

UK Stamp Duty on Transfers Executed on or after 16th March 1999 and before 28th March 2000

Stamp duty is no longer payable on documents executed after 28 March 2000, however it is payable in the UK on documents which transfer property and which were executed before that date (when transactions in intellectual property were exempted from stamp duty). Some types of document are liable to fixed stamp duty; others are liable to ad valorem stamp duty, which varies with the value of the consideration paid for the property transferred by the document.

Ad valorem stamp duty

Ad valorem stamp duty is payable upon a conveyance or transfer on sale. The rate at which ad valorem duty stamp duty is payable, and the proportion of the consideration upon which it is payable, are calculated as follows. Please note that the rates stated in this sheet only apply to documents executed between 16 March 1999 and 27 March 2000 inclusive.

of which the amount or value or aggregate amount or value of the consideration exceeds £60,000 [£250,000] [£500,000].”

A certificate of value cannot be included in an assignment document unless the specific amount of consideration paid is stated in the document.

If the total consideration involved in the transaction or series of transactions is greater than £500,000, then no certificate of value can be given. In these circumstances, a certificate of value included in a standard form of assignment should simply be struck out.

Stamp duty rates

The rate of stamp duty depends on the total consideration involved in any transaction or series of transactions of which the assignment in question forms part. The rates are as follows:

<u>Total Consideration</u>	<u>Rate of Stamp Duty</u>
Not exceeding £60,000	0%
Not exceeding £250,000	1%
Not exceeding £500,000	2.5%
Over £500,000	3.5%

Calculating the duty payable

Having established the rate of stamp duty payable, based upon the total consideration involved in the whole transaction or series of transactions, that rate is then applied to the consideration paid for the property transferred by the document in question. For example, if the document is an assignment of a European patent (UK) for £1,000, and the assignment of the European patent (UK) is part of a larger transaction involving total consideration of £300,000, the rate of stamp duty will be 2.5%, and the amount of stamp duty payable will be 2.5% of £1,000, i.e. £25.

Certificates of value

Stamp duty is always payable at the top rate of 4% unless the document includes a certificate of value, in the following form:

“It is hereby certified that the transaction hereby effected does not form part of a larger transaction or series of transactions in respect

UK and foreign property

If the document in question transfers both UK and foreign property, the following rules apply:

- if the document was wholly executed outside the UK, then stamp duty is payable on the amount of consideration paid for the UK property only; if the consideration mentioned in the document covers both UK and foreign property, an apportionment may be made to the UK property;

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- if the document was executed by either of the parties in the UK, then stamp duty is payable on the whole of the consideration paid, even if that consideration covers foreign property as well as UK property.

This does not affect the rate at which stamp duty is payable, which is always established according to the rules described above.

Fixed rate stamp duty

Fixed rate stamp duty is payable upon a document which transfers property but which is not a conveyance or transfer on sale. Most merger documents fall into this category.

The fixed rate is £5 for documents which have the effect of transferring intellectual property and which are dated on or after 1 October 1999 and before 28 March 2000.

Interest and penalties for late payment

Stamp duty should be paid within 30 days of execution of a document, regardless of where the document is executed.

In the event of late payment, interest will be charged on the amount of stamp duty payable, as from the expiry of the 30 days time limit until payment.

The current interest rate is 7.5%.

A penalty is also payable on documents executed in the UK and not stamped within 30 days of execution, and documents executed outside the UK and not stamped within 30 days of their entering the UK.

The penalty increases with the amount of duty payable and the number of months by which payment is late.

For documents where the stamp duty payable is no more than £5,000: the maximum penalty for a document stamped up to 12 months late is £200; the maximum penalty for a document stamped up to 24 months late is 45% of the duty payable, or £250 if greater.

Conclusion

Stamp duty has previously caused considerable complications in recording intellectual property transactions in the UK.

Such transactions are now exempt from stamp duty, so their recordal in the UK will be greatly simplified. However, stamp duty will still have to be paid before transactions that occurred earlier than 28 March 2000 can be recorded at the UK Patent Office or Trade Marks Registry.

We are happy to advise on the stamp duty implications of any such transactions.

This information is simplified and must not be taken as a definitive statement of the law or practice. For more information on Mewburn Ellis LLP and other intellectual property matters, please contact us or visit our website at www.mewburn.com.

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