

## **GIFT TAX RULES, 1958**

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## **GIFT TAX RULES, 1958**

In exercise of the powers conferred by section 46 of the Gift-tax Act, 1958 (18 of 1958), the Central Board of Revenue hereby makes the following rules, namely:-

### **1. Short title and commencement :-**

- (1) These rules may be called the Gift-tax Rules, 1958.
- (2) They shall be deemed to have come into force on the 1st day of April, 1958.

### **2. Definitions :-**

In these ruies, unless the context otherwise requires,-

(a) "the Act" means the Gift-tax Act, 1958;

<sup>1</sup> [(aa) "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);]

(b) "Form" means a form appended to these rules;

(c) "section" means a section of the Act;

(d) "tax" means the gift-tax payable under this Act.

1. Inserted by the Gift-tax (Second Amendment) Rules, 1981, w.e.f. 19-6-1981.

### **3. Return of gifts :-**

The return of gifts to be furnished by a person to the <sup>1</sup> [Assessing Officer] under sub-section (1) or sub-section (2) of section 13 or section 14 shall be in Form A and shall be verified in the manner specified therein.

1. Substituted for "Gift-tax Officer" by the Gift-tax (Amendment) Rules, 1989, w.r.e.f. 1-4-1988.

### **4. Notice of demand :-**

Notice of demand under section 31 shall be in Form C.

### **5. Appeal to the 3 [Deputy Commissioner (Appeals)] 4 [and Commissioner (Appeals)] :-**

(1) An appeal under section 22 to the <sup>1</sup>[Deputy Commissioner (Appeals)] <sup>2</sup>[or, as the case may be, the Commissioner (Appeals)] shall be in Form D.

<sup>3</sup> [(2) In any appeal preferred in Form D, the memorandum of appeal, the grounds of appeal and the verification appended thereto shall be signed and verified by the person who is authorised to sign the return of gift as provided in section 14A of the Gift-tax Act.]

1. Substituted for "Appellate Assistant Commissioner", Substituted for "Gift-tax Officer" by the Gift-tax (Amendment) Rules, 1989, w.r.e.f. 1-4-1988.

2. Inserted by the Gift-tax (Amendment) Rules, 1978, w.e.f. 10-7-1978.

3. Substituted by the Gift-tax (Amendment) Rules, 1989, w.e.f. 1-

4-1989. Prior to its Substitution, sub-rule (2) read as under: "(2) In any appeal preferred in Form D, the memorandum of appeal, the grounds of appeal and the verification appended thereto shall be signed,- (a) in the case of an individual, by the individual himself; where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf; (b) in the case of a Hindu undivided family, by the karta, and where the karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family; (c) in the case of a Company, by the principal officer thereof; (d) in the case of a firm, by any partner thereof, not being a minor; (e) in the case of any other association, by any member of the association or the principal officer thereof; and (f) in the case of any other person, by that person or by some person competent to act on his behalf,"

**5A. 6 [Production of additional evidence before the 7 [Deputy Commissioner (Appeals)] 8 [and Commissioner (Appeals)] :-**

(1) The appellant shall not be entitled to produce before the <sup>1</sup>[Deputy Commissioner (Appeals)] <sup>2</sup>[or, as the case may be, the Commissioner (Appeals)] any evidence, whether oral or documentary, other than the evidence produced by him during the course of proceedings before the <sup>3</sup>[Assessing Officer], except in the following circumstances, namely :-

(a) where the <sup>3</sup>[Assessing Officer] has refused to admit evidence which ought to have been admitted; or

(b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the <sup>3</sup>[Assessing Officer]; or

(c) where the appellant was prevented by sufficient cause from producing before the <sup>3</sup>[Assessing Officer] any evidence which is relevant to any ground of appeal; or

(d) where the <sup>3</sup>[Assessing Officer] has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

(2) No evidence shall be admitted under sub-rule (1) unless the <sup>1</sup>[Deputy Commissioner (Appeals)] <sup>2</sup>[or, as the case may be, the Commissioner (Appeals)] records in writing the reasons for its admission.

(3) The <sup>10</sup>[Deputy Commissioner (Appeals)] <sup>11</sup>[or, as the case may be, the Commissioner (Appeals)] shall not take into account any evidence produced under sub-rule (1) unless the <sup>12</sup>[Assessing Officer] has been allowed a reasonable opportunity,-

(a) to examine the evidence or document or to cross-examine the witness produced by the appellant; or

(b) to produce any evidence or document or any witness in rebuttal of the additional evidence produced by the appellant.

(4) Nothing contained in this rule shall affect the power of the <sup>4</sup>[Deputy Commissioner (Appeals)] <sup>5</sup>[or, as the case may be, the Commissioner (Appeals)] to direct the production of any document, or the examination of any witness, to enable him to dispose of the appeal, or for any other substantial cause including the enhancement of the amount of gift-tax determined or penalty imposed (whether on his own motion or on the request of the <sup>6</sup> [Assessing Officer] under sub-section (5) of section 22 or the imposition of penalty under section 17 .]

1. Substituted for "Appellate Assistant Commissioner" by the Gift-tax (Amendment) Rules, 1989, w.r.e.f. 1-4-1988.

2. Inserted by the Gift-tax (Amendment) Rules, 1978, w.e.f. 10-7-1978.

3. Substituted for "Gift-tax Officer" by the Gift-tax (Amendment) Rules, 1989, w.r.e.f. 1-4-1988.

10. Substituted for "Appellate Assistant Commissioner" by the Gift-tax (Amendment) Rules, 1989, w.r.e.f. 1-4-1988.

11. Inserted by the Gift-tax (Amendment) Rules, 1978, w.e.f. 10-7-1978.

12. Substituted for "Gift-tax Officer" by the Gift-tax (Amendment) Rules, 1989, w.r.e.f. 1-4-1988.

## **6. Appeal to Appellate Tribunal :-**

(1) An appeal to the Appellate Tribunal under section 23 or section 25 shall be in Form H.

(2) The memorandum of cross-objections under sub-section (2A) of section 23 shall be in Form N.

## **7. Application for reference to High Court :-**

An application under sub-section (1) of section 26 requiring the Appellate Tribunal to refer to the High Court any question of law shall be in Form 1.

**8. Section 8 :-**

. [Omitted by the Gift-tax (Third Amendment) Rules, 1963, w.e.f. 1-4-1963.]

**9. Section 9 :-**

. [Omitted by the Gift-tax (Third Amendment) Rules, 1963, w.e.f. 1-4-1963.]

**10. Valuation of property :-**

[Omitted by the Gift-tax (Amendment) Rules, 1989, w.e.f. 1-4-1989]

**11. Fixation of capitalised value :-**

(1) In the case of property referred to in sub-section (2) of section 6 of the Act, the capitalised value of the income shall be taken to be the product of the number of complete years included in the period for which the gift is not revocable and the average of the income received from the property during the three years or such lesser period of complete years in which such property was in existence, preceding the previous year for the year of assessment after discounting it at a rate of 4 per cent per annum: Provided that where the property was in existence for less than one complete year preceding the previous year for the year of assessment or came into existence in the previous year for the year of assessment, the income from such property for one complete year shall be the income which would have been receivable, if the property were in existence for one complete year.

(2) The income from such property for each of the years for which it is to be determined shall, for the purposes of this rule, be the amount of the total receipt received or receivable for each such year, reduced by the amount of expenditure which, in the opinion of the <sup>1</sup>[Assessing Officer], would reasonably be incurred for the purposes of making or earning the income: Provided that where there are no receipts or where the total of the receipts is, in the

opinion of the <sup>1</sup>[Assessing Officer], lower than the receipts which an owner of ordinary prudence would obtain or earn on such property or properties similar to that during the relevant period, the <sup>1</sup> [Assessing Officer] shall, after giving the assessee a reasonable opportunity of being heard, determine the income on the basis of receipts which such owner would obtain.

1. Substituted for "Gift-tax Officer" by the Gift-tax (Amendment) Rules, 1989, w.r.e.f. 1-4-1988.

### **11A. Conditions for reference to Valuation Officers :-**

. [. The percentage of the value of the property as returned and the amount referred to in sub-clause (1) of clause (b ) of sub-section (6) of section 15 shall, respectively, be 33 1/3 per cent and Rs. 50,000.]

### **11B. Form of report of valuation by registered valuer :-**

. [. The report of valuation by a registered valuer in respect of any asset shall be furnished in the appropriate form specified in R.8D of the Wealth-tax Rules, 1957, and shall be verified in the manner indicated in such Form.]

### **12. Disclosure of Information respecting assesseees :-**

(1) The application to the <sup>1</sup>[Chief Commissioner or Commissioner] under section 41B for information relating to an assessee in respect of any assessment made under this Act, shall be made in Form J.

(2) The information under section 41B shall be furnished by the <sup>1</sup>[Chief Commissioner or Commissioner] in Form IC

(3) Where it is not possible for the <sup>1</sup>[Chief Commissioner or Commissioner] to furnish the information asked for by the applicant under section 41B owing to the fact that the relevant assessment has not been completed, he shall inform the applicant in Form L.

(4) Where the <sup>1</sup> [Chief Commissioner or Commissioner] 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 M.

1. Substituted for "Commissioner" by the Gift-tax (Amendment) Rules, 1989, w.r.e.f. 1-4-1988.

### **13. Procedure to be followed in calculating interest :-**

[.. In calculating the interest payable by the assessee or the interest payable by the Central Government to the assessee under any provision of the Act,-

(a) where interest is to be calculated on annual basis the period for which such interest is to be calculated shall be rounded off to a whole month or months and for this purpose any fraction of a month shall be ignored; and the period so rounded off shall be deemed to be the period in respect of which the interest is to be calculated;

(b) where the interest is to be calculated for every month or part of a month comprised in a period, any fraction of a month shall be deemed to be a full month and the interest shall be so calculated;

(c) the amount of tax, penalty or other surcharge in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and for this purpose any fraction of one hundred rupees shall be ignored; and the amount so rounded off shall be deemed to be the amount in respect of which the interest is to be calculated.]

### **14. Auditors certificate on valuation of unquoted equity shares of an investment Company :-**

[ The certificate of auditors, relating to valuation of unquoted shares in an Investment Company under rule 6 and rule 7 of Schedule II shall be furnished in Form O.]