DRAFTING NOTE

STAMP DUTY ACT 2026

1. Status and purpose of this note

This drafting note is explanatory and is not part of the proposed Assembly Act. It identifies the legislative need, the relationship with earlier Eritrean law, the principal matters retained, the modernization choices made and the place of the draft within the emerging constitutional statute book. The instrument remains a consultation draft and should be finalized only after legal, institutional, fiscal and public review.

2. Legislative need and prior law

Earlier stamp duties were paper-based transaction taxes scattered through the tax chain. They should be narrowed so that formality does not obstruct digital commerce or ordinary access to justice.

3. What the draft retains

The draft retains only clearly legislated duties on defined instruments and exemptions justified by public policy.

4. What the draft updates and modernizes

It introduces electronic stamping and payment, clear valuation and liability rules, taxpayer rights, proportionate anti-avoidance, refunds and objections, and eliminates the fiction that an electronic instrument escapes or incurs duty merely because of its medium.

5. Constitutional, code and treaty fit

The draft is framed under the Constitution of Eritrea 1997 and must be read with the Civil Code, Penal Code, Civil Procedure Code and Criminal Procedure Code of Eritrea 2015 where those Codes govern. It is also coordinated with the other institutional, financial, commercial, land, labour, administrative and sectoral drafts in this collection. References to international or regional standards guide compatibility and implementation; they do not bypass the Treaty-Making Act or convert an unincorporated instrument into domestic law.

6. Scope and organization

The principal divisions address preliminary provisions; charge and connection with eritrea; chargeable transactions; valuation; reliefs and exemptions; assessment, payment and certification; validity, evidence and enforcement; adjustment and refund; avoidance, review and accountability; transition and final provisions.

7. Transition, implementation and consultation

The draft preserves lawful accrued rights, completed transactions, pending proceedings and institutional continuity where appropriate, while preventing temporary savings from preserving unconstitutional coercion or indefinite executive discretion. Before enactment or issuance, authentic predecessor instruments and amendments should be verified, cross-references and fiscal capacity confirmed, implementing regulations and digital systems prepared, and affected institutions, professions, communities and the public given a practical opportunity to comment.

CONSULTATION DRAFT — NOT ENACTED LAW

ACT NO. ___/2026

STAMP DUTY ACT 2026

(ACT)

AN ACT TO MODERNIZE AND LIMIT STAMP DUTY, PROVIDE FOR ELECTRONIC ASSESSMENT AND PAYMENT ON SPECIFIED INSTRUMENTS AND TRANSACTIONS, REPEAL OBSOLETE PAPER-STAMPING REQUIREMENTS, AND PROVIDE FOR RELATED MATTERS.

PREAMBLE

WHEREAS under Article 32(3) of the Constitution of Eritrea, a tax and its essential incidents must be established by an Act of the National Assembly;
WHEREAS Stamp Duty Proclamation 65/1994 relies substantially upon physical instruments, impressed or adhesive stamps and consequences inconsistent with electronic commerce, efficient registration and access to justice;
WHEREAS any continuing documentary or transaction duty should be narrow, transparent, simple to administer and coordinated with income tax, value added tax, property registration and the 2015 Codes;
WHEREAS the validity, enforceability or admissibility of an instrument should not depend upon its paper form or the prior purchase of a physical stamp, without excusing lawful tax liability;
NOW, THEREFORE, the National Assembly of Eritrea enacts as follows:

CHAPTER I
PRELIMINARY PROVISIONS

Article 1 — Short title

This Act may be cited as the Stamp Duty Act 2026.

Article 2 — Objects

1. confine stamp duty to instruments and transactions expressly selected by the National Assembly;
2. replace physical stamping with simple electronic or accessible payment and certification;
3. preserve legal validity, court access and electronic functional equivalence;
4. prevent duplication with VAT, income tax and cost-recovery fees; and
5. provide fair valuation, relief, refund and review.

Article 3 — Application

1. This Act applies to an instrument or transaction listed in Schedule 1 that is executed, completed, registered, performed or connected with Eritrea as specified there.
2. The Tax Administration Act governs registration, assessment, payment, interest, penalty, collection, objection and appeal except where this Act provides a necessary instrument-specific rule.
3. This Act does not apply to an ordinary agreement merely because it is written or capable of enforcement.

Article 4 — Definitions

1. “chargeable instrument” means an instrument expressly listed in Schedule 1;
2. “consideration” means money or value provided for a transaction;
3. “electronic instrument” means information created, communicated, received or stored electronically and capable of reliable retention;
4. “execute” includes sign, authenticate, issue or otherwise adopt an instrument;
5. “instrument” includes a paper or electronic document recording a transaction;
6. “market value” means the arm's-length value between independent persons; and
7. “transaction” includes a transfer, grant, lease, security or other dealing described in Schedule 1.

Article 5 — Duty only by law

1. No duty is chargeable unless Schedule 1 identifies the instrument or transaction, taxable event, liable person, base and rate or fixed amount.
2. No ministry, registry, court, local government, authority or officer may create or enlarge duty through a form, fee schedule, directive, classification or refusal of service.

Article 6 — Constitution and other laws

1. This Act shall be interpreted consistently with the Constitution and treaties lawfully binding upon Eritrea.
2. The Civil, Commercial and Maritime Codes govern creation, validity, electronic form, transfer and enforcement of rights except for the tax consequences expressly provided here.
3. The Income Tax, Tax Administration, Value Added Tax and Excise Tax, Customs, Land, Investment and Interpretation and General Provisions Acts remain applicable within their fields.

Article 7 — Electronic neutrality

1. An instrument shall not be denied chargeable or exempt status solely because it is electronic.
2. An electronic instrument shall not be denied validity, enforceability, registration or admissibility solely because it lacks paper, handwriting, seal or physical revenue stamp.

CHAPTER II
CHARGE AND CONNECTION WITH ERITREA

Article 8 — Imposition

1. Stamp duty is imposed on each chargeable instrument or transaction at the rate or amount in Schedule 1.
2. The same transaction shall not be charged more than once merely because counterparts, copies, electronic records or implementing documents exist.

Article 9 — Territorial connection

1. An instrument is connected with Eritrea where it transfers Eritrean immovable property, an Eritrean registered right or another interest expressly identified in Schedule 1.
2. Place of electronic signature, server, transmission or storage alone does not create liability without the substantive connection required by Schedule 1.

Article 10 — Time of liability

1. Duty becomes due upon execution, completion, registration or another event specified for the category in Schedule 1.
2. A conditional transaction becomes chargeable when the condition occurs unless Schedule 1 provides an earlier ascertainable event.

Article 11 — Person liable

1. The person identified in Schedule 1 is primarily liable.
2. Parties are not jointly liable merely by signing unless Schedule 1 expressly imposes joint responsibility according to their economic interest.

Article 12 — Counterparts and duplicates

1. One instrument designated as the principal is charged with full duty and a genuine counterpart or duplicate is not separately charged.
2. A certified copy may bear a modest cost-recovery certification fee established under registry law but not an additional stamp tax.

Article 13 — Several matters in one instrument

1. Genuinely distinct chargeable transactions recorded in one instrument are separately charged.
2. Incidental provisions implementing one principal transaction are not separate taxable matters.

Article 14 — Series of instruments

1. A transaction implemented through several instruments is charged according to its overall substance without duplication.
2. The Revenue Authority shall identify the principal instrument and give credit for duty paid on an implementing instrument.

CHAPTER III
CHARGEABLE TRANSACTIONS

Article 15 — Exclusive legislative list

1. Only the categories enacted in Schedule 1 are chargeable.
2. The list shall be construed narrowly and shall not extend by analogy to a new commercial form or technology.

Article 16 — Immovable-property transfer

1. A transfer of ownership or qualifying long-term interest in Eritrean immovable property may be charged as Schedule 1 provides.
2. Transfer tax shall be coordinated with registration and capital-gains tax and shall not be calculated on an artificial official value.

Article 17 — Lease

1. Only a lease meeting the duration, value or commercial-use threshold in Schedule 1 is chargeable.
2. Ordinary residential rent, agricultural subsistence use and a short-term licence are not chargeable unless expressly listed.

Article 18 — Security interest

1. A mortgage or other registered security may be charged only on the secured principal amount and at the rate in Schedule 1.
2. Further security for the same debt receives credit, and release or discharge is not charged beyond a cost-recovery registration fee.

Article 19 — Business and share transactions

1. A transfer of shares, partnership interest or business asset is chargeable only where expressly listed and above the threshold in Schedule 1.
2. Issue of new capital, ordinary securities trading and internal reorganization are not chargeable unless the Schedule clearly provides otherwise.

Article 20 — Insurance instruments

1. An insurance policy or premium is chargeable only if Schedule 1 states the class, base and liable insurer.
2. Life, health, agricultural, microinsurance and compulsory social insurance may receive exemption according to Schedule 2.

Article 21 — Bills and transferable instruments

1. A bill of exchange, promissory note, warehouse receipt, bill of lading or electronic transferable record is not chargeable unless listed in Schedule 1.
2. The duty shall not impair negotiability or duplicate a financial-service tax.

Article 22 — Government licences and certificates

1. A government licence, passport, civil-status certificate, court filing or administrative permit is not stamp duty merely because a fee is payable.
2. A fee must be authorized under the law governing the service, reasonably related to cost or regulatory purpose, and accounted for separately from tax.

Article 23 — No duty on ordinary contracts

1. Employment, consumer, sale-of-goods, service, loan, guarantee and commercial contracts are not chargeable merely as instruments.
2. A contract remains subject to another tax according to its substance, without conversion of that tax into stamp duty.

CHAPTER IV
VALUATION

Article 24 — General value

1. An ad valorem duty is computed on consideration or market value as Schedule 1 specifies.
2. VAT included in consideration is excluded from the stamp-duty base unless the Schedule expressly and constitutionally provides otherwise.

Article 25 — Market value

1. Market value is determined from the property, right, conditions and date of transaction using reliable arm's-length evidence.
2. A published reference value may identify a case for review but is not conclusive and shall not replace individualized evidence.

Article 26 — Related persons and gifts

1. A transfer between related persons for inadequate consideration is valued at market value where Schedule 1 so provides.
2. A genuine gift, inheritance or family transfer receives the treatment and relief stated in Schedule 2.

Article 27 — Contingent consideration

1. Ascertainable contingent consideration is included when reasonably measurable.
2. Additional duty or refund arises when the contingency is resolved, without penalty where initial disclosure was complete and reasonable.

Article 28 — Debt and assumed liability

1. Debt assumed by a transferee forms part of value only to the extent it is economic consideration for the transferred interest.
2. Ordinary liabilities taken with an ongoing business shall not be counted twice in asset and enterprise value.

Article 29 — Foreign currency

1. Foreign currency is converted at a published market-consistent rate under National Bank law for the date of liability.
2. An artificial official rate shall not be used to enlarge duty, reduce a genuine cost or confiscate value.

Article 30 — Apportionment

1. Consideration for chargeable and nonchargeable property is apportioned by reasonable market value.
2. A party may obtain advance agreement or challenge an apportionment through ordinary objection and appeal.

CHAPTER V
RELIEFS AND EXEMPTIONS

Article 31 — Exemptions only by Act

1. An exemption exists only under Schedule 2 or another Act expressly applying to stamp duty.
2. An executive agreement, investment licence, unpublished waiver or official status does not create exemption.

Article 32 — Government

1. A noncommercial instrument executed solely for a public function may be exempt as Schedule 2 provides.
2. A public enterprise or Government commercial transaction is treated on the same basis as private competition.

Article 33 — Family and succession

1. A transfer on death, matrimonial division, divorce settlement or genuine family reorganization may be exempt or relieved under Schedule 2.
2. Relief shall not shelter a disguised commercial sale or avoidance arrangement.

Article 34 — Reorganization

1. A genuine merger, division, conversion or intragroup reorganization may receive deferral or relief where beneficial ownership and business continuity are substantially preserved.
2. A later disposal within the prescribed period may withdraw relief to prevent temporary avoidance.

Article 35 — Charitable and public benefit

1. A transfer to a registered public-benefit organization for exclusive charitable use may receive relief.
2. Relief is denied to the extent of private benefit, commercial resale or political favoritism.

Article 36 — Affordable housing and small transactions

1. Schedule 2 may exempt or reduce duty for a first modest home, social housing or transaction below a legislated value threshold.
2. Relief shall be simple, objective and periodically adjusted for inflation and housing conditions.

Article 37 — International obligations

1. Diplomatic or treaty relief applies only to the extent required by a lawfully binding obligation and through published procedure.
2. Relief shall not be inferred from foreign ownership or international involvement alone.

Article 38 — Relief certificate

1. A person claiming relief may obtain an electronic or paper certificate identifying its legal basis.
2. Failure by the Authority to issue the certificate timely does not destroy a relief otherwise proved.

CHAPTER VI
ASSESSMENT, PAYMENT AND CERTIFICATION

Article 39 — Self-assessment

1. The liable person shall file a concise return and pay duty within thirty days after liability unless Schedule 1 provides another period.
2. The return shall identify the transaction, value, category, rate, relief and computation.

Article 40 — Electronic service

1. The Revenue Authority shall provide electronic filing, payment, assessment, certificate and verification without requiring physical presentation.
2. An accessible paper or assisted process shall remain available during outage and for a person unable reasonably to use the electronic service.

Article 41 — Certificate of payment

1. Upon payment, the Authority shall issue a uniquely verifiable certificate linked to the instrument or transaction.
2. The certificate replaces an impressed or adhesive revenue stamp and may be verified without disclosure of unrelated tax information.

Article 42 — Physical stamps abolished

1. No physical revenue stamp, embossing, impressed mark or adhesive label is required under this Act.
2. Unused legacy stamps may be refunded or exchanged during the transition period under published procedure.

Article 43 — Assessment

1. The Revenue Authority may amend self-assessment under the Tax Administration Act after notice and opportunity to respond.
2. An assessment shall state category, value, rate, calculation, interest, penalty and review rights.

Article 44 — Adjudication before transaction

1. A party may request a binding determination of classification, value, relief or duty before execution or registration.
2. The Authority shall decide within thirty days after receiving complete information and give reasons.

Article 45 — Advance payment

1. Duty may be paid before execution where the essential transaction and value are known.
2. If the transaction does not occur or materially changes, refund or adjustment is available under Chapter VIII.

Article 46 — Registration coordination

1. A land, company, securities or other registry may verify payment or relief electronically before completing a chargeable registration.
2. The registry shall not reassess tax, demand a physical stamp or collect an unauthorized additional percentage.

CHAPTER VII
VALIDITY, EVIDENCE AND ENFORCEMENT

Article 47 — Validity unaffected

1. Failure to pay duty does not invalidate, void or render unenforceable an instrument or transaction.
2. Civil rights of a party, consumer, employee, creditor or innocent third person shall not depend upon another person's tax compliance.

Article 48 — Admissibility

1. A court, tribunal or public authority shall admit and consider a relevant instrument notwithstanding unpaid duty.
2. The court may notify the Revenue Authority and preserve lawful assessment, but shall not deny hearing, remedy or defence because duty was unpaid.

Article 49 — Registration and service

1. A registry may temporarily defer final registration of a chargeable transaction pending payment or proof of relief after giving written notice.
2. Urgent protective registration, caveat, injunction, limitation filing or preservation of priority shall not be refused where deferral would cause irreparable prejudice.

Article 50 — Copies and electronic records

1. A reliable copy, extract or electronic record may prove the instrument and its tax status.
2. The Authority shall not demand an original paper where authenticity and integrity are otherwise established.

Article 51 — Inspection power

1. An authorized officer may require a person to produce an identified instrument or transaction record foreseeably relevant to duty.
2. The request shall be specific, proportionate and subject to privilege, privacy and Tax Administration Act safeguards.

Article 52 — Third-party information

1. A registry, notary, bank, insurer, company or licensed intermediary may be required by Act or specific notice to report a chargeable transaction.
2. Routine reporting shall be standardized and shall not require privileged or irrelevant information.

Article 53 — Unpaid duty

1. Unpaid duty may be assessed and recovered under the Tax Administration Act with compensatory interest.
2. Collection shall be directed to the liable person and shall not confiscate the instrument or unrelated third-party property.

Article 54 — Penalties

1. A civil penalty may apply to culpable failure, material false statement or deliberate concealment under the Tax Administration Act.
2. An innocent classification dispute, reasonable valuation difference or technical certificate error shall not be treated as fraud.

Article 55 — False certificate

1. Making or knowingly using a forged payment or relief certificate may attract civil penalty and referral under the Penal Code.
2. The Revenue Authority shall provide a free verification method that does not expose confidential information.

CHAPTER VIII
ADJUSTMENT AND REFUND

Article 56 — Cancelled transaction

1. Duty is refundable where a transaction is rescinded, annulled or never completed and no enduring benefit or registered interest remains.
2. Refund may be reduced only for a separable transaction that actually occurred.

Article 57 — Overpayment

1. Duty paid by mistake, duplicate payment, excessive valuation or incorrect classification is refundable under the Tax Administration Act.
2. A claim may be made within five years after payment or discovery of the error, whichever is later subject to a reasonable final limit.

Article 58 — Change in consideration

1. A lawful reduction in consideration after payment produces proportionate refund where not designed for avoidance.
2. An increase produces additional duty without penalty when reported within thirty days.

Article 59 — Refund procedure

1. A complete low-risk refund shall be paid within thirty days and another claim decided within sixty days.
2. The undisputed portion shall be released promptly, and interest applies to unreasonable delay.

Article 60 — Credit

1. At the taxpayer's election, an approved refund may be credited to another final national tax liability.
2. A credit shall be immediately recorded and receipted in the taxpayer account.

CHAPTER IX
AVOIDANCE, REVIEW AND ACCOUNTABILITY

Article 61 — Anti-avoidance

1. A series of instruments or arrangement lacking substantial commercial purpose and principally designed to avoid a charge expressly imposed by Schedule 1 may be treated according to substance.
2. Use of an unlisted instrument, lawful relief or genuine commercial structure is not avoidance merely because no duty arises.

Article 62 — Burden and reasons

1. The Revenue Authority bears the burden for penalty, fraud, market-value substitution and anti-avoidance.
2. An adverse decision shall disclose facts, evidence, legal basis and computation.

Article 63 — Objection and appeal

1. A person may object and appeal under the Tax Administration Act against classification, value, liability, denial of relief, penalty or refund decision.
2. Payment or security shall not be required at a level that destroys practical access to review.

Article 64 — Publication

1. The Authority shall publish the Act, completed Schedules, forms, valuation guidance, rulings, service standards and anonymized decisions.
2. An unpublished classification or practice shall not create liability or penalty.

Article 65 — Revenue reporting

1. Annual reporting shall state duty by category, refunds, relief, arrears, disputes, administrative cost and transaction volume.
2. The fiscal cost and distribution of each exemption shall be reported without disclosing protected taxpayer information.

Article 66 — Auditor General

1. The Auditor General may audit collections, refunds, certificates, valuations, exemptions, systems and registry coordination.
2. The audit shall preserve taxpayer confidentiality while reporting systemic findings.

CHAPTER X
TRANSITION AND FINAL PROVISIONS

Article 67 — Legacy inventory

1. Within six months, Government shall inventory physical stamps, accounts, authorized sellers, pending adjudications, exemptions, forms, systems and arrears under the repealed law.
2. The inventory shall secure public property, close unauthorized sales and reconcile revenue.

Article 68 — Existing instruments

1. An instrument executed before commencement remains governed by prior substantive liability, subject to constitutional safeguards and modern payment certification.
2. An instrument executed after commencement is not chargeable merely because a legacy category or physical-stamp practice existed.

Article 69 — Repeal

1. Stamp Duty Proclamation 65/1994 and its implementing instruments are repealed upon commencement.

2. Accrued lawful liability, refund, objection and proceeding continue without preserving physical-stamp requirements or evidentiary exclusion.

Article 70 — Regulations

1. The Minister responsible for finance may, after public consultation, make regulations on returns, certificates, electronic systems, evidence, valuation procedure, refunds and transition.
2. Regulations shall not add a chargeable instrument, change a rate or base, restrict validity or admissibility, or create an offence.

Article 71 — Schedules

1. Schedules 1 and 2 form part of this Act and may be completed or amended only by an Act.
2. Each charge and relief shall be reviewed for revenue, fairness, transaction cost, housing access, investment and administrative burden.

Article 72 — Periodic review

1. The National Assembly shall review this Act within three years and thereafter at intervals not exceeding five years.
2. The review shall consider whether remaining duties should be narrowed, replaced by transparent service fees or repealed.

Article 73 — Commencement

1. Chapters I, VI and X commence upon publication to permit preparation and completion of the Schedules.
2. The remaining Chapters commence on 1 January following at least three months after enactment of complete Schedules 1 and 2.

SCHEDULE 1

CHARGEABLE INSTRUMENTS, TRANSACTIONS, BASES AND RATES

Before enactment, the National Assembly shall list each retained chargeable transaction, its Eritrean connection, liable person, taxable event, base, threshold and rate or fixed amount. Ordinary contracts are excluded, and no duty arises until Schedule 1 is completed and enacted by the National Assembly.

SCHEDULE 2

EXEMPTIONS AND RELIEFS

Before enactment, the National Assembly shall specify relief for approved family and succession transactions, modest housing, public-benefit transfers, genuine reorganizations, treaty obligations and any other narrowly justified category. No executive authority may create an additional exemption.

Made at Asmara, this ___ day of __________ 2026.

THE NATIONAL ASSEMBLY OF ERITREA