



**INLAND REVENUE DEPARTMENT
STAMP OFFICE**

3/F, Revenue Tower, 5 Gloucester Road,
Wan Chai, Hong Kong.

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STAMPING PROCEDURES AND EXPLANATORY NOTES

Stamping of Tenancy Agreement

Chargeability to Stamp Duty

Lease, agreement for lease and any other document of similar effect (including their duplicate and counterpart) (hereinafter called "tenancy agreement") are chargeable with stamp duty. The landlord, tenant and any other persons executing the tenancy agreement are liable for payment of stamp duty.

2. A tenancy agreement has to be stamped within 30 days from the date of execution. The commencement date of the agreement has no bearing on the time limit. An unstamped tenancy agreement shall not be received in evidence in civil proceedings and cannot be filed or acted upon by any public officer or any body corporate.

Stamping Procedures

3. With effect from **2 August 2004**, you may choose one of the following methods to stamp a tenancy agreement:

(i) **Via the Internet** (www.esd.gov.hk)

The most convenient way is to submit a stamping application via the Internet at the ESD web site. This is a 24 hours service and you do not need to present the original tenancy agreement to the Stamp Office.

The procedures are: Connect to www.esd.gov.hk then click "Government Public Services", then "Inland Revenue Department" and then "Stamping of Property Document". Select "Tenancy Agreement" under "Stamping Application". Read the instruction notes and input application details. Pay online by PPS, JETCO, VISA or MasterCard OR print the payment notice and pay the duty via existing tax payment channels. Finally, print the stamp certificate according to the instructions and attach it to the tenancy agreement.

(ii) **By Post** (P.O. Box No. 28827, Gloucester Road Post Office, Wan Chai, HK)

You may submit a stamping request in paper form [I.R.S.D.111(E)] by post. You do not need to attach the original tenancy agreement. The form can be obtained by fax at 2598 6001 or downloaded from IRD web site at www.ird.gov.hk or from the Stamp Office. You may photocopy the form for use.

If the tenancy agreement is one containing the usual terms, you can calculate the stamp duty payable and attach the payment cheque to the application form. The cheque should be made payable to "*The Government of the Hong Kong Special Administrative Region*" or "*The Government of the HKSAR*" and crossed. Please do not send in cash or post-dated cheques. The Stamp Office will send you the stamp certificate by post within 6 working days after receipt of your payment.

(iii) **In person at the Stamp Office (3/F, Revenue Tower, 5 Gloucester Road, Wan Chai, HK)**

You may visit the Stamp Office and present the original tenancy agreement for stamping over the counters. The service hours of the Stamp Office Counters are as follows:-

| | |
|----------------------------|---|
| Monday to Friday | 9:00 a.m. to 4:30 p.m. (No lunch break) |
| Saturday | 9:00 a.m. to 12:00 noon |
| Sunday and Public Holidays | Closed |

4. A stamp certificate has the same legal status as a conventional stamp.

Duty Rates

5. Stamp duty on tenancy agreements is calculated at rates which vary with the term of the tenancy as follows:

| <u>Term</u> | <u>Stamp Duty Rate (Note 1)</u> |
|---|--|
| Not defined or is uncertain | 0.25% of the yearly or average yearly rent (Note 2) |
| Does not exceed 1 year | 0.25% of the total rent payable over the term of the tenancy agreement (Note 2) |
| Exceeds 1 year but not exceeding 3 years | 0.5% of the yearly or average yearly rent (Note 2) |
| Exceeds 3 years | 1% of the yearly or average yearly rent (Note 2) |
| Key money, construction fee etc. mentioned in the tenancy agreement | 3.75% of the consideration if rent is also payable under the tenancy agreement. Otherwise, same duty as for a sale of immovable property |
| Duplicate or counterpart | \$5 each |

Note:

- 1 Where the stamp duty calculated includes a fraction of \$1, round-up the duty to the nearest \$1.
- 2 The yearly rent, average yearly rent and total rent has to be rounded-up to the nearest \$100. Rental deposit mentioned in the tenancy agreement will not be taken into account when computing stamp duty.

[You may refer to the examples in the Appendix.]

Penalty for Late Stamping

6. Late stamping and omission to stamp is subject to the payment of penalty as follows:-

| <u>Stamping Delay</u> | <u>Penalty</u> |
|--|-----------------------------------|
| Not exceeding 1 month | 2 times the amount of stamp duty |
| Exceeding 1 month but not exceeding 2 months | 4 times the amount of stamp duty |
| Any other case | 10 times the amount of stamp duty |

7. Any request for remission of penalty should be made in writing with explanations of the delay and supporting evidence. The Collector of Stamp Revenue may remit partly or wholly the penalty payable depending on individual circumstances of each case.

STAMP OFFICE

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Examples of the Computation of Stamp Duty on Tenancy Agreements

Term of a Tenancy Agreement

(a) To calculate the term of a tenancy agreement, both the commencement date and the cessation date will be counted.

Example 1 A tenancy agreement commences on 1 January 2004 and terminates on 31 December 2004. It is a term of 1 year, thus falling into the category "Does not exceed 1 year".

Example 2 A tenancy agreement commences on 1 January 2004 and terminates on 1 January 2005. It is a term of 1 year and 1 day, thus falling into the category "Exceeds 1 year but not exceeding 3 years".

(b) A tenancy agreement for a fixed term and thereafter until determined or one with a fixed term and an option to renew is both treated as a tenancy agreement for that fixed term.

Example 3 A tenancy agreement for a term of 2 years together with an option to renew for another 2 years is treated as a term of 2 years.

(c) A tenancy agreement for a fixed term but terminable upon an earlier event is treated as a tenancy for that fixed term.

Example 4 A tenancy agreement for a term of 4 years with a right for the tenant to break at the end of the second year is treated as a term of 4 years.

Calculation of Stamp Duty

The calculations are made on the basis that the documents are stamped within 30 days from the date of signing of the agreements. Otherwise, penalties will be payable.

Fixed rent Example 5 A tenancy agreement was signed on 1 July 2004 for a term of 8 months with monthly rental of \$5,000. The amount of stamp duty is \$100 [i.e. $\$5,000 \times 8 \times 0.25/100$].

Fixed rent with duplicate Example 6 A tenancy agreement with 2 copies was signed on 4 January 2004 for a term of 2 years with monthly rental of \$7,000. The amount of stamp duty is \$425 [i.e. $\$7,000 \times 12 \times 0.5/100 + \5 (for copy)].

Varied rent Example 7 A tenancy agreement with 2 copies was signed on 1 February 2004 for a term of 4 years commencing on 1 July 2004 with monthly rental of \$12,000 for the first 2 years and \$15,000 for the last 2 years. The amount of stamp duty is \$1,625 [i.e. $(\$12,000 \times 24 + \$15,000 \times 24)/4 \times 1/100 + \5 (for copy)].

Rent-free period Example 8 A tenancy agreement with 2 copies was signed on 2 July 2004 for a term of 2 years commencing on 1 September 2004 with monthly rental of \$10,000 and a 2-month rent-free period from 1 September 2004 to 31 October 2004. The amount of stamp duty is \$555 [i.e. $(\$10,000 \times 22)/2 \times 0.5/100 + \5 (for copy)].

(This leaflet is issued for guidance only and does not in any way bind the Collector of Stamp Revenue or affect the duty payers' right of appeal.)