SECURITIES TRANSACTION TAX RULES, 2004

NOTIFICATION NO. SO 1059(E), DATED 28-9-2004

In exercise of the powers conferred by sub-section (1) read with sub-section (2) of section 114 of the Finance (No. 2) Act, 2004 (23 of 2004), the Central Government hereby makes the following rules for carrying out the provisions of Chapter VII of the said Act relating to securities transaction tax, namely :—

Short title and commencement.

1. (1) These rules may be called the Securities Transaction Tax Rules, 2004.

(2) They shall come into force on the 1st day of October, 2004.

Definitions.

2. (1) In these rules, unless the context otherwise requires,—

(*a*) "Act" means the Finance (No. 2) Act, 2004 (23 of 2004);

(*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*) "Form" means a Form set out in the Appendix to these rules.

(2) Words and expressions used and not defined in these rules but defined in the Act, or the Securities Contracts (Regulation) Act, 1956, or the Income-tax Act, 1961, shall have the meanings respectively assigned to them in those Acts.

Value of taxable securities transaction.

3. For the purposes of clause (*c*) of section 99 of the Act, the value of a taxable securities transaction, being a purchase or sale of an equity share in a company or a unit of an equity oriented fund, entered into in a recognised stock exchange, shall be determined in the following manner, namely :—

(*a*) where the equity share or unit is purchased or sold by a person on a trading day in the netted settlement mode,—

(*i*) the quantity of shares or units purchased or sold in each trade in that equity share or unit executed by the person on that day, shall be multiplied by the price at which the trade is executed, to determine the trade value of each such trade;

(*ii*) the aggregate trade value of all trades in the equity share or unit by the person on that day shall be arrived at by totalling the trade values determined under sub-clause (*i*);

(*iii*) the aggregate trade value arrived at under sub-clause (*ii*), shall be divided by the total quantity of the equity share or unit traded by the person on that day, to determine the volume weighted average price of that equity share or unit for that person for that day;

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(*iv*) such volume weighted average price (rounded off to the nearest paisa) shall be taken to be the value of the taxable securities transaction relating to the equity share or unit.

Explanation - For the purposes of this clause, the determination of the value of taxable securities transaction in a case where the equity share or unit is purchased or sold through a member of the stock exchange, shall be made with reference to the trades executed in the equity share or unit under a particular client Code through that member;

(*b*) where the equity share or unit is purchased or sold by a person in the trade-for-trade settlement mode, the value of the taxable securities transaction shall be the price at which the equity share or unit is purchased or sold;

(*c*) where the equity share or unit is purchased in the auction settlement mode, the value of the taxable securities transaction shall be the volume weighted average price of the equity share or unit, determined in the manner specified in clause (*a*), in respect of all trades in that equity share or unit carried out in the auction session;

(*d*) where the equity share or unit is sold in the auction settlement mode, the value of the taxable securities transaction shall be the price at which the equity share or unit is sold.

Explanation - For the purposes of this rule—

(*i*) "netted settlement mode" means a mode of settlement of transactions in a recognised stock exchange where the quantity of an equity share or unit purchased by a person on a trading day is set off against the quantity of that equity share or unit sold by him on that day and actual delivery is required to be taken or given by him as the case may be, only in respect of the net quantity purchased or sold as has not been so set off;

(*ii*) "trade-for-trade settlement mode" means a mode of settlement of transactions in a recognised stock exchange where each trade is compulsorily required to be settled by actual delivery;

(*iii*) "auction settlement mode" means a mode of settlement, in a stock exchange, of transactions carried out in the auction session, being a trading session in which the stock exchange makes purchases of equity shares or units through an auction process initiated by it, so as to settle transactions where there has been a failure to deliver such equity shares or units which were required to be delivered.

Rounding off value of taxable securities transaction, securities transaction tax, etc.

4. The value of taxable securities transaction and the amount of securities transaction tax, interest and penalty payable, and the amount of refund due, under the provisions of Chapter VII of the Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

Person responsible for collection and payment of securities transaction tax in case of a Mutual Fund.

5. In the case of a Mutual Fund, the person responsible for collection and payment of securities transaction tax in accordance with sub-sections (2), (3) and (4) of section 100 of the Act, shall be the trustee of the Fund, or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.

Payment of Securities Transaction Tax.

6. Every recognised stock exchange, or, as the case may be, the trustee of every Mutual Fund or such other person managing the affairs of the mutual fund as may be duly authorised by the trustee in this behalf, who is required to collect and pay securities transaction tax under section 100, shall pay the amount of such tax to the credit of the Central Government by remitting it into any branch of the Reserve Bank of India or of the State Bank of India or of any authorised bank accompanied by a securities transaction tax challan.

Return of taxable securities transactions.

7. (1) The return of taxable securities transactions required to be furnished under sub-section (1) of section 101 of the Act shall,—

(*a*) in the case of a recognised stock exchange, be in Form No. 1 and be verified in the manner indicated therein;

(*b*) in the case of a Mutual Fund, be in Form No. 2 and be verified in the manner indicated therein.

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(2) The particulars required to be furnished in the schedules to Form No. 1 and Form No. 2 referred to in sub-rule (1) shall be furnished on a computer media, in accordance with the following,—

(*a*) the computer media conforms to the following specifications :—

(*i*) CD ROM of 650 MB capacity or higher capacity; or

(*ii*) 4mm 2GB/4GB (90M/120M) DAT Cartridge, or

(*iii*) Digital Video Disc;

(*b*) if the data relating to the schedules is copied using data compression or backup software utility, the corresponding software utility or procedure for its decompression or restoration shall also be furnished;

(*c*) the return shall be accompanied by a certificate regarding clean and virus free data.

(3) In the case of a Mutual Fund, the return referred to in sub-rule (1) shall be furnished by the trustee of the Fund, or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.

(4) The return of taxable securities transaction entered into during a financial year shall be furnished on or before the 30th June immediately following that financial year.

Return by whom to be signed.

8. The return under sub-section (1) of section 101 of the Act shall be signed and verified—

(*a*) in the case of a recognised stock exchange—

(*i*) being a company, by the Managing Director or a Director thereof;

(*ii*) in any other case, by the principal officer thereof;

(*b*) in the case of a Mutual Fund, by the trustee or such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.

Time limit to be specified in the notice calling for return of taxable securities transaction.

9. Where an assessee fails to furnish the return under sub-section (1) of section 101 of the Act within the time specified in sub-rule (4) of rule 7, the Assessing Officer may issue a notice to such person requiring him to furnish, within thirty days from the date of service of the notice, a return in the Form prescribed in rule 7 as applicable to him and verified in the manner indicated therein.

Notice of demand.

10. Where any tax, interest or penalty is payable in consequence of any order passed under the provisions of Chapter VII of the Act, the Assessing Officer shall serve upon the assessee a notice of demand in Form No. 3 specifying the sum so payable.

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Prescribed time for refund of tax to the person from whom such amount was collected.

11. Every assessee, in case any amount is refunded to it on assessment under sub-section (2) of section 102 of the Act, shall, within thirty days from the date of receipt of such amount, refund the same to the concerned person from whom it was collected

Form of appeal to Commissioner of Income-tax (Appeals).

12. (1) An appeal under sub-section (1) of section 110 to the Commissioner (Appeals) shall be made in Form No. 4.

(2) The form of appeal prescribed by sub-rule (1), the grounds of appeal and the form of verification appended thereto relating to an assessee shall be signed and verified by the person who is authorised to sign the return of taxable securities transactions under rule 8, as applicable to the assessee.

Form of appeal to Appellate Tribunal.

13. An appeal under sub-section (1) or sub-section (2) of section 111 of the Act to the Appellate Tribunal shall be made in Form No. 5, and where the appeal is made by the assessee, the form of appeal, the grounds of appeal and the form of verification appended thereto shall be signed by the person specified in rule 8.