



Research about -:

REAL ESTATE

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INDEX

SR.NO	PARTICULARS	PAGE NUMBER
1	Introduction	1
2	Flow Chart	3
3	Matters Covered under Real Estate Laws	4
4	Major Challenges Faced	4
5	Impact Of Real Estate Industries On Some Other Key Industries -:	4
6	Central Laws for Real Estate Sector	5
7	Real Estate Laws of Maharashtra	6
8	Laws Relating To Earning And Profits From Real Estate -:	
9	Tax Laws Affecting Real Estate Investments	7
10	Real Estate Authorities - Structure -:	8

INTRODUCTION -:

Real estate refers to LAND as well as BUILDING. Land along with those improvements to it such as commercial and residential structures, roadways and ports that are all fixed in location. Real estate transaction – Purchase, Sale and Development of Land (Residential and Non – Residential Buildings. Immovable property an immovable object, an item of property that cannot be moved without destroying or altering it, property that fixed to the Earth, such as land or a house, has fixed address, determined by the jurisdiction where it is located

Second largest employment generator sector after agriculture in India. Real Estate plays a crucial role in the Indian economy. The Housing sector alone contributes 5% to 6% of the country's GDP. Not only does it generates a high level of direct employment but it also stimulates the demand in over 250 ancillary industries such as Cement, Steel, Paint, Brick, Building Materials, Consumer durables and so on.

India will continue to maintain a GDP growth momentum of 9% to 10 % as the country will witness new private equity in capital markets which will inject capital in infrastructure projects.

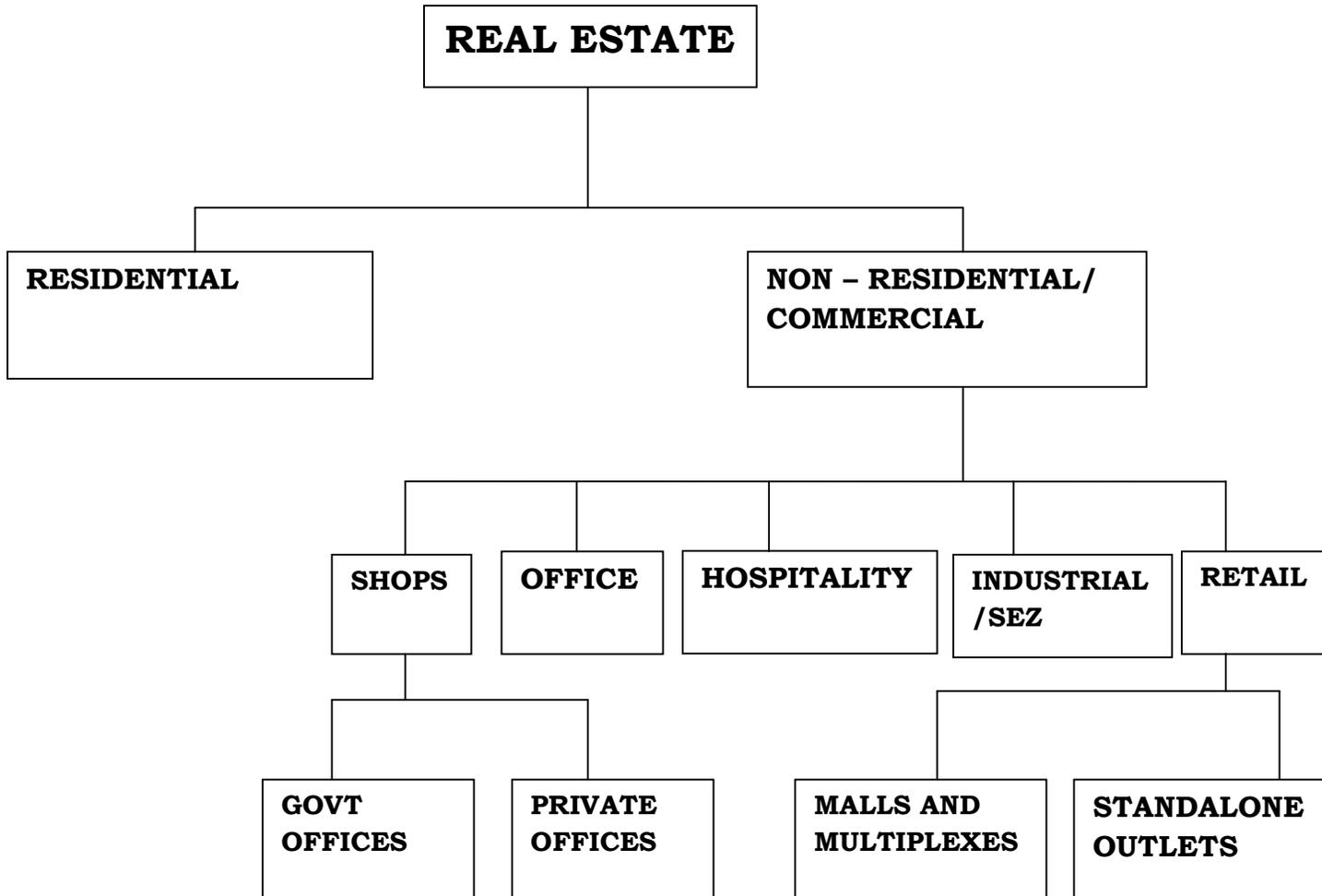
MAJOR AVENUES FOR INVESTMENT IN THE SECTOR INCLUDE -:

- 1) Commercial complexes
- 2) Multiplexes
- 3) Restaurants
- 4) Hotels
- 5) Malls
- 6) Shopping Complexes
- 7) Residential Flat
- 8) Buildings
- 9) Ports
- 10) Offices
- 11) Commercial Shops
- 12) Ports

Residential segment makes up most of the real estate industry in the country. The key trends are the geographic de – concentration of real estate activity from large metros (such as Bangalore, Mumbai and Delhi – NCR) to medium and small cities (such as Chandigarh, Pune, Jaipur Kochi, Visakhapatnam etc.) Development of mixed – use projects encompassing residential, commercial and retail complexes

Increase in demand for affordable housing etc. Rules and regulations that regulate every aspect of real estate property transaction. Intricate requirements involved in every real estate transaction be it acquisition, selling, transfer, or foreclosure of a property. Real Estate laws to safeguard the rights in the property owned or purchased or sold.

FLOW CHART



MATTERS COVERED UNDER REAL ESTATE LAWS

-:

- 1) Legal contracts and Agreements
- 2) Dispute resolutions related to real estate property distribution or possession.
- 3) Buying, Selling, Acquisition, Leasing and disposition of different types of Real Estate properties.
- 4) Taxation issues concerning Real Estate.
- 5) Preparing a plan and monitoring the construction of a Real Estate.
- 6) Drafting deeds and contracts for real estate transactions.
- 7) Overseeing legal issues in real estate foreclosures.

MAJOR CHALLENGES FACED -:

- 1) Land availability and acquisition issue
- 2) Lack of Transparency
- 3) High Stamp duty charges
- 4) Variable prices of Raw materials
- 5) Absence of Centralized Regulatory authority
- 6) Constraint of Funds

IMPACT OF REAL ESTATE INDUSTRIES ON SOME OTHER KEY INDUSTRIES -:

- 1) Retail – (Malls)
- 2) Hospitality – (Resorts, Hotels, Lodges, Spa, Ins)
- 3) Entertainment Industries (Multiplexes, Theatres, Recreation Centre)
- 4) Economic Services (Hospital, School)
- 5) Information Technology (IT) Enabled Companies (Call Centers)

CENTRAL LAWS FOR REAL ESTATE SECTOR -:

CENTRAL LAWS FOR GOVERNING REAL ESTATE TRANSACTIONS IN INDIA

- 1) The Indian Contract Act, 1872
- 2) The Indian Evidence Act, 1872
- 3) The Transfer of Property Act, 1882
- 4) Power of Attorney Act, 182
- 5) The Indian Easement Act, 1882
- 6) The Land Acquisition Act, 1894
- 7) The Indian Stamp Act, 1899
- 8) The Registration Act, 1908
- 9) The Co – operative Societies Act, 1912
- 10) The Income Tax Act, 1961
- 11) The Specific Relief Act, 1963
- 12) The Urban Land (Ceiling and regularization) Act 1976
- 13) The Consumer Protection Act, 1986
- 14) The Arbitration and Conciliation Act, 1996
- 15) Foreign Exchange Management Act, 1999/ Foreign Direct Investment Policy
- 16) The Multi – State Co – operative Societies Act , 2002
- 17) Securitisation an Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
- 18) Securitisation an Reconstruction of Financial Assets and Enforcement of Security Interest (Central Registry) Rules 2011
- 19) Service Tax provisions
- 20) SEBI norms for Real Estate Mutual Funds
- 21) The Land Acquisition, Rehabilitation and Resettlement Bill, 2011

REAL ESTATE LAWS OF MAHARASHTRA -:

- 1) Bombay Stamp Act, 1958
- 2) Maharashtra Ownership Flats (Regulation Of The Promotion Of Construction, Sale, Management And Transfer Act, 1963
- 3) Maharashtra Apartment Ownership Act, 1970
- 4) The Maharashtra Co-Op Society Act 1960
- 5) The Maharashtra Housing And Area Development Act 1976
- 6) Maharashtra Rent Control Act 1999
- 7) Development Control Regulations 1991

LAWS RELATING TO EARNING AND PROFITS FROM REAL ESTATE -:

1) PROPERTY TAX -:

- a. Levied by municipal authorities
- b. In India owner is liable to pay

2) INCOME TAX -:

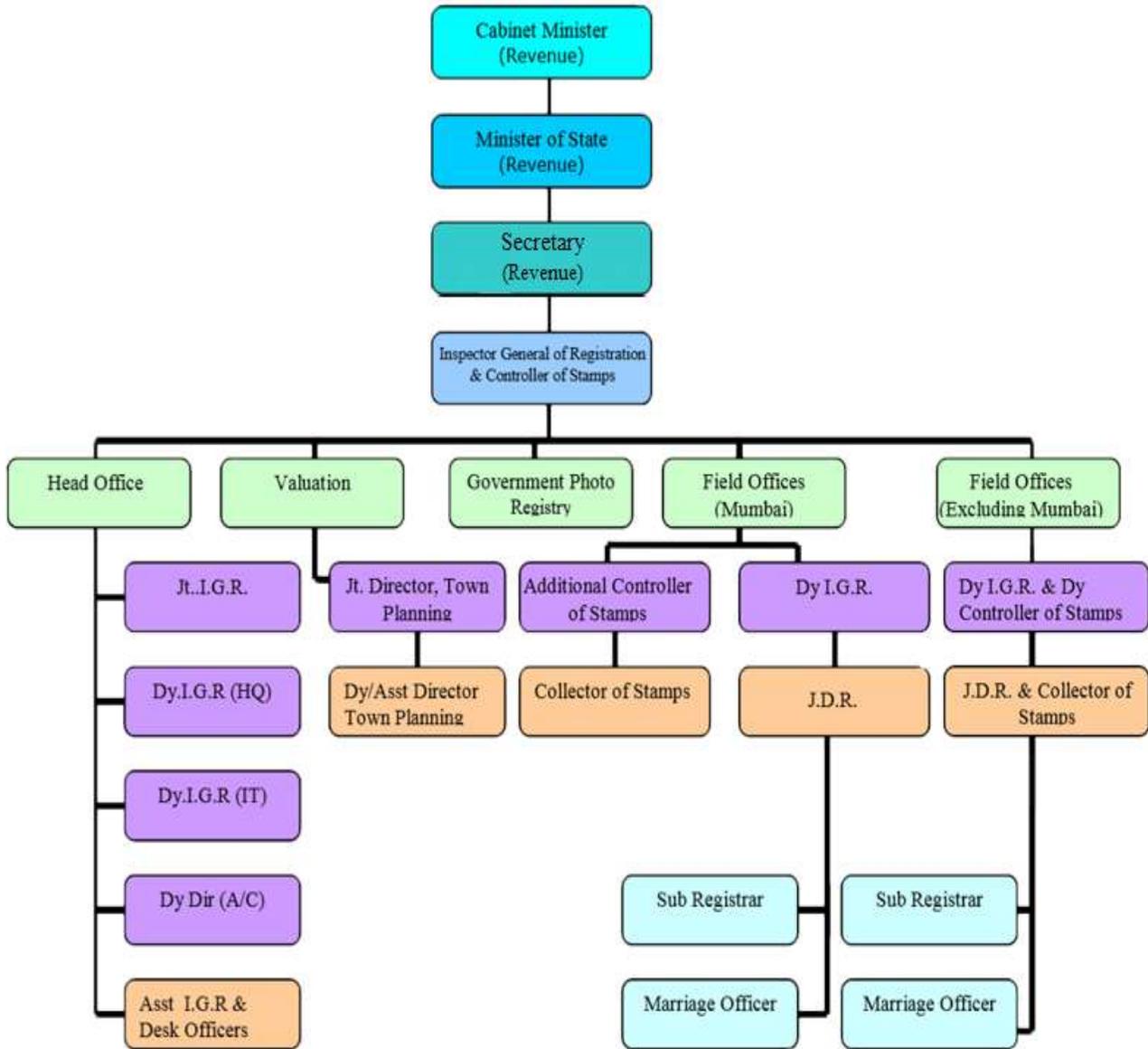
Paid to Central Government

3) CAPITAL GAIN TAX -:

TAX LAWS AFFECTING REAL ESTATE INVESTMENTS

Transfer of real estate in India is subject to stamp duty (in the nature of transfer tax payable to the revenue) which is payable on the instrument for transfer of real estate. Stamp duty differs from State to State. The rate of stamp duty varies depending on the transaction. For instance, the sale of real property in Maharashtra is required to be stamped at 5% of the consideration paid by the buyer. Note that the consideration for the purpose of stamp duty and registration cost cannot be lower than the price prescribed by the State Government, even though the actual sale may be transacted at a lower valuation. Transfer of real estate would also be subject to capital gains tax as set out in the Income-tax Act, 1961. The rate of capital gains tax would depend on the period of holding the asset under consideration. Income tax Act makes provision for taxation of income arising from international transaction between associated enterprises.

REAL ESTATE AUTHORITIES - STRUCTURE -:



- **IGR** Inspector General of Registration
- **ACS** Additional Controller of Stamps
- **JDTP** Joint Director of Town Planning
- **DIG** Deputy Inspector General of Registration
- **COS** Collector of Stamps
- **JDR** Joint District Registrar
- **DDTP** Deputy Director of Town Planning
- **ADTP** Assistant Director of Town Planning
- **SRO** Sub registrar's Office

Administrative Structure of Registration and Stamp Department:-

- The Registration and Stamp Department is a Department under the Revenue Department of Government of Maharashtra and is under the control of the Minister (Revenue).
- At Mantralaya level, the Secretary (Revenue) is the Secretary of the Department.
- The Inspector General of Registration and Controller of Stamp, Maharashtra State (IGR) is the Head of this Department and his office is located at Pune. IGR is the chief of the machinery for registration of documents in the state. Similarly, as per Stamp Act, he is the Chief Controlling Revenue Authority.
- In the Head office, to assist IGR, there are posts of Superintendent of Stamps (HQ), Deputy Inspector General of Registration (HQ), Deputy Inspector General of Registration (Computerisation) and Deputy Director of Accounts. These officers are assisted by Desk Officers.

At Field level, the structure of the Department is as follows:

- There are 507 offices of Sub-Registrars in the entire state for registration of documents. In the rural areas, generally there is one office for each taluka.
- To monitor the offices of sub-Registrars, there are 34 offices of Joint District Registrars at District level.
- There are 8 Regional Divisions of the Department in the State at Mumbai, Pune, Thane, Nashik, Aurangabad, Nagpur, Amravati and Latur and they are under the control of Deputy Inspector General of Registration .
- The Collectors of Stamps of Mumbai City and Mumbai Suburban Districts are under the control of Additional Controller of Stamps, Mumbai.
- The Sub-Registrars of District Headquarters in the State perform the function of special marriages registration. However, there are independent offices of Marriage Officers for the 3 districts Mumbai City, Mumbai Suburban and Pune.
- There are 7 offices of Deputy Director/Assistant Director, Town Planning (Valuation) for preparing Annual Statement of Rates and they are under the control of Joint Director, Town Planning (Valuation) at State level.
- Government Photo Registration Office in Pune functions to preserve the records of documents photographed in the past