

ESTATE DUTY RULES, 1953

CONTENTS

PART 1 :- PRELIMINARY

1. Short title and commencement.
2. Definitions.

PART 2 :- TRANSFER OF CASES AND PROCEDURE ON TRANSFER

3. 3
4. 4
5. 5
- 6 . Power of the Central Board of Direct Taxes to transfer proceedings

PART 3 :- DETERMINATION OF NATURE AND LOCALITY OF ASSETS

7. Determination of nature of property.
8. Location of movable property.
9. Location of immovable property.

PART 4 :- PURCHASE OF ANNUITIES FROM RELATIVES

10. Purchase of annuities from relatives.

PART 5 :- OBJECTS OF NATIONAL, SCIENTIFIC AND HISTORIC INTEREST OF OTHER DRAWINGS, PAINTINGS, ETC. RETAINED IN THE FAMILY

11. Conditions for exemption.
12. Exception to undertaking.
13. Effect of default in complying with the undertaking.

PART 6 :- VALUATION AND INSPECTION OF PROPERTY

14. Valuation.
15. Inspection.

PART 7 :- ALLOWANCE FOR DUTY PAID IN A NON-RECIPROCATING COUNTRY

16. Amount of allowance.

PART 8 :- PAYMENT OF DUTY

17. Calculation and adjustment of duty.
18. Method of payment.
19. Payment on account of or deposit in respect of duty.

PART 9 :- DELIVERY AND PREPARATION OF ACCOUNTS

20. Form of account.
- 20A. Form of account where death takes place on or after the commencement of the Estate Duty (Amendment) Act, 1958 (33 of 1958).
21. Beneficiaries to account.
22. Copy of the will to accompany account.
23. 23
24. Production of books of account and documents.
25. Account when deemed to be duly delivered.

PART 10 :- MISCELLANEOUS

26. Forms.
27. 27
28. Particulars to be furnished by a foreign company.
29. Particulars to be furnished by an Indian company or a corporation.
- 29A. Particulars to be furnished by an Indian company or a corporation in case of the death of joint holder of shares, stocks, debentures or other securities.
30. Life insurance policies taken out for the purposes of estate duty.
31. Assignment of existing insurance policies to the Government for the purpose of paying estate duty.
- 31A. Lodgment of insurance policies and former deeds of assignment or re-assignment of policies with the Controller.
32. Procedure to be followed when estate duty is less than the value of policy.
33. Government not responsible if the insurer pays less than the amount due under the policy.
34. Earmarking of the policy for the marriage of a dependent female relative.
35. Particulars to be furnished by insurers.
36. 36
37. Particulars to be furnished by a Provident Fund or a Superannuation Fund in the case of the death of a member participating in the Fund.
38. Procedure for claiming relief under Double Taxation (Estate Duty) Avoidance Agreement between India and United Kingdom.
39. Procedure for referring the question of disputed value to the arbitration of two valuers under sub-section (4) of Sec. 63.
- 39A. Procedure for referring the question of disputed value to the arbitration of two valuers under sub-section (6) of Sec. 63.
40. Procedure for referring the question of valuation to a third valuer under the second proviso to sub-section (4) of Sec. 63.

40A. Procedure for referring the question of valuation to a third valuer under the proviso to sub-section (6) of Sec. 63.

41. Qualification of certain persons to appear as authorised representatives.

42. Terms on which period referred to in sub-section (3) of Sec. 53 may be extended.

43. Disclosure of information respecting assessments.

ESTATE DUTY RULES, 1953

S.R.O. 556, dated 13th February, 1955.-In exercise of the powers conferred by sub-section (1) of Sec. 85 of the Estate Duty Act, 1953' (XXXIV of 1953), the Central Board of Revenue hereby makes the following rules, the same having been previously published as required by sub-section (1) of Sec. 85 of the said Act.

PART 1

PRELIMINARY

1. Short title and commencement. :-

(1) These rules may be called the Estate Duty Rules, 1953.

(2) They shall be deemed to have come into force on the 15th October, 1953.

2. Definitions. :-

In these rules, unless the context otherwise requires,-

(a) "the Act" means the Estate Duty Act, 1953 ¹(XXXIV of 1953);

²[(b) "authorised bank" means any bank as may be appointed by the Reserve Bank of India as its agent under the provisions of sub-section (1) of Section 45 of the Reserve Bank of India Act, 1934 (2 of 1934).]

(c) "duty" means estate duty leviable under the Act;

(d) "Income-tax Act" means the Indian Income-tax Act, 1922 (XI of 1922);

³ (e) [* * * *]

1. The following Act has been repealed.

2. Omitted by Notification S.O. 1619, dated 1st July, 1960 and ins. by S.O. 801, dated 17th November, 1981 (w.e.f. 17th November, 1981).

3. Omitted by S.R.O. 289, dated 1st February, 1956.

PART 2

3. 3 :-

1 [* * * *]

1. Omitted by G.S.R. 742, dated 14th May, 1965.

4. 4 :-

1 [* * * *]

1. Omitted by G.S.R. 742, dated 14th May, 1965.

5. 5 :-

1 Notwithstanding that an Assistant Controller or a Deputy Controller is not exercising the functions of the Income-tax Officer or the Inspecting Assistant Commissioner, as the case may be, in respect of the assessment under the Income tax Act, 1961 of a deceased person, he shall exercise the functions of the Controller in respect of the estate of the deceased if the case relating to the estate is specifically assigned to him under the second proviso to sub-section (2) of Section 4 of the Act.]

1. Subs. by S.O. 747, dated 1st April, 1959.

6. Power of the Central Board of Direct Taxes to transfer proceedings :-

(1) Notwithstanding anything contained in rule 5, the Board may at any stage of the proceeding relating to the case of any estate transfer it from one assessing authority to another.

(2) The assessing authority to whom the case of an estate has been transferred under sub-rule (1) may continue the proceeding so transferred from the stage at which it stood immediately before the transfer or recommence the proceeding:

Provided that before recommencing any proceeding the accountable person shall be given a reasonable opportunity of being heard.

(3) Whenever, a Deputy Controller or an Assistant Controller ceases to exercise jurisdiction in respect of any proceeding under the Act and is succeeded by another who has or exercises such jurisdiction, the Deputy Controller or the Assistant Controller so succeeding may continue the proceeding from the stage at which it was left by his predecessor:

Provided that the accountable person may, when the succeeding Deputy Controller or Assistant Controller commences to exercise

jurisdiction, demand that the previous proceeding or any part thereof taken before his predecessor be re-opened or that before any order imposing the duty is passed he be re-heard.]

PART 3

DETERMINATION OF NATURE AND LOCALITY OF ASSETS

7. Determination of nature of property. :-

The nature of assets which for the purpose of duty form or are deemed to form part of the property passing on death shall be determined in accordance with the following clauses, namely,-

(a) Immovable property includes land, water covering the land, buildings, rights to ways, lights, ferries or fisheries or any other benefit to arise out of land (other than the forms of benefit for which specific provision is made in these rules) and things attached to the earth or permanently fastened to anything which is attached to the earth, but does not include standing timber, growing crops and grass.

Explanation.- Attached to the earth means- (i) rooted in the earth, as in the case of trees and shrubs; (ii) imbedded in the earth, as in the case of walls or buildings; or (iii) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached.

(b) The interest of a mortgagee in immovable property other than a mortgagee who is entitled to possession of the property under the terms of the mortgage and is actually in possession of the property, is movable property.

(c) The share of a partner in a partnership shall be treated as an indivisible asset for the purpose of determination of its nature and locality. The share of a partner in a partnership is movable property, notwithstanding that the firm owns immovable property.

1 (d) [* * *]

(e) The share or other interest of any member in a company is movable property, notwithstanding that the company owns immovable property.

(f) A debt or periodical payment secured by a charge on immovable property is movable property.

(g) The interest of a beneficiary in an unadministered estate is movable property.

(h) Movable property shall mean property of every description except property which is immovable.

1. Omitted by S.O. 747, dated 1st April, 1959.

8. Location of movable property. :-

The locality of movable assets which for the purpose of duty form or are deemed to form part of the property passing on death shall be determined in accordance with the following clauses, namely,-

(a) Rights of interest (otherwise than by way of security) in or over movable property shall be deemed to be situated at the place where such property is situated.

(b) Rights or interests (otherwise than by way of security) in or over movable property, other than such property for which specific provision is made herein and in or over bank or currency notes, other forms of currency recognised as legal tender in the place of issue, negotiable bills of exchange and negotiable promissory notes, shall be deemed to be situated at the place where property, notes, currency or documents are situated at the time of death, or, if in transitu, at the place of destination.

(c) Debts, secured or unsecured and whether under seal or not, excluding the forms of indebtedness for which specific provision is made in this rule, shall be deemed to be situated at the place where the debtor was residing at the time of death; provided that if the interest on such debt was chargeable to income-tax under the Income tax Act, 1961 it shall be deemed to be situated in India.

(d) Bank accounts shall be deemed to be situated at the branch at which the account was kept.

(e) Securities issued by any government, municipality or local authority shall be deemed, if in bearer form, to be situated at the place where they are situated at the time of death and, if inscribed or registered, to be situated at the place of inscription or registration.

(f) Shares, stock, debentures or debenture stock in a company (including any such property held by a nominee, whether the beneficial ownership is evidenced by scrip certificates or otherwise) shall be deemed to be situated at the place where the company was incorporated.

(g) Monies payable under a policy of assurance or insurance, whether under seal or not, shall be deemed to be situated at the place where the policy provides that the monies shall be payable or in the absence of any such provision, at head office of the company.

(h) Shares in a partnership shall be deemed to be situated at the place where the business is principally carried on.

(i) Ships and aircraft and shares thereof shall be deemed to be situated at the place of registration of the ship or aircraft.

(j) Goodwill as trade, business or professional asset shall be deemed to be situated at the place where the trade, business or profession to which it pertains is carried on.

(k) Patents, trade-marks and designs shall be deemed to be situated at the place where they are registered.

(l) Copyright, franchises, and rights or licences to use any copyrighted material, patent, trade-mark or design shall be deemed to be situated at the place where the rights arising therefrom are exercisable.

(m) Rights or causes of action ex delicto surviving for the benefit of an estate of a deceased person shall be deemed to be situated at the place where such rights or causes of action arose.

9. Location of immovable property. :-

The locality of immovable assets which for the purpose of duty form or are deemed to form part of the property passing on death shall be determined in accordance with the following clauses, namely,-

(a) Tangible immovable property shall be deemed to be situated in India, if the property actually lies in India.

(b) Rights or interests in immovable property or benefits to arise out of immovable property, which are immovable property within the meaning of these rules, are situate in India, if the property to which the rights are attached or out of which the benefits arise, actually lies in India.

PART 4

PURCHASE OF ANNUITIES FROM RELATIVES

10. Purchase of annuities from relatives. :-

(1) Subject to the provisions of this rule, the relief specified here

under shall be granted where any estate duty becomes, or would but for this rule become, payable by virtue of Section 27 of the Act.

(2) The sum on which duty would be payable apart from this rule on the death in respect of the property which was the subject-matter of the disposition or in respect of the property liable to a debt or encumbrance created by the deceased which was the subject-matter of the disposition, as the case may be, shall first be computed and, subject to the limitations provided for by sub-rule (3) of the rule there shall then be allowed as a deduction from that sum-

(a) the amount, if any, by which the aggregate of the payments which have been made on account of the annuity or other interest for the period from the date when the annuity or other interest began to accrue in favour of the deceased until his death exceeds the aggregate of the income derived from the deceased by virtue of the disposition for the period from the date of the disposition until his death; and

(b) simple interest on so much, if any, of the amount aforesaid, and for such period, as, in the opinion of the Controller, is in all the circumstances just, at the rates from time to time payable during that period on duty in arrear. The expression "the aggregate of the income derived from the deceased by virtue of the disposition" means-

(i) in relation to so much of the property which was the subject-matter of the disposition as did not consist of a debt or encumbrance created by the deceased, such amount as, in the opinion of the Controller, as in all the circumstances equal the reasonable return from the property; and

(ii) in relation to so much of the property which was the subject-matter of the disposition as did consist of a debt or encumbrance created by the deceased, the aggregate amount of the interest paid or payable by the deceased in respect of that debt or encumbrance.

(3) The amount to be allowed as a deduction under sub-rule (2) shall, in the circumstances mentioned hereunder, be limited to the extent specified in this sub-rule. Further, the provisions of subsection (1) of Section 46 of the Act shall, in the manner specified in this sub-rule, have effect in relation to the computation of the amount allowed-

(a) Where if, (i) the annuity payments had formed the consideration for a debt created by the deceased equal to the total amount of those payments; (ii) Section 44 of the Act (which provides for an allowance for debt in computing the amount on which the duty is payable), were applied on that debt. The full amount of that debt would not, having regard to the operation of sub-section (1) of Section 46 of the Act, have been allowable under Section 44 of the Act, the annuity payments shall, for the purpose of ascertaining the amount allowed, be reduced, so as not to exceed the amount, if any, which would have been allowable in the circumstances aforesaid under Sec. 44 of the Act: Provided that, in applying the said Sec. 46 for the purposes of this rule, property which is the subject-matter of the disposition shall not be treated as property derived from the deceased.

(b) Where under Section 27 of the Act, a deduction for partial consideration would have been allowable in respect of the annuity or other interest, if sub-section (2) of that section had not applied to the disposition and if any other consideration for the disposition had not been given, the amount allowed shall not exceed the amount of that deduction.

(c) Where the amount allowed is allowed as deduction from the value of property liable to a debt or encumbrance created by the deceased, it shall not exceed the amount, if any, which would be allowed under Sec. 44 if Sec. 27 had not been enacted.

(d) In this rule, the expression "the annuity payments" means the payments specified in Cl. (a) of sub-rule (2) and the expression "the amount allowed" means the amount to be allowed as a deduction under this rule.

PART 5

OBJECTS OF NATIONAL, SCIENTIFIC AND HISTORIC INTEREST OF OTHER DRAWINGS, PAINTINGS, ETC. RETAINED IN THE FAMILY

11. Conditions for exemption. :-

(1) Objects of national, scientific or historic interest or other drawings, paintings, or things specified in CIs. (i) and (j) of sub-section (1) of the Act which are retained in the family of the deceased shall be exempt from the duty on an undertaking being given by such person as the Board may think appropriate in the circumstances of the case that, until the objects again pass on a death or are sold-

(a) the objects will be kept permanently in India and will not leave it temporarily except for a purpose and a period approved by the Board; and

(b) reasonable step will be taken for the preservation of the objects;

(c) reasonable facilities for examining the objects for the purpose of seeing the steps taken for their preservation or for purposes of research or report will be allowed to officers of the National Museum, National Art Gallery, Department of Archaeology and the National Archives or to any person authorised by the Board so to examine them; and

(d) the objects will be dealt with or disposed of in accordance with the directions of the Central Government.

(2) In the event of the sale of any objects to which this rule applies, duty shall, subject to as hereinafter provided, become payable on the proceeds of sale in respect of the last death on which the objects pass at the rate appropriate to the principal value of the estate passing on that death and the persons by whom or for whose benefits the objects were sold shall be accountable for the duty and shall deliver an account for the purpose thereof within one month after the sale:

Provided that the duty shall not become payable as aforesaid if the sale is to Government or to any university or other public institution in India.

12. Exception to undertaking. :-

If on a claim for exemption under CIs. (i) and (j) of sub-section (1) of Section 33 of the Act it is made to appear to the Board that any documents for which the exemption is claimed contain information which for personal or other reasons ought to be treated as confidential, the Board may exclude those documents either altogether or to such extent as it thinks fit from any undertaking under sub-rule (1) of rule 11 so far as the undertaking relates to the examination of the documents for purposes of research.

13. Effect of default in complying with the undertaking. :-

1 _

(1) Where any objects are exempted from duty in pursuance of an undertaking under sub-rule (1) of rule 11 and the Board is satisfied

that at any time during the period for which the undertaking was given, it has not been observed in any material respect, then duty shall become payable on the value at that time of those objects in respect of the death on which the exemption was given.

(2) Where liability to duty arises under sub-rule (1)-

(a) duty shall be payable at the rate appropriate to the principal value of the estate passing on that death as if CIs. (i) and (j) of sub-section (1) of Sec.33 never applied, to those objects;

(b) any person who, if the objects were sold where the duty becomes payable, would be entitled to receive (whether for his own benefit or not) the proceeds of sale or any income arising therefrom shall be accountable for the duty.

(3) Where any objects are sold after they become liable to duty under sub-rule (1) in respect of any death, the proceeds of the sale shall not be liable to duty in respect of the same death under sub-rule (2) of rule 11.

Explanatory Note.-This note is not part of the amendment but is intended to be merely clarification. Rule 13 of the Estate Duty Rules, 1953, as it stands is considered to be lengthy as it is expressed in one sentence running into 164 words. In order to simplify it, the said rule has been split up into separate sentences without making any change in the substance.

1. Sub. by S.R.O. 1365, dated 12th June, 1956.

PART 6

VALUATION AND INSPECTION OF PROPERTY

14. Valuation. :-

(1) The Controller may accept the valuation as shown in the account delivered by the accountable person or may, if he is not satisfied with the valuation shown therein, either himself place a valuation thereon on his own estimate or appoint a person to appraise such properties and to set the valuation thereon. The cost of any such professional assistance shall be defrayed by the Government.

(2) The price or value at which a testator may have given by his will to a particular person the option to acquire a property will not be considered as a test of its market-value.

(3) When a property has actually been sold within a short time after the death of the deceased under open market conditions, the gross sum realised shall be taken as the principal value and no deduction shall be made for the expenses of the sale.

(4) If the property is part of an unadministered estate or a share of property subject to a trust already in operation which involves conversion or if the property consists of certified chattels of national, historic or scientific interest a reasonable deduction for cost of sale may be allowed by the Controller in determining the value thereof.

(5) If the property consists of land containing minerals a separate value should be placed on the latter on the basis of a certificate by a qualified Mining Engineer.

(6) In the case of any agricultural land the principal value shall not ordinarily exceed twenty times of the annual value as assessed for the purpose of land revenue:

1 Provided that, if the Controller is satisfied that the principal value so ascertained is less than three-fourths of the market-value of the land at the time of the death of the deceased, the principal value of the land shall be estimated under Section 36 of the Act.

(7) In arriving at the market-value of interests in expectancy, the following conditions shall be taken into account, namely,-

(a) The age and state of health of the life-tenant, the contingencies affecting the duration and extent of his interests and the possible cost of covering his interest by Insurance.

(b) The duty and cost of realisation and distribution payable when the interests fall into possession.

(c) The character of the assets and the possibilities of their appreciation or depreciation in value.

(d) The rate of interest, and officially recognised tables of mortality.

(8) Value of the dutiable property abroad should be calculated at the rate of exchange on the date of death.

1. Proviso added by S.R.O. 289 of 31st January, 1956.

15. Inspection. :-

(1) The Controller may, by written order signed by him, authorise

any person to enter upon or inspect any property for the purposes of the Act.

(2) The person or persons having the custody or possession of the property shall permit the person so authorised to enter upon and inspect it on any day excluding Sundays and holidays under the Negotiable Instruments Act, 1881 , at any time between 6 a.m. and 6 p.m.

PART 7

ALLOWANCE FOR DUTY PAID IN A NON-RECIPROCATING COUNTRY

16. Amount of allowance. :-

Where any property liable to duty in India under the Act has been subjected to estate duty in any other country with which no arrangement has been made for avoidance or relief of double taxation with respect to estate duty, the amount to be allowed by the Controller under Section 49 of the Act as a deduction from the value of the property shall be-

(a) the full amount of duty paid in the other country if the law in the other country relating to the determination of the situs of the property concerned for the purpose of imposition of the duty is the same as in India;

(b) such amount as the Board may direct, in other cases.

PART 8

PAYMENT OF DUTY

17. Calculation and adjustment of duty. :-

1 - [* * *]

1. Omitted by the Estate Duty (Amendment) Rules, 1960.

18. Method of payment. :-

(1) Payment of duty or deposits may be made-

(a) by delivery of a cheque on a scheduled bank at the office of the Controller;

(b) by delivery of a bank draft issued by a schedule bank at the office of the Controller;

(c) by depositing the amount of the duty to the credit of the Central Government **1**[* * **]at any branch of the Reserve Bank of India, or at any branch of the **2**[State] Bank of India, **3**[or any

branch of the authorised bank]

(d) Where an amount is deposited under Cl. (c) above it shall be accompanied by the appropriate treasury chalan, the receipted portion of which will be returned to the person making the payment;

4 (e) by adjustment of any refund of income-tax, excess profits tax, business profits tax or excess profits tax deposits.

(2) The cheques and bank drafts shall be drawn in favour of the Reserve Bank of India and shall be crossed.

(3) Where a cheque has been delivered to the Controller the duty shall not, notwithstanding any receipt given therefor, be deemed to have been paid until the amount for which the cheque is drawn has been collected.

(4) Receipts for payment of duty shall be issued only by such persons as the Controller may authorise.

1. Omitted by S.O. 801 (E), dated 17th November, 1981 (w.e.f. 17th November, 1981).

2. Subs for the words "Imperial Bank of India" by Notification S.O. 1619, dated 1st July, 1960.

3. Subs. by S.O. 801 (E), dated 17th November, 1981 (w.e.f. 17th November, 1981).

4. Ins. by Notification S.R.O. 1905, dated 22nd August, 1956.

19. Payment on account of or deposit in respect of duty. :-

(1) A sum may be paid on account of duty in the manner provided in the preceding rule, the cheque or the bank draft being accompanied by a letter stating the name and date of the death of the deceased person and, if known, the official reference number of his estate.

(2) Any person desirous of depositing money for the purpose of paying duty that may become payable on his death shall furnish to the Controller a statement of the net assets existing on the date of making the deposit and the principal value thereof, on the basis of which the amount of duty has been calculated.

1[(3) Interest at the rate of 2 per cent. per annum shall be allowed on all deposits made under Cl. (g) of sub-section (1) of Section 33 of the Act for the purpose of paying estate duty **2** [from the date of deposit to the date of death].

1. Ins. by Notification S.R.O. 800, dated 6th April, 1955.
2. Ins. by Notification S.R.O. 1619, dated 1st July, 1960.

PART 9

DELIVERY AND PREPARATION OF ACCOUNTS

20. Form of account. :-

(1) The account required to be delivered under sub-section (3) of Section 53 of the Act ¹[shall in cases where death occurred before the commencement of the Estate Duty (Amendment) Act, 1958 (99 of 1958) be in Form E.D. 1] appended to these rules, and the supplementary account mentioned in sub-section (4) of the said section shall be in the same form duly adopted to suit the requirements of the items included therein.

(2) The account to be annexed to the affidavit of valuation mentioned in Cl. (a) of ²[sub-section (1) of Section 56] of the Act shall also be in Form E.D. 1.

3 (3) [* * *]

(4) All such accounts shall show the principal value of each item of property compromised in the estate with full details together with the basis of valuation. Such valuation may be ascertained by the accountable person either by estimating it himself or if ascertained with professional assistance, the certificate of the qualified valuer shall be appended.

(5) The Controller may at his discretion accept the form of account substantially similar to the prescribed form.

(6) Where a grant of representation is not required and an exemption from duty is claimed by reason of the smallness of the estate, the account may be delivered in Form E.D.5.

1. Subs. by S.O. 1619, dated 1st July, 1960, for the words "shall be in form E.D.I".

2. Subs. by Notification S.O. 1619, dated 1st July, 1960, for the words "Section 57".

3. Omitted by S.O. 1619, dated 1st July, 1960.

20A. Form of account where death takes place on or after the commencement of the Estate Duty (Amendment) Act, 1958 (33 of 1958). :-

¹ -Notwithstanding anything contained in rule 20-

(1) the account required to be delivered under sub-section (3) of

Section 53 of the Act shall, in cases where death occurred on or after the commencement of the Estate Duty (Amendment) Act, 1958 (33 of 1956) be in Form E.D.1-A appended to these rules and the supplementary account mentioned in sub-section (4) of the said section shall be in the same form duly adopted to suit the requirements of the items included therein;

(2) the account to be annexed to the affidavit of valuation mentioned in Cl. (a) of sub-section (1) of Section 56 of the Act shall also be in Form E.D. 1-A in cases referred to in sub-rule (1) of this rule;

(3) all such accounts shall show the principal value of each item of property comprised in the estate with full details together with the basis of valuation. Such valuation may be ascertained by the accountable person either by estimating it himself or if ascertained with professional assistance, the certificate of the qualified valuer shall be appended;

(4) the Controller may at his discretion accept the form of account substantially similar to the prescribed form;

(5) where a grant of representation is not required and an exemption from duty is claimed by reason of the smallness of the estate, the account may be delivered in Form E.D. 5-A in cases referred to in sub-rule (1) of this rule.]

1. New section added by S.O. 1619, dated 1st July, 1960.

21. Beneficiaries to account. :-

Where the property of the deceased liable to duty has been distributed, each of the persons to whom the property has been distributed shall furnish a full and complete account of all the property received by him from the deceased.

22. Copy of the will to accompany account. :-

The accountable person shall furnish with the original account to be delivered under sub-rule (1) or sub-rule (2) of rule 20¹ [or under sub-rule (1) or sub-rule (2) of rule 20A] a certified copy of the will, if any, of the deceased and of codicils thereto.

1. Added by Notification No. S.O. 1619, dated 1st July, 1960.

23. 23 :-

¹ [* * * *]

1. Omitted by Notification No. G.S.R. 954, dated 29th June, 1964.

24. Production of books of account and documents. :-

The accountable person shall produce or cause to be produced at the office of the Controller having jurisdiction over the estate of the deceased, any book of account or document which may by a notice in writing be required by the Controller in connection with an account delivered under the provisions of the Act or these rules or for the purposes of assessment of the duty.

25. Account when deemed to be duly delivered. :-

(1) An account shall be deemed to have been duly delivered to the Controller when- (a) the prescribed form signed by the accountable person and containing a full, true and complete statement of all matters and things required to be stated therein by the Act these rules, the Controller and the form itself, and (b) all documents and copies which, by the Act, these rules, or the Controller are required to be furnished with the account, have been received by the Controller or by an officer authorised by the Controller to receive them, and not otherwise.

(2) It shall be sufficient if the account required to be delivered in pursuance of the provisions of Sec. 53 by a person accountable for duty or a copy of the affidavit with the account required to be delivered by an executor under Sec. ¹[56], is delivered by him to ²[the Assistant Controller or the Deputy Controller as the case may be] who has jurisdiction in respect of the estate concerned.

(3) A company or person under an obligation to give information to the Controller under sub-section (1) of Sec. 18, or a company required to furnish particulars to the Controller under ³[Sec. 20A] shall be deemed to have complied with the provisions of sub-section (1) of Sec. 18 or of the said ³ [Sec. 20A], as the case may be, if the information or particulars are furnished to the Assistant Controller or Deputy Controller who is exercising the functions of the Income-tax Officer in the case of the company.

1. Subs. for the figure "57" by Notification No. S.O. 1619, dated 1st July, 1960.

2. Subs. by G.S.R. 742, dated 14th May, 1965.

3. Subs. for "sub-section (1) of Sec. 84" by Notification No. S.O. 1619, dated 1st July, 1960.

PART 10

MISCELLANEOUS

26. Forms. :-

1

(1) An application for a certificate under Section 67 of the Act shall be in Form E.D.2.

(2) A certificate under sub-section (2) of Section 57 of the Act shall be in Form ED3 .

(3) A certificate under Section 67 or Section 68 or Section 69 of the Act shall be in Form ED4 .

(4) A discharge certificate where no duty is payable shall be in Form E.D. 6.

(5)

(a) Except where it is issued in pursuance of an order under Sec. 20-A or sub-section (1) of Sec. 57, the notice of demand under Sec. 73 shall be in Form E.D.7 and shall be accompanied by the assessment Form E.D.8 :

Provided that the assessment form need not accompany the notice in cases where a penalty or interest has been levied subsequent to the assessment order and it is not practicable to include the amount of the penalty or interest in the assessment form.

(b) The notice of demand under Sec. 73 to be served on the accountable person in pursuance of an order under sub-section (1) of Sec. 57 shall be in Form E.D. 7-A.

(c) The notice of demand under Sec. 73 to be served on the Principal Officer of a company in pursuance of an order under Sec. 20-A shall be in Form E.D.7-B.

(6)²[* * * *]

(6-A) The appeal to the Appellate Controller under Sec 62 of the Act shall be in Form E.D. 9-A. Every memorandum of appeal shall be in duplicate and shall be accompanied by a certified copy of the order appealed against.

(6-B) The appeal to the Appellate Tribunal under Section 63 of the Act shall be in Form E.D. 9-B. The memorandum of appeal shall be in triplicate and shall be accompanied by (i) the original copy of the order appealed against or a certified copy thereof together with a copy of the same, and (ii) two copies of the order of the Assistant Controller of Deputy Controller relating thereto.

(7) An application requiring the ³[Central Board of Direct Taxes] to refer to the High Court any question of law arising out of an order passed under sub-section (3) of Section 63 of the Act, as it stood before the commencement of the Estate Duty (Amendment) Act, 1958, (XXXIII of 1958) shall be in Form E.D. 10.

(7-A) An application requiring the Appellate Tribunal to refer to the High Court any question of law arising out of an order passed under sub-section (5) of Section 63 of the Act be in Form E.D. 10-A.

(8) An application for relief under Art. VI of the Double Taxation (Estate Duty) Avoidance Agreement between the Government of India and the Government of United Kingdom shall be in Form E.D. 11.

(9) An application for election under Cl. (b) of Art. XI of the Double Taxation (Estate Duty) Avoidance Agreement between the Government of India and the Government of United Kingdom shall be in Form E.D. 12.

(10) An application requiring the ³ [Central Board of Direct Taxes] to refer the question of disputed value to the arbitration of two valuers under sub-section (4) of Section 63 of the Act as it stood before the commencement of the Estate Duty (Amendment) Act, 1958 (XXXIII of 1958), shall be in Form E.D. 13.

(10-A) An application requiring the Appellate Tribunal to refer the question of disputed value to the arbitration of two valuers under sub-section (6) of Section 63 of the Act shall be in Form E.D. 13-A.

1. Subs. for original rule (as amended) by S.O. 1619, dated 1st July, 1960.

2. Sub-rule (6), omitted by G.S.R. 742, dated 14th May, 1965.

3. Subs. for "Central Board of Revenue" by Notification No. S.O. 419, dated 24th January, 1964.

27. 27 :-

¹[* * * *] ² [Particulars to be furnished by companies and corporations regarding stock, shares or other securities held by a deceased person (Sections 20-A and 84)]

1. Omitted by Notification No. S.O. 1619, dated 1st July, 1960.

2. Subs. for the heading "Particulars to be furnished by a company regarding a deceased member (Sec. 84)" by S.O. 1619, dated 1st July 1960.

28. Particulars to be furnished by a foreign company. :-

1 -For the purposes of Section 20A of the Act, a company to which that section applies shall furnish to the Assistant Controller or the Deputy Controller who performs the functions of the Income-tax Officer under the Income-tax Act in relation to the company-

(i) name of the deceased member or debenture-holder;

(ii) last known address;

(iii) date of death;

(iv) date of lodgment or notification of probate or letters of administration or of notice of death;

(v) description of shares, debentures or stock (with distinctive numbers) held in the company by the member or debenture-holder at the time of his death;

(vi) nominal value per share, stock or debenture;

(vii) market value per share, debenture or stock at date of death;

(viii) basis of valuation;

(ix) total market value of holding;

(x) names and addresses of trustees, administrators or any other legal representative.

1. Subs. for original rule by S.O. 1619, dated 1st July, 1960.

29. Particulars to be furnished by an Indian company or a corporation. :-

1.

(1) A company to which sub-section (1) of Section 84 of the Act or a corporation to which sub-section (2) of that section applies shall furnish the particulars mentioned in sub-rule (2) to the Assistant Controller or the Deputy Controller who performs the functions of the Income-tax Officer under the Income tax Act, 1961 in relation to the company or the corporation, as the case may be.

(2)(a) Where any transfer of a part or whole of the shares, stocks, debentures or other securities standing in the name of the deceased has been registered in the books of the company or corporation and such transfer has been made for valuable consideration-

(i) name of the deceased member or holder of debentures or other

securities;

(ii) last known address;

(iii) date of death;

(iv) name and address of the transferee;

(v) description of the shares, stocks, debentures or other securities transferred (with distinctive numbers);

(vi) nominal value per share, stock, debenture or other securities transferred;

(vii) amount of consideration paid by the transferee;

(viii) name and address of the transfer or to whom, or of the broker, through whom, the consideration was paid;

(ix) description of any other shares, stocks, debentures or other securities still standing in the name of the deceased on the date of furnishing the particulars.

(b) Where no transfer of any shares, stocks, debentures or other securities standing in the name of the deceased has been registered on the date of furnishing, the particulars-

(i) name and address of the deceased member or holder of debentures or other securities;

(ii) last known address;

(iii) date of death;

(iv) description of shares, stocks, debentures or other securities in the name of the deceased (with distinctive numbers);

(v) nominal value per share, stock, debenture or other security at date of death.

(vi) market value per share, stock, debenture or other security at date of death;

(vii) basis of valuation;

(viii) total market value of the holding ;

(ix) name and address of the trustee, administrator or other legal representative of the deceased;

(x) whether any application has been received from any person for the transfer of such shares, stocks, debentures or other securities, if so, name and address of the person who has applied for transfer.

2 [Information to be furnished by a company regarding deceased joint shareholder]

1. Subs. for original rule (as amended) by S.O. 1619, dated 1st July, 1960,

2. Added by Notification No. S.R.O. 2241, dated 6th July, 1954.

29A. Particulars to be furnished by an Indian company or a corporation in case of the death of joint holder of shares, stocks, debentures or other securities. :-

¹-Where a company within the meaning of the Companies Act, 1956 (1 of 1956) or a corporation established by a Central, State or Provincial Act has knowledge through any of its principal officers of the death of any of the joint holders of shares, stocks, debentures or the securities in the company or the corporation, it shall within three months of the receipt of intimation of death furnish the following particulars to the Assistant Controller or the Deputy Controller who performs the functions of the Income-tax Officer under the Income-tax Act in relation to that company or corporation-

(i) the name of the deceased joint holder;

(ii) last known address;

(iii) date of death;

(iv) the name and address of every other person holding the shares, stocks, debentures or other securities jointly with the deceased joint holder;

(v) the description of the shares, stocks, debentures or other securities so held jointly (with distinctive numbers);

(vi) the nominal value per share, stock, debenture or other security held jointly immediately before the death of the joint holder;

(vii) the beneficial interest of the deceased joint holder in the shares, stocks, debentures or other securities, if known ;

(viii) market value per share, stock, debenture or other security at date of death;

(ix) basis of valuation ;

(x) total market value of the shares, stocks, debentures or other securities jointly held on the date of the death of the deceased;

(xi) the name and address of the trustee, administrator or other legal representative of the deceased, if known.]

2 [Taking out, assigning or earmarking of Life Assurance policies (Section 33)]

1. Subs. for original rule (as amended) by Notification No. S.O. 1619, dated 1st July, 1960.

2. Added by S.R.O. 1706, dated 22nd May, 1954.

30. Life insurance policies taken out for the purposes of estate duty. :-

1-(1) Where a policy of insurance effected by the deceased on his life, is taken out for the express purpose of paying estate duty, the proponent shall in the proposal form give a declaration in the following form:

"I desire this assurance for the purpose of paying estate duty that may become payable under the Estate Duty Act, 1953 (XXXIV of 1953), on the principal value of the estate that may pass or may be deemed to pass on my death."

(2) The purpose of the policy shall be clearly set forth in the policy itself by a specific clause in the following form:

"The purpose of taking out of this policy by the assured as stated by him in the proposal for insurance dated.....is the payment of estate duty under the Estate Duty Act, 1953 , which on his death, his estate may become liable to pay to the Government of India. It is hereby agreed that on the claim by death of the assured being admitted by the insurer, that **2**[insurer] will upon delivery of the policy pay the sum assured or so much of the amount not exceeding the policy moneys as may be specified by the Government of India for the credit of the amount to the Controller of Estate Duty or any other Government authority competent to receive the same as duty that has become payable or would become payable in respect of the estate of the deceased and the receipt of Government shall be an effectual discharge to the **2**[insurer] for all money so paid to Government.

It is farther agreed that if the policy matures before the death of the assured or is surrendered, then on his request the **2** [insurer] will, upon delivery of the policy, pay all or so much of the sum due

to the assured as may be specified in such request to the Government of India under the head 'P- Deposits and Advances-Deposits bearing interests-Other deposits- Deposits towards payment of Estate Duty for being treated as a deposit of moneys for the purpose of paying estate duty as provided in Cl. (g) of sub-section (1) of Section 33 of the Estate Duty Act, 1953, and the receipt of Government shall be an effectual discharge to the '[insurer] for the moneys so paid to them.

It is farther agreed that the policy shall remain unaltered throughout the currency of the policy and the assured shall not take loans thereon, assign to any person other than the Government or deal with it otherwise except nominating any person to receive the balance of the insurance proceeds after satisfying the estate duty demand."

1. Added by S.R.O. 1706, dated 22nd May, 1954.

2. Subs. by S.R.O. 289, dated 1st February, 1956, for the word "Company".

31. Assignment of existing insurance policies to the Government for the purpose of paying estate duty. :-

1- ²(1) The policy shall be assigned to the President, Union of India, for the purpose of paying estate duty. The form of assignment shall be as below :

"I, A B of.....do hereby assign the benefit of all moneys to become payable under ³[the within policy of Assurance No.....of theCo., Ltd.]⁴[Life Insurance Corporation of India] the within Postal Life Insurance Policy/Postal Endowment Assurance Policy No.....on my life assuring the sum of rupees to the President of India for the purpose of paying estate duty in accordance with the provisions contained in Cl. (f) of sub-section (1) of Section 33 of the the Estate Duty Act, 1953, which after my death my estate may become liable to pay to the Government of India:

Provided , however, that in the event of my surviving the date on which the said policy if so expressed would mature or the policy is surrendered by me, the benefit of the policy and the right to receive moneys thereunder shall revert to me as if this assignment had not been made. It is further agreed that if the policy matures before my death or is surrendered by me, then on my request the ⁵[insurer] will upon the delivery of the policy pay all or so much of

the sum due to me as may be specified in such request, to the Government of India under the head 'P-Deposits and Advances-Deposits bearing interest-Other deposits-Deposits towards payment of Estate Duty' for being treated as deposits of moneys for the purpose of paying estate duty as provided in Cl. (g) of Section 33(1) of the Estate Duty Act, 1953 and a receipt of the Government of India shall be an effectual discharge to the ⁵[insurer] for the moneys so paid to them.

I undertake not to deal with the policy in any way so long as the above assignment is operative, except nominating any person to receive the balance of the insurance proceeds after satisfying the estate duty demand.

I hereby certify that no prior assignment of the within policy or any encumbrance against it exists.

Dated.....day of.....19

Station.....

Witness.

Signature of the Life Assured. "]

⁷ [(2) The policy together with the above-mentioned assignment shall be forwarded to the Controller of Estate Duty for the purpose of acceptance on behalf of the President of India. The acceptance on behalf of the President by the Controller shall be recorded in the following form:

"I, C.D., Controller of Estate Duty.....hereby accept the above mentioned assignment on behalf of the President of India under Cl. (f) of sub-section (1) of Sec.33 of the Estate Duty Act, 1953".]

1. Added by Notification S.R.O. 1706, dated 22nd May, 1954.
2. Rule 31 was renumbered as rule 31 (1) by Notification No. S.O. 747, dated 1st April, 1959.
3. Subs. for the words "the within policy of assurance No.....of theCo., Ltd. by Notification No. S.R.O. 289. dated 1st February, 1956.
4. Added by Notification No. S.R.O. 3121, dated 17th December, 1956.
5. Subs. by S.R.O. 289, dated 1st February, 1956, for the word "Company".
7. Added by S.O. 747, dated 1st April, 1959.

31A. Lodgment of insurance policies and former deeds of assignment or re-assignment of policies with the Controller.

:-

1

(1) Where a policy of insurance is taken out for express purpose of paying estate duty or where an existing insurance policy is assigned to the President of India for the purpose of paying estate duty the assured shall within three months of the date of issue of the policy or within three months of the date of registration of the assignment by the insurer, as the case may be, deposit the policy with the Commissioner of Income-tax (who is also the Controller of Estate Duty) within whose jurisdiction the assured resides.

(2) In the case of policy assigned to the President for the purpose of paying estate duty, the assured shall surrender to the Controller of Estate Duty all former deeds of assignments or re-assignments, if any, in respect of that, policy.

1. This rule has been added by S.R.O. 289, dated 1st February, 1956.

32. Procedure to be followed when estate duty is less than the value of policy. :-

¹If the estate duty payable on the estate of the assured is less than the policy moneys receivable under an insurance policy expressly taken out under rule 30 or assigned under rule 31, the ²[insurer] will pay to the Government so much thereof as may be demanded by the Government for satisfaction of the estate duty liability on the estate of the assured and pay the balance to the legal heirs, executors, administrators or other legal representatives or assigns of the deceased or other persons to whom the same may be payable under the policy.

1. Added by Notification S.R.O. 1706, dated 22nd May, 1954.

2. Subs. by S.R.O. 289, dated 1st February, 1956, for the word "Company".

33. Government not responsible if the insurer pays less than the amount due under the policy. :-

¹-If after the death of the person who had taken out or assigned a policy of assurance for the purpose of payment of estate duty the ²[insurer] pays an amount less than the amount payable under the policy, the government shall not be responsible for the loss and shall give credit against the duty payable on the estate passing or

deemed to pass on his death of so much amount only as is actually recovered from the ² [insurer].

1. Added by S.R.O. 1706, dated 22nd May, 1954.
2. Subs. by S.R.O. 289, dated 1st February, 1956, for the word "Company".

34. Earmarking of the policy for the marriage of a dependent female relative. :-

¹A policy of assurance for which at the time of effecting the policy or subsequently by written notice to the ² [insurer] the assured had earmarked the policy for the marriage of a female relative specifically named therein who is dependent on the assured for the necessities of life shall be considered a policy earmarked for the marriage.

1. Added by Notification S.R.O. 1706, dated 22nd May, 1954.
2. Subs. by Notification S.R.O. 3121, dated 17th December, 1956 for the word "company".

35. Particulars to be furnished by insurers. :-

¹-(1) In the case of insurance policies taken out in the form prescribed by rule 30 or assigned on the Government of India in the form prescribed by rule 31 for the purpose of paying estate duty, the insurer shall furnish to ²[the Deputy Controller of Estate Duty concerned] quarterly statement containing the following particulars, namely,-

(a)(i)the number of policies so taken out; (ii) the names and addresses of the assured; (iii) the amounts payable under such policies;

(b)(i)the number of policies so assigned in favour of the President; (ii) the names and addresses of the assured; (iii) the amounts payable under such policies.

Each quarterly statement shall be furnished within one month of the end of the quarterly period to which the statement relates each quarterly period being computed with reference to the commencement of the financial year.

(2) Whenever an insurer makes payment of an amount exceeding Rs. 10,000 due under one or more life insurance policies on the death of the assured to his legal heirs, executors, administrators, other legal representatives or to his nominees or assignees, the insurer shall within two months of the date of payment furnish the following particulars to ³ [the Deputy Controller of Estate Duty

concerned], namely,-

(i) the name and address of the assured;

(ii) the amount paid under the policy;

(iii) the name and address of the nominee or assignee to whom the payment is made, or if the policy has not been subjected to nomination or assignment, the name and address of the legal heir, executor, administrator or other legal representatives:

(iv) the date on which payment is made.

Particulars to be furnished by Statutory Corporations regarding stocks, shares or other securities held by a deceased person.

1. Added by S.R.O. 289, dated 1st February, 1956.

2. Subs. by S.O. 747, dated the 1st April, 1959, for the words "Assistant Controller or Deputy Controller of Estate Duty for the time being exercising the functions of the Income-tax Officer in respect of the insurer".

3. Subs. by S.O. 747, dated the 1st April, 1959, for the words "Assistant Controller or Deputy Controller of Estate Duty for the time being exercising the functions of the Income-tax Officer in respect of the insurer".

36. 36 :-

1* * *]

2 [Information to be furnished by Provident Funds and Superannuation Funds]

1. Omitted by Notification S.O. 1619, dated 1st July, 1960.

2. Added by Notification S.R.O. 289, dated 1st February, 1956.

37. Particulars to be furnished by a Provident Fund or a Superannuation Fund in the case of the death of a member participating in the Fund. :-

1-Where the trustees of any Provident Fund or of any Superannuation Fund, the accounts of which are not maintained by an Accounts Officer of the Central or any State Government, come to know of the death of the member participating in such Fund and where the lump sum payment or the commuted value of the benefits payable on account of participation in the Fund exceeds Rs. 10,000 the trustees shall, within one month of the receipt of such knowledge, furnish the following particulars to the Assistant Controller or Deputy Controller of Estate Duty for the time being exercising the functions of the Income-tax Officer in respect of such Fund, namely,-

- (i) the name and description of the Fund;
- (ii) the name and address of the deceased member participating in the Fund;
- (iii) (a) in the case of a Provident Fund, the amount lying to the credit of the deceased on the date of his death; (b) in the case of a Superannuation Fund, any annuity, pension or lump sum payable under the Rules of the Fund with the detailed schemes thereof;
- (iv) the names and addresses of the trustees, administrators or other legal representatives of deceased, if known;
- (v) the names and the addresses of the persons to whom the amounts mentioned in item (iii) are payable or paid.

] [(² Section 30)]

1. Added by Notification S.R.O. 289, dated 1st February, 1956.
2. Added by S.R.O. 451, dated 30th January, 1957.

38. Procedure for claiming relief under Double Taxation (Estate Duty) Avoidance Agreement between India and United Kingdom. :-

1

(1) In this rule- (a) the expression "Agreement " means the Double Taxation (Estate Duty) Avoidance Agreement concluded between the Government of India and the Government of United Kingdom on the 3rd April, 1956. (b) "India", "United Kingdom" and "duty" have the meanings respectively assigned to them in paragraph (1) of Art. 11 of the said Agreement.

(2) An application for allowance of a credit against duty payable, or for a refund of duty paid, in India shall be made to the Secretary, ² [Central Board of Direct Taxes] (Estate Duty Wing), New Delhi, in Form E.D. 11 and shall be accompanied by a certificate of duty paid in the United Kingdom.

(3) Where the deceased died after the 15th October, 1953, but before the 30th June, 1956, being the date on which, the Agreement came into force, and under Cl. (b) of Art. XI of the Agreement the accountable person elects that the provisions of the Agreement shall be applied to the estate of the deceased, he shall make the necessary application in Form E.D. 12.

(4) No claim for such credit or refund shall be allowed unless it is made within six years from the date of death of the deceased

person in respect of whose estate the claim is made, or, in the case of a reversionary interest where payment of duty is deferred until the date on which the interest falls into possession, within six years from that date.

(5) If at any time subsequent to the date on which a credit has been allowed or a refund of duty made in India, further duty becomes payable in India in consequence of any reduction in the amount of duty paid in the United Kingdom, the applicant shall pay such further duty. Whether the same is demanded or not, provided that for the purposes of recovery of such further duty, the Controller may at any time take such action as he may deem necessary.

1. Added by S.R.O. 451, dated 30th January, 1957.

2. Subs. by Notification S.O. 419, dated 24th January, 1964, for the words "Central Board of Revenue".

39. Procedure for referring the question of disputed value to the arbitration of two valuers under sub-section (4) of Sec. 63. :-

1.

(1) If the reference to the arbitration of two valuers is required to be made at the instance of the appellant ²[in cases where death occurred before the commencement of the Estate Duty (Amendment) Act, 1958 (XXXIII of 1958)], the procedure shall be as follows:

(a) Where an appeal has been filed objecting to the valuation of any property made by the Controller and the appellant wants to refer the question of disputed valuation to the arbitration of two valuers, he shall make an application to the ³[Central Board of Direct Taxes] in Form E.D. 13 nominating his valuer therein;

(b) on receipt of such application, the Board shall nominate the valuer and shall make an order referring the question of disputed value to the arbitration of the two valuers who shall for the purposes of these rules be referred to as the Committee of Arbitration;

(c) the costs of arbitration shall be deposited by the appellant within one month from the date of application;

(d) the costs shall be deposited as calculated on the basis of the valuation made by the Controller of the property to which the

disputed value relates;

(e) any difference between the costs deposited on the basis of the Controller's valuation and the costs actually payable on the basis of the valuation made by the Committee of Arbitration shall be paid or refunded, as the case may be, within two months from the date of the appellate order of the Board.

(2) If the reference to the arbitration of two valuers is made at the instance of the Board, the procedure shall be as follows:

(a) The Board shall Communicate to the appellant its intention to refer the question of disputed valuation to the arbitration of two valuers and shall require the appellant to nominate his valuer;

(b) the appellant shall, within one month from the date of receipt of the Board's communication, intimate the name and address of the valuer nominated by him;

(c) on receipt of the intimation from the appellant, the Board shall nominate its valuer and shall make an order appointing the two valuers to act as the Committee of Arbitration.

(3) The Committee of Arbitration shall notify to the appellant and the Controller at least 14 days before the date of hearing, the date, time and place fixed for the hearing.

(4) Any application to the Committee of Arbitration for adjournment of the hearing shall be made so as to reach the Committee at least seven days before the date of hearing, but the Committee of Arbitration may refuse to grant an adjournment if they are satisfied that there are no sufficient grounds for adjournment.

(5) Where on the day fixed for the hearing of reference or on any other day to which the hearing may be adjourned, the appellant does not appear, the Committee may in its discretion decided the reference ex parte on its merits.

(6) Any person or persons eligible to represent the appellant in any estate duty proceeding by virtue of Section 83 of the Act may, if specifically authorised for the purpose by the appellant, represent the appellant before the Committee of Arbitration.

(7) Any officer of the Central Government or any legal practitioner may, if specifically authorised for the purpose by the Controller, represent the Controller before the Committee of Arbitration.

(8) If the Committee of Arbitration requires any information or documents for deciding the reference, it shall be entitled to call for such information or documents from the appellant, or from the Controller, as the case may be.

(9) As soon as the decision of the Committee of Arbitration is ready, the Committee shall communicate such decision duly authenticated by both the valuers to the Board and the appellant.

(10) (a) If any vacancy occurs in the Committee of Arbitration on account of transfers, leave or otherwise, the Board or the appellant, as the case may be, shall forthwith nominate another person to fill up the vacancy. (b) The Committee as reconstituted may, however, continue the proceeding from the stage at which it was left by its predecessor:

Provided that either party shall be entitled to a rehearing of the proceeding or any part thereof by the Committee as reconstituted; if it so demands.

(11) All communications intended for the ⁴[Central Board of Direct Taxes] shall be addressed to the Secretary, ⁴ [Central Board of Direct Taxes], North Block, New Delhi.

1. Added by S.R.O. 3578, dated 31st October, 1957.

2. Added by Notification S.O. 1619, dated 1st July, 1960.

3. Subs. by Notification S.O. 419, dated 24th January, 1964, for the words "Central Board of Revenue".

4. Subs. by Notification S.O. 419, dated 24th January, 1964, for the words "Central Board of Revenue".

39A. Procedure for referring the question of disputed value to the arbitration of two valuers under sub-section (6) of Sec. 63. :-

1

(1) If the reference to the arbitration of two valuers is to be made at the instance of the appellant, he shall make an application to the Appellate Tribunal in Form E.D. 13-A nominating his valuer therein. On receipt of such application the Appellate Tribunal shall call upon the respondent to nominate his valuer. On receipt of the nominations of both the appellant and the respondent, the Appellate Tribunal shall pass an order referring the dispute to the two valuers referred to above, who shall for the purposes of these rules be referred to as the Committee of Arbitration.

(2) If the reference to the arbitration of two valuers is made at the instance of the Appellate Tribunal, that Tribunal shall communicate to the appellant and the respondent its intention to refer, the question of disputed valuation to the arbitration of two valuers and shall require the appellant and the respondent to nominate their valuers. The appellant and the respondent shall within one month from the date of receipt of the Appellate Tribunal's communication intimate the name and address of the valuer nominated by each. On receipt of the intimation from the appellant and the respondent, the Appellate Tribunal shall make an order appointing, the two valuers to act as the Committee of Arbitration.

(3) If the Committee of Arbitration requires any information or documents for deciding the reference, it shall be entitled to call for such information or documents from the appellant or from the respondent, as the case may be.

(4) The Committee of Arbitration shall notify to the appellant and the respondent at least 14 days before the date of hearing, the date, time and place fixed for the hearing.

(5) Any application to the Committee of Arbitration for adjournment of the hearing shall be made so as to reach the Committee at least seven days before the date of hearing, but the Committee of Arbitration may refuse to grant an adjournment if it is satisfied that there are no sufficient grounds for an adjournment.

(6) Where on the day fixed for the hearing of reference or on any other day to which the hearing may be adjourned, the appellant does not appear, the Committee may in its discretion decide the reference ex parte on its merits.

(7) Any person eligible to represent the appellant in any estate duty proceeding by virtue of Section 83 of the Act may, if specifically authorised for the purpose by the appellant, represent the appellant before the Committee of Arbitration.

(8) Any officer of the Central Government or any legal practitioner may, if specifically authorised for the purpose by the Controller, represent the Controller before the Committee of Arbitration.

(9) As soon as the decision of the Committee of Arbitration is ready, the Committee shall communicate such decision duly authenticated by both the valuers to the Appellate Tribunal.

(10) (a) If any vacancy occurs in the Committee of Arbitration on account of transfer, leave or otherwise, the appellant or the respondent, as the case may be, shall forthwith nominate another person to fill up the vacancy. (b) The Committee as reconstituted may, however, continue the proceeding from the stage at which it was left by its predecessor:

Provided that either party shall be entitled to a re-hearing of the proceeding or any part thereof by the Committee as reconstituted, if it so demands.

(11) All communications intended for the Committee of Arbitration shall be addressed to the Registrar, Income-tax Appellate Tribunal, Queen's Road, Bombay.

(12) The fees to be paid to the valuers shall be according to a scale which shall be fixed by the Central Government from time to time in this behalf.

(13) The costs of arbitration shall be calculated on the basis of the valuation placed by the Controller on the disputed property and shall be deposited by the appellant with the Tribunal along with the application.

(14) Where the question of valuation is referred at the instance of the Appellate Tribunal, the cost of arbitration proceedings shall be borne by the Central Government.

(15) Where the properties in dispute are to be valued by valuers of different category separate application shall be made for each category of property and it shall be open to the appellant and the respondent to nominate a separate valuer for each category.

(16) Any difference between the costs deposited on the basis of the Controller's valuation and the costs actually payable on the basis of the valuation made by the Committee of Arbitration shall be paid or refunded, as the case may be, within one month from the date of the decision of the Committee.

1. Added by S.O. 1619, dated 1st July, 1960.

40. Procedure for referring the question of valuation to a third valuer under the second proviso to sub-section (4) of Sec. 63. :-

1

(1) The procedure laid down in sub-rules (3), (4), (5), (6), (7), (8),

(9), (10A) and 11 of rule 39 shall apply mutatis mutandis to hearings by the third valuer nominated under the second proviso to sub-section (4) of Sec. 63 ² [as it stood before the commencement of the Estate Duty (Amendment) Act, 1958 (XXXIII of 1958).]

(2) Any vacancy occurring in the office of such values for any reason shall be filled in the same manner as the initial appointment.

(3) Where the reference to the arbitration of two valuers has been made at the instance of the appellant, the costs of any reference made to a third valuer shall be deposited by the appellant, within one month of receipt of intimation by him that a third valuer has been nominated.

(4) The costs shall be deposited as calculated on the basis of the valuation made by the Controller of the property to which the dispute relates.

(5) Any difference between the costs deposited on the basis of the Controller's valuation and the costs actually payable on the basis of the valuation made by the third valuer shall be paid or refunded, as the case may be, within two months from the date of the appellate order of the Board.

1. The following Act has been repealed.

2. Added by Notification S.O. 1619, dated 1st July, 1960.

40A. Procedure for referring the question of valuation to a third valuer under the proviso to sub-section (6) of Sec. 63.

:-

1

(1) The procedure laid down in sub-rules (3) to (16) of rule 39A shall apply mutatis mutandis to hearings by the third valuer nominated under the provision to sub-section (6) of Sec. 63.

(2) Any vacancy occurring in the office of such valuer for any reason shall be filled in the same manner as the initial appointment.

(3) Where the reference to the arbitration of two valuers has been made at the instance of the appellant, the costs of any reference made to a third valuer shall be deposited by the applicant, within one month of receipt of intimation by him that a third valuer has been nominated. Where the reference to the arbitration of two

valuers has been made by the Appellate Tribunal, the cost of any reference made to a third valuer shall be met by the Central Government.

1. Added by Notification S.O. 1619, dated 1st July, 1960.

41. Qualification of certain persons to appear as authorised representatives. :-

¹ Any person may, if authorised by the person accountable in writing in this behalf, represent him for the purpose of Sec. 83 provided-

(i) such person is an income-tax practitioner as defined in Cl. (ii) of sub-section (2) of Sec.61 of the Income-tax;

(ii) he has at any time before the commencement of the Estate Duty (Amendment) Act, 1958 (XXXIII of 1958), appeared before any income-tax authority in his capacity as income-tax practitioner; and (iii) he is not disqualified to represent an assessee in any income-tax proceeding by reason of any direction made under sub-section (3) of Sec. 61 of the Income-tax Act.

1. Added by Notification S.O. 1619, dated 1st July, 1960.

42. Terms on which period referred to in sub-section (3) of Sec. 53 may be extended. :-

¹ The Controller may, if he considers that there are reasonable grounds for doing so, extend the period of six months referred to in sub-section (3) of Sec.53 on the following terms, namely:

(a) The person accountable shall furnish to the Controller information as to the principal value of all the property passing on the death of the deceased, to the extent it is within his knowledge;

(b) the person accountable shall pay the amount, or furnish security to the satisfaction of the Controller for the payment of the amount, which the Controller may, on the basis of the information furnished by the accountable person and all other information available to him, estimate to the amount of estate duty payable;

(c) the person accountable shall pay interest for the period by which the original period of six months has been extended, on the amount specified in Cl. (e) or on such lower amount as the Controller may in his discretion decide;

(d) the rate of interest shall be six percent, per annum : Provided that the Controller may, in any particular case, specify such

reduced rate of interest as may be appropriate to that case in accordance with the general instructions issued by the Board in this behalf;

(e) the amount referred to in Cl. (c) shall be the excess, if any, of the duty determined under Sec. 58 or Sec. 69, as the case may be, over the amount, if any, actually paid under Cl. (b) of this rule;

(f) if the duty determined under Sec. 58 is reduced in appeal, the interest shall be recomputed with reference to the duty as so reduced and if the interest already paid exceeds the interest so recomputed, the excess shall be refunded.

1. Added by Notification S.O. 1619, dated 1st July, 1960 and later substituted by new rule 42 by Notification S.O. 962, dated 29th March, 1963.

43. Disclosure of information respecting assessments. :-

1

(1) The application to the Controller under Sec. 80 for information in respect of an assessment made under the Act, on or after the 1st day of April, 1964, shall be made in Form E.D.-14.

(2) The information under Sec. 80 shall be furnished by the Controller in Form E.D.-15.

(3) Where it not possible for the Controller to furnish the information asked for by the applicant under Sec. 80 owing to the fact that the relevant assessment has not been completed, he shall inform the applicant in Form E.D.-16.

(4) Where the Controller is satisfied that it is not in the public interest to furnish or cause to be furnished the information asked for, he shall intimate the fact to the applicant in Form E.D.-17.

1. Ins. by G.S.R. 1810, dated 16th December, 1964.