taken”
 - (iii) “shall have” changed to “has”
 - (iv) “shall be guilty” changed to “commits”
 - (v) “notwithstanding” changed to “despite”
 - (vi) “pursuant to” changed to “under”
 - (vii) “it shall be lawful” changed to “may”
 - (viii) “it shall be the duty” changed to “shall”
 - (ix) Numbers in words changed to figures
 - (x) “hereby” and “from time to time” (or “at any time” or “at all times”) removed
 - (xi) “under the hand of” changed to “signed by”
 - (xii) Section 2 revised in the definition of :
 - “bank” to refer to the definition in the Financial Institutions Act 1996 as the Banking Ordinance has been repealed
 - “stamp” to refer to the postal stamp created or issued under the Postal Services Act 2010.

This Act has been amended since the publication of the *Consolidated and Revised Statutes of Samoa 2007* as follows:

By the *Stamp Duty Amendment Act 2010, No. 19* (commenced on 1 July 2011):

Section 2 amended the definition of “bank” by omitting the Financial Institution Act 1960 and inserting Banking Ordinance 1960 (now changed to Central Bank of Samoa Act 2015); inserted definitions for “impressed stamp”, “Minister”, “Prescribed officer”, “Registrar or Registrar of Land”,

- Section 3** amended by substituting “Chief Executive Officer” with “prescribed officer”.
- Section 4** amended by inserting (1) in beginning of provision and inserting new subsection (2).
Insert new sections 4A and 4B
- Section 7** amended by substituting “the Bank of Samoa or such other bank as may from time to time operating in Samoa,” with “a bank operating in Samoa as nominated by the Ministry”.

By the *Stamp Duty Amendment Act 2012* (commencing on 2 April 2012):

- Schedule** Item 10 (Conveyances) of the Schedule, replaced.

By the *Personal Property Securities Act 2016, No. 5*, (commencing on 27 February 2017):

- Schedule** for item No.1, substitute new “paragraph (e)”;
For item No.11, substitute new “paragraph (b)”.

By the *Stamp Duty Amendment Act 2017, No. 7* (commenced on 1 July 2017):

- Section 2** definitions for “capital assets” and “capital gains” inserted and for the definition of “presented for stamping” substituted “Chief Executive Officer” with “prescribed Officers”;
- Section 4** new subsections (3), (4) and (5) inserted.

*This Ordinance is administered by
the Ministry of Finance.*