

THE GIFT-TAX ACT, 1958

[18 OF 1958]

[THE ACT HAS CEASED TO APPLY WITH EFFECT FROM GIFTS MADE ON OR AFTER 1-10-1998 (SEE SECTION 3(3))]

An Act to provide for the levy of gift-tax

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows :—

**CHAPTER I
PRELIMINARY**

Short title, extent and commencement.

- ¹ 1. (1) This Act may be called the Gift-tax Act, 1958.
(2) It extends to the whole of India except the State of Jammu and Kashmir.
(3) It shall be deemed to have come into force on the 1st day of April, 1958.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (i) ²[***]
- ³[(ii) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252 of the Income-tax Act;
- (iii) "assessee" means a person by whom gift-tax or any other sum of money is payable under this Act, and includes—
- (a) every person in respect of whom any proceeding under this Act has been taken for the determination of gift-tax payable by him or by any other person or the amount of refund due to him or such other person;
- (b) every person who is deemed to be an assessee under this Act;
- (c) every person who is deemed to be an assessee in default under this Act;
- ⁴[(iiiia) "Assessing Officer" means the Assistant Commissioner ^{4a}[or Deputy Commissioner] or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of the Income-tax Act which apply for the purposes of gift-tax under section 7 of this Act, and also the ^{4b}[Joint] Commissioner who is directed under clause (b) of sub-section (4) of the said section 120 to exercise or perform all or any of the powers and functions conferred on or assigned to the Assessing Officer under that Act;]
- (iv) "assessment" includes reassessment;
- (iva) "assessment year" means the period of twelve months commencing on the 1st day of April every year;]
- (v) "Board" means the ⁵[Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)];

⁶[(*va*) "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility ⁷[***];]

(*vi*) ⁸

[***]

(*via*) ⁹[***]

¹⁰[(*vii*) the expressions "company", "Indian company" and "company in which the public are substantially interested" shall have the meanings respectively assigned to them under section 2 of the Income-tax Act;]

(*viiia*) ¹¹[***]

(*viii*) "donee" means any person who acquires any property under a gift, and, where a gift is made to a trustee for the benefit of another person, includes both the trustee and the beneficiary;

(*ix*) "donor" means any person who makes a gift;

(*x*) "executor" means an executor or administrator of the estate of a deceased person;

¹²[(*xi*) the expressions "firm", "partner" and "partnership" shall have the meanings respectively assigned to them under section 2 of the Income-tax Act;]

¹³(*xii*) "gift" means the transfer by one person to another of any existing movable or immovable property made voluntarily and without consideration in money or money's worth, and ¹⁴ [includes the transfer or conversion of any property referred to in section 4, deemed to be a gift under that section].

¹⁵ [*Explanation.*—A transfer of any building or part thereof referred to in clause (*iii*), clause (*iiia*) or clause (*iiib*) of section 27 of the Income-tax Act by the person who is deemed under the said clause to be the owner thereof made voluntarily and without consideration in money or money's worth, shall be deemed to be a gift made by such person;]

(*xiii*) ¹⁶[***]

¹⁷[(*xiv*) "Income-tax Act" means the Income-tax Act, 1961 (43 of 1961);]

(*xv*) ¹⁸[***]

(*xvi*) ¹⁹[***]

(*xvia*) ²⁰[***]

²¹[(*xvib*) "legal representative" has the meaning assigned to it in clause (*II*) of section ²² of the Code of Civil Procedure, 1908 (5 of 1908);]

(*xvii*) ²³[***]

(*xviii*) "person" includes a Hindu undivided family or a company or an association or a body of individuals or persons, whether incorporated or not;

(*xix*) "prescribed" means prescribed by rules made under this Act;

(*xx*) "previous year", in relation to any assessment year—

(*a*) in the case of an assessee ²⁴[having no source of income, profits or gains or] having a source of income, profits or gains in respect of which there is no previous year under the Income-tax Act, means the twelve months ending on the 31st day of March immediately preceding the assessment year;

(*b*) ²⁵[***]

(*c*) in the case of any other assessee, means the previous year as defined in ²⁶ [section 3] of the Income-tax Act if an assessment were to be made under that Act for that year :

²⁷ [Provided that where a person who has not been assessed under this Act for any assessment year makes a gift on a date which does not fall within a previous year as defined in sub-clause (a) ²⁸[***] or sub-clause (c), the previous year shall be the twelve months ending on the 31st day of March immediately preceding the assessment year;

²⁹ [***]

(xxi) "principal officer", used with reference to a company or any association of persons, means—

(a) the secretary and treasurer, manager, managing agent, managing director or agent of the company or association; or

(b) any person connected with the management of the affairs of the company or association upon whom the ³⁰ [Assessing Officer] has served a notice of his intention of treating him as the principal officer thereof;

(xxii) "property" includes any interest in property, movable or immovable;

(xxiii) "taxable gifts" means gifts chargeable to gift-tax under this Act;

³¹[(xxiii) territories to which this Act extends shall be deemed to include the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu and Pondicherry—

(a) as respects any period for the purposes of section 5; and

(b) as respects any period included in the previous year, for the purposes of making any assessment for the assessment year commencing on the 1st day of April, 1963, or for any subsequent year;]

³²(xxiv) "transfer of property" means any disposition, conveyance, assignment, settlement, delivery, payment or other alienation of property and, without limiting the generality of the foregoing, includes—

(a) the creation of a trust in property;

(b) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in property;

(c) the exercise of a power of appointment ³³[(whether general, special or subject to any restrictions as to the persons in whose favour the appointment may be made)] of property vested in any person, not the owner of the property, to determine its disposition in favour of any person other than the donee of the power; and

(d) any transaction entered into by any person with intent thereby to diminish directly or indirectly the value of his own property and to increase the value of the property of any other person;

³⁴[(xxv) the expressions "Chief Commissioner", "Director General", "Commissioner", "Commissioner (Appeals)", "Director", ³⁵["Additional Director of Income-tax", "Additional Commissioner of Income-tax", "Additional Commissioner of Income-tax (Appeals)", ^{35a}["Joint Director", "Joint Commissioner"], "Deputy Director",] "Deputy Commissioner", "Deputy Commissioner (Appeals)", "Assistant Commissioner", "Income-tax Officer", "Tax Recovery Officer" and "Inspector of Income-tax" shall have the meanings respectively assigned to them under section 2 of the Income-tax Act.]