

**Income-tax (Second Amendment) Rules, 2010 - Insertion of
rule H**

*Notification No. 23/2010 [F.No.142/21/2009-SO(TPL),
dated 7-4-2010*

In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

1. Short title and commencement. - (1) These rules may be called Income-tax (Second Amendment) Rules, 2010.

(2) They shall come into force from the 1st day of October, 2009.

2. Insertion of new rules. - In the Income-tax Rules, 1962, after the sub-part G, the following shall be inserted, namely:-

**'H. - Determination of fair market value of the property
other than immovable property**

11U. Meaning of expressions used in determination of fair market value. - For the purposes of this rule and rule 11UA,-

- (a) "accountant" shall have the same meaning as assigned in the *Explanation* to section 288 of the Act;
- (b) "balance-sheet", in relation to any company, means the balance-sheet of such company (including the notes annexed thereto and forming part of the accounts) as drawn up on the valuation date;
- (c) "merchant banker" means category I merchant banker registered with Security and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (d) "quoted shares or securities" in relation to share or securities means a share or security quoted on any recognized stock exchange with regularity from time to time, where the quotations of such shares or securities are based on current transaction made in the ordinary course of business;
- (e) "recognized stock exchange" shall have the same meaning as assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

- (f) "registered dealer" means a dealer who is registered under Central Sale-tax Act, 1956 or General Sales-tax Law for the time being in force in any State including value added tax laws;
- (g) "registered valuer" shall have the same meaning as assigned to it in section 34AB of the Wealth Tax Act, 1957(27 of 1957) read with rule 8A of wealth-tax Rules, 1957;
- (h) "securities" shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (i) "unquoted shares and securities", in relation to shares or securities, means shares and securities which is not a quoted shares or securities;
- (j) "valuation date" means the date on which the respective property is received by the assessee.

11UA. Determination of Fair Market Value. - For the purposes of section 56 of the Act, the fair market value of a property, other than immovable property, shall be determined in the following manner, namely,-

(a) valuation of Jewellery.-

- (i) the fair market value of jewellery shall be estimated to be the price which such jewellery would fetch if sold in the open market on the valuation date;
- (ii) in case the jewellery is received by the way of purchase on the valuation date, from a registered dealer, the invoice value of the jewellery shall be the fair market value;
- (iii) In case the jewellery is received by any other mode and the value of the jewellery exceeds rupees fifty thousand, then assessee may obtain the report of registered valuer in respect of the price it would fetch if sold in the open market on the valuation date;

(b) valuation of archeological collections, drawings, paintings, sculptures or any work of art.-

- (i) the fair market value of archeological collections, drawings, paintings, sculptures or any work of art (hereinafter referred as artistic work) shall be estimated to be price which it would fetch if sold in the open market on the valuation date;
- (ii) in case the artistic work is received by the way of purchase on the valuation date, from a registered dealer, the invoice value of the artistic work shall be the fair market value;
- (iii) in case the artistic work is received by any other mode and the value of the artistic work exceeds rupees fifty thousand, then assessee may obtain the report of registered valuer in

respect of the price it would fetch if sold in the open market on the valuation date;

(c) valuation of shares and securities.-

(a) the fair market value of quoted shares and securities shall be determined in the following manner, namely:-

- (i) if the quoted shares and securities are received by way of transaction carried out through any recognized stock exchange, the fair market value of such shares and securities shall be the transaction value as recorded in such stock exchange;
- (ii) if such quoted shares and securities are received by way of transaction carried out other than through any recognized stock exchange, the fair market value of such shares and securities shall be,-
 - (a) the lowest price of such shares and securities quoted on any recognized stock exchange on the valuation date, and
 - (b) the lowest price of such shares and securities on any recognized stock exchange on a date immediately preceding the valuation date when such shares and securities were traded on such stock exchange, in cases where on the valuation date there is no trading in such shares and securities on any recognized stock exchange;

(b) the fair market value of unquoted equity shares shall be the value, on the valuation date, of such unquoted equity shares as determined in the following manner namely:-

$$\text{The fair market value of unquoted equity shares} = \frac{(A-L)}{(PE)} * (PV)$$

Where, A= Book value of the assets in Balance Sheet as reduced by any amount paid as advance tax under the Income-tax Act and any amount shown in the balance sheet including the debit balance of the profit and loss account or the profit and loss appropriation account which does not represent the value of any asset.

L= Book value of liabilities shown in the Balance Sheet but not including the following amounts:-

- (i) the paid-up capital in respect of equity shares;
- (ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the date of transfer at a general body meeting of the company;
- (iii) reserves, by whatever name called, other than those set apart towards depreciation;
- (iv) credit balance of the profit and loss account;
- (v) any amount representing provision for taxation, other than amount paid as advance tax under the Income-tax Act, to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;
- (vi) any amount representing provisions made for meeting liabilities, other than ascertained liabilities;
- (vii) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares.

PE = Total amount of paid up equity share capital as shown in Balance Sheet.

PV = the paid up value of such equity shares.

(c) the fair market value of unquoted shares and securities other than equity shares in a company which are not listed in any recognized stock exchange shall be estimated to be price it would fetch if sold in the open market on the valuation date and the assessee may obtain a report from a merchant banker or an accountant in respect of such valuation.'