

CAPITAL GAINS ACCOUNTS SCHEME, 1988

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CAPITAL GAINS ACCOUNTS SCHEME, 1988

¹1 . This Scheme has been framed for the purpose of sections 54(2), 54B(2), 54D(2), 54F(2) and 54G(2) of the Income-tax Act, 1961. See also Notification No. GSR 725(E), dated 22-6-1988, reproduced, post, and Circular No. 520, dated 11-8-1988, reproduced in Bharat's Direct Taxes Circulars, 1991 edn, volume 1, p. 551. In exercise of the powers conferred by sub-section (2) of section 54, sub-section (2) of section 54B, sub-section (2) of section 54D, sub-section (4) of section 54F and sub-section (2) of section 54G of the Income-tax Act, 1961(43 of 1961), the Central Government hereby frames the following Scheme, namely.-

1. Short title, commencement and application :-

- (1) This Scheme may be called the Capital Gains Accounts Scheme, 1988
- (2) It shall come into force on the date of its publication in the Official Gazette.
- (3) It applies to all assesseees who are eligible for exemption under section 54 , section 54B , section 54D , section 54F or 54G of the Income-tax Act, 1961 (43 of 1961).

2. Definitions :-

In this Scheme, unless the context otherwise requires-

- (a) "account" means a deposit account under this Scheme;
- (b) "Account A" means Deposit Account A mentioned in paragraph 4 of this Scheme;
- (c) "Account B" means Deposit Account B mentioned in paragraph 4 of this Scheme;
- (d) "Act" means the Income-tax Act, 1961 (43 of 1961);
- (e) "Deposit Office" means any branch or branch office of the State Bank of India constituted under State Bank of India Act, 1955 , or of a subsidiary bank as defined in State Bank of India (Subsidiary Banks) Act, 1959, or of a corresponding new bank constituted under S.3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under S.3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 authorised by the Central Government, by notification in the Official Gazette, to receive deposit and maintain account of the depositor, under this Scheme;
- (f) "depositor" means an assessee who is eligible to make a deposit under section 54 , section 54B , section 54D , section 54F or section 54G of this Act;
- (g) all other words and expressions used herein but not defined and defined in the Act shall have the meanings respectively assigned to them in the Act.
- (h) "Form" means a form appended to this Scheme.

3. Deposits how to be made :-

A deposit or deposits may be made under the provisions of section 54 or section 54B or section 54D or section 54F or section 54G of the Act by any depositor intending to avail of the benefit under the said section or sections of the Act, as the case may be, in accordance with the provisions of this Scheme.

4. Types of deposits :-

- (1) There shall be two types of deposit accounts, namely:-
 - (i) "Deposit Account A"; and
 - (ii) "Deposit Account B"

(2) The deposit made under Account A shall be in the form of 'savings deposit and subject to the other provisions of this scheme, withdrawals under this account can be made from time to time by the depositor.

(3) The deposit made under Account B shall be in the form of 'term deposit' with an option to the depositor to keep the deposit as cumulative or non-cumulative deposit. Except as provided under paragraph 7 and paragraph 9, withdrawals under this account can be made only after the expiry of the period for which the deposit under this account has been made and accepted.

(4) Such deposits may be made in one lump sum or in instalments at any time on or before the due date of furnishing the return of income under sub-section (1) of section 139 of the Act as is applicable in the case of the depositor.

5. Application for opening account :-

(1) Every depositor who is desirous of opening an account or accounts, as the case may be, under this Scheme for the first time, shall apply to the deposit office in Form A or as near thereto as possible, in duplicate and tender the amount of deposit payable in the manner specified in sub-paragraph (4) and a depositor intending to avail of the benefit under more than one section of the Act, as referred to in paragraph 3, shall make separate applications in the same manner, for opening account or accounts under each of such sections.

(2) While applying under sub-paragraph (1) the depositor shall exercise his option as to whether the amount is to be deposited in Account A or in Account B or in both the accounts, and in case of the depositor exercising his option to open Account B, the depositor shall also exercise his option as to whether the deposit is to be made as cumulative or non-cumulative deposit as referred in sub-paragraph (3) of paragraph 4.

(3) On receipt of an application under sub-paragraph (1), the deposit office shall open an account or accounts in the name of the depositor as opted by him under sub-paragraph (2).

(4) The payment of amount of deposit shall be made by the depositor either in cash or by crossed cheque or by draft along with the application.

(5) Every subsequent deposit shall be made into the deposit office at which the account stands, in the same manner as stipulated in sub- paragraph (4).

(6) If the deposit is made by a cheque or a draft then, subject to such cheque or draft being realised, the effective date of deposit for the purpose of claiming exemption under the Act will be the date on which the cheque or draft is received by the deposit office along with the application under sub-paragraph (1) or sub-paragraph (5), as the case may be.

(7) The interest on the amount of deposit shall accrue and will be calculated subject to the provisions of paragraph 8, with effect from the date of deposit in cash or the date of realisation of the proceeds of the cheque or the draft, tendered by the depositor.

(8) In the case of deposit under Account A, the deposit office shall issue a pass book to the depositor wherein all amounts of deposits, withdrawals, together with interest due, shall be entered over the signature of the authorised officer of the deposit office.

(9) In the case of deposit under Account B, deposit office shall issue a deposit receipt wherein the principal amount of deposit, date of deposit, date of maturity of deposit shall be entered over the signature of the authorised officer of the deposit office.

6. Issue of duplicate pass book or receipt :-

In the event of loss or destruction of the pass book or receipt referred to in sub-paragraph (8) or sub-paragraph (9) of paragraph 5, the deposit office may, on an application made to it in this behalf, issue a duplicate thereof.

7. Transfer and conversion of the account :-

(1) A depositor may, if he so desires, apply for transfer of his account or accounts, from one deposit office to another deposit office of the same bank.

(2) A depositor having a deposit in Account B, may, at any time, if he so desires, apply in Form B or as near thereto as possible, together with his deposit receipt, for transfer of the amount standing to his credit in Account B to his deposit in Account A opened under the same section of the Act under which the said Account B was opened and the request of the depositor may be accepted subject to the other provisions of this Scheme.

(3)

(a) A depositor while applying under sub-paragraph (2) shall furnish in Form B the requisite particulars of his Account A to which the amount from Account B is required to be transferred;

(b) Where the depositor is not having a deposit in Account A he shall state such fact and also make a request for opening an Account A in his name, as specified in Form B.

(4) If the request under sub-paragraph (2) has been made for transfer of amount standing to the credit in Account B, before the expiry of the specified period for which the deposit in Account B was made, such request shall be treated as premature withdrawal of amount from deposit in the said Account B and the amount of interest accrued, if any, in the said Account B shall be calculated by the deposit office in accordance with the provisions of sub-paragraph (4) of paragraph 8.

(5) If the request under sub-paragraph (2) has been made for transfer of amount standing to the credit in Account B on or after the expiry of the specified period for which the deposit in Account B was made, the amount of interest accrued in Account B shall be calculated at normal rate as specified by the Reserve Bank of India in pursuance of paragraph 8 in respect of a deposit in Account B.

(6) On receipt of an application under sub-paragraph (2), the deposit office shall calculate the amount of interest, if any, accrued in Account B till the date on which actual transfer of amount to Account A is made, subject to the provisions of paragraph 8 and close Account B after transferring the total amount standing to the credit in Account B to Account A: Provided that where in such case of transfer the depositor does not have a deposit in Account A, an Account A shall be opened in the name of the depositor and the amount standing to his credit in Account B shall then be transferred to Account A as so opened.

(7) A depositor, if he so desires, may apply in Form B together with his pass book, for opening an Account B in his name, by way of transfer of the whole or any part of the amount standing to his credit in Account A, under the same section of the Act under which his Account A has been opened.

(8) After the conversion of Account B to Account A or vice-versa in the manner specified above, the interest in newly opened account

or accounts, as the case may be, shall accrue with effect from the date of opening of such account or accounts.

8. Interest :-

(1) Interest at such rate as may be specified by the Reserve Bank of India, from time to time, shall be allowed for each calendar month on the lowest balance at the credit of a depositor under Account A, between the close of the 10th day and the end of the month and shall be credited to the account at the end of each half year.

(2) Interest at such rate, as may be specified by the Reserve Bank of India, from time to time, shall be allowed in respect of deposit in Account B. In case of cumulative deposit in Account B, the amount of interest accrued will be deemed to have been reinvested and in case of non-cumulative deposit in Account B, the amount of interest will become due and payable at quarterly intervals.

(3) Interest due at the end of each half year in respect of Account A will be credited only when the amount is Re. 1 or more and the total amount of interest payable in respect of Account A or Account B will be rounded off to the nearest five paise.

(4) If a depositor applies under paragraph 7 or paragraph 9 or paragraph 13 for conversion of the account or withdrawal from the account or closure of the account, as the case may be, before completion of the period for which the deposit in Account B has been accepted by the deposit office, the rate of interest payable in respect of such deposit shall be the one applicable to the period for which the deposit remained with the deposit office less one per cent penalty for a premature withdrawal on account of such conversion or withdrawal or closure, as the case may be, and any adjustment required to be made on account of such premature conversion, withdrawal or closure with respect to amount of interest already credited to the account of the depositor, shall be made by the deposit office against the amount lying to the credit of the depositor in Account B.

9. Withdrawal from the account :-

(1) A depositor having Account A may, at any time after making the initial subscription, if he so desires, apply in Form C or as near thereto as possible, together with the pass book to the deposit office for the withdrawal of amount from the balance to his credit in

Account A, subject to the other provisions of this Scheme.

(2) On receipt of an application under sub-paragraph (1) the deposit office shall, subject to the provisions of sub-paragraph (3), permit the withdrawal and enter the amount withdrawn in the pass book.

(3) At the time of any withdrawal from Account A, other than the initial withdrawal, the depositor shall furnish in Form D, in duplicate, the details regarding the manner and extent of utilisation of the amount of immediately preceding withdrawal. The deposit office will retain one copy of Form D and return the other copy to the depositor after duly authenticating it.

(4) Where the amount of withdrawal referred to in sub-paragraph (2) exceeds rupees twenty-five thousand, the deposit office shall make payment to the depositor, subject to the fulfilment of the conditions prescribed in sub-paragraph (3), by way of crossed demand draft drawn in favour of the person to whom the depositor intends to make the payment.

(5) A depositor intending to make withdrawal from his deposit in Account B, shall first apply in the manner prescribed in sub-paragraph (2) of paragraph 7 for transfer of the amount standing to his credit in Account B to Account A and may withdraw the requisite amount in the same manner and subject to the same conditions as stipulated in sub-paragraphs (1) and (3) after the amount standing to the credit in his Account B has been credited to his Account A by the deposit office.

(6) In case the application under sub-paragraph (5) is made before the expiry of the specific period for which the deposit in Account B was made, such withdrawal will be treated as premature withdrawal, and the amount of interest accrued, if any, shall be calculated subject to the provisions of sub-paragraph (4) of paragraph 8.

(7) On receipt of the application under sub-paragraph (5), the deposit office shall transfer the amount due and payable, together with the amount of interest accrued, in Account B, to Account A in the same manner and subject to the same conditions as stipulated in paragraph 7 and thereafter allow the request for withdrawal made by the depositor in the same manner and subject to the same conditions as stipulated in sub-paragraphs (1), (2), (3) and (4). Explanation.-For the removal of doubts, it is hereby clarified

that the deposit office shall refuse the depositor to withdraw any amount lying in his account, in case of failure on his part to furnish all the details as required by sub-paragraph (3).

10. Utilisation of the amount of withdrawal :-

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(1) A depositor, withdrawing any amount out of the deposit made in pursuance of sub-section (2) of section 54 or sub-section (2) of section 54B or sub-section (2) of section 54D or sub-section (4) of section 54F or sub-section (2) of section 54G, shall utilise the whole or any part of the amount so withdrawn for the purposes specified in sub-section (1) of the section in relation to which the deposit has been made.

(2) The amount withdrawn shall be utilised by the depositor within sixty days from the date of such withdrawal for the purposes specified in sub-paragraph (1) and the amount or any part thereof which has not been so utilised shall be re-deposited in Account A immediately thereafter.

1. The unutilised deposit amount in the case of an individual who dies before the expiry of the stipulated period in the relevant section cannot be taxed in the hands of the deceased. This amount is not taxable in the hands of the legal heirs also as the unutilised portion of the deposit does not partake of the character of income in their hands but is only a part of the estate devolving upon them: Circular No. 743, dated 6-5-1996.

11. Nomination by the depositor :-

(1) A depositor may nominate in Form E or as near thereto as possible, one or more persons but not exceeding three to receive the amount standing to his credit in Account A or Account B, as the case may be, in the event of his death before the amount has become payable or having become payable, has not been paid.

(2) No nominations shall be made in respect of an account opened on behalf of a minor or a Hindu undivided family or a firm or a company or an association of persons or a body of individuals.

(3) A nomination made by a depositor may be varied by a fresh nomination in Form F or as near thereto as possible, by giving notice in writing to the deposit office in which the account stands.

(4) Every nomination and every cancellation or variation thereof shall be registered in the deposit office and shall be effective from

the date of such registration, the particulars of which in the case of a deposit in Account A shall be entered in the pass book and in the case of a deposit in Account B shall be entered in the deposit receipt, issued by the deposit office.

(5) If the nominee is a minor, the depositor may appoint any person to receive the amount due under the account in the event of the death of the depositor during the minority of the nominee.

(6) Where the nomination is in favour of more than one person, the nominee first-named shall alone have the right to receive the amount standing to the credit in the account of the deceased depositor.

(7) Where the nominee first named has predeceased the depositor and the depositor has not cancelled the nomination or substituted the nomination, the nominee second-named shall be entitled to receive the amount standing to the credit in the account of the deceased depositor and so on in respect of other successive nominees: Provided that if any nominee is dead, the surviving nominee or nominees shall, in addition to the proof of death of the depositor also furnish proof of death of the deceased nominee or nominees, as the case may be.

12. Charge or alienation :-

The amount standing to the credit of any depositor in any account shall not be placed or offered by him as security for any loan or guarantee and shall not be charged or alienated in any manner whatsoever.

13. Closure of the account :-

(1) If a depositor desires to close his account, an application shall be made with the approval of the Assessing Officer who has jurisdiction over the depositor to the deposit office in Form G or as near thereto as possible, and the deposit office shall pay the amount of balance including interest accrued, to the credit in the account of the depositor by means of crediting such amount to any bank account of the depositor.

(2) If a depositor in respect of whose deposit account a nomination is in force, dies, the nominee, if he desires to close the account or accounts and obtain the payment of the balance standing to the credit in the account of the deceased depositor, shall make an application to the deposit office in Form H or as near thereto as

possible with the approval of the Assessing Officer who has jurisdiction over the deceased depositor, and the deposit office shall pay the amount of balance, standing to the credit in the account of the deceased depositor including amount of interest accrued, by means of crediting such amount to any bank account of the nominee.

(3) If a depositor, in respect of whose deposit no nomination is in force, the legal heir of the deceased depositor shall make an application to the deposit office in Form H or as near thereto as possible, with the approval of the Assessing Officer who has jurisdiction over the deceased depositor, and the deposit office shall pay the balance standing to the credit in the account of the deceased depositor including the amount of interest accrued, by means of crediting such amount to any bank account of the legal heir: Provided that where there are more than one legal heirs of the deceased depositor, the legal heir making the claim individually may do so by producing the letter of disclaimer or letter of authorisation from other legal heirs in his favour: Provided further that before granting the approval for closure of the account under this sub-paragraph, the Assessing Officer shall obtain from the legal heir a succession certificate issued under Succession Act, 1925 , or a probate of the will of the deceased depositor, if any, or letter of administration to the estate of the deceased in case there is no will in order to verify the claim of such legal heir to the account of the deceased depositor.

(4) The depositor or the nominee or the legal heir, in order to obtain payment of the amount standing to the credit in the account shall while applying in Form G or Form H, also submit the Pass book of Account A or deposit receipt of Account B, as the case may be, to the deposit office.

(5) The payment made by the deposit office to the depositor or the nominee or the legal heir in accordance with the provisions of this paragraph shall constitute a full discharge to the deposit office of its liability in respect of the deposit.

(6) Nothing contained in this paragraph or in paragraph 11 shall affect the right or claim which any person may have against the person to whom any payment is made under this paragraph.