



## The Chamber of Tax Consultants

Mumbai-Delhi

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3<sup>rd</sup> January, 2018

To,  
Shri Sushil Chandra  
The Chairman,  
Central Board of Direct Taxes,  
North Block,  
Delhi - 110 001

**Subject: Hardship in obtaining 'Legal Heir Certificate' for the purpose of registering Deceased assessee's legal heir as Representative assessee for e-filing of tax returns of a deceased assessee.**

Respected Sir,

1. The Chamber of Tax Consultants, established in 1926, is one of the oldest non-profit association of Tax Practitioners of Mumbai. Topmost Tax Practitioners, Senior Advocates and Chartered Accountants have adorned the President ship, the Chamber enjoys at present. Today, the Chamber commands considerable goodwill and respect not only among tax Practitioners, Advocates, Solicitors, Chartered Accountants but also among leading corporates – who also are members of the Chamber. The Chamber also has created a niche with the government and other regulatory agencies, where representations by the Chamber are received with all seriousness.
2. Background of the Issue:
  - a. As per Sub Section (1) of Section 159 of The Income Tax Act, 1961 (**"the Act"**),  
*"Where a person dies, his legal representative shall be liable to pay any sum*

*which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased.”*

- b. Also as per Sub Section (3) of the said Section *“The legal representative of the deceased shall, for the purposes of this Act, be deemed to be an assessee.”*
  - c. Thus the **legal representative** of the deceased assessee needs to comply with various provisions like filing of Return, payment of taxes, complying with assessment proceeding **on behalf of the deceased assessee**.
3. Filing of tax returns electronically is mandatory in most cases now and is recommended in all other cases too by the Revenue. The Existing procedure to register oneself as legal representative of deceased assessee for filing return of income of deceased assessee is described in brief as below:
- a. The legal representative needs to register himself as ‘Legal Heir’ on the E-Filing portal in order to file return of deceased assessee. This is for the period that Income was earned by the deceased but cannot be returned by him since he has since passed away.
  - b. Request needs to be made through E-Filing portal for above registration by providing certain details of deceased assessee along with certain specified documents.
  - c. The following are the documents which are to be submitted/uploaded:
    - i) Copy of Death Certificate.
    - ii) Copy of PAN card of deceased.
    - iii) Self attested PAN card copy of the Legal Heir.
    - iv) Legal Heir Certificate issued by the Court/Local Revenue Authority.  
or  
Surviving member certificate issued by the Local Authority.  
Or  
Pension Order issued by Central/State Government.  
or  
Registered will.
  - d. On fulfilling the above details, one can submit the request and will be provided an acknowledgement along with a Transaction ID.

- e. The department would then 'accept/reject' the request based on the details and documents uploaded. Where request has been rejected, department will provide the ground for rejection, which can be viewed by clicking on Transaction ID.
4. All the documents as specified in sub-point 'c' above, are generally available or can be easily obtained **except for those specified in (iv)**.  
The issues faced for obtaining 'Legal Heir' certificate are as under:
- a. Obtaining legal heir certificate or Surviving member certificate from Court/ Local revenue authority is very time consuming as well as a cumbersome.
  - b. Pension Order is issued by Central/State Government only to its employees and thus any person other than government employee would not be able to obtain the Pension Order.
  - c. While a will may be available in various cases, registration of a will is not mandatory. Getting a will registered subsequent to the demise of an assessee is not possible.
  - d. Thus taking up a case neither of a person who is neither a government employee nor in possession of registered will, the only option left for him is to approach Court/Local revenue authority to obtain the said certificate, which is generally a very complex exercise with heavy monetary obligations in terms of cost and time.
5. Prayers before your goodself:
- a. We request that the filing of the documents at (i) to (iii) should be made as sufficient compliance.
  - b. In the event however that the Revenue believes that there is need to identify with adequate evidence that the filer is a legal heir only, we suggest some alternatives, as mentioned below:
    - i) Affidavit from the legal heir or,
    - ii) Certificate of nomination from institutions like banks or,
    - iii) Copy of Ration Card specifying the name and relation with the legal heir

Please do not insist on probate of Wills, as obtaining a probate will take time and the date for filing a return may lapse. Further in case legal heir is authorised to

file return of income, he should be allowed to file return as a legal heir till estate of deceased is distributed.

You may also appreciate that due to cumbersome process, filing of return is delayed beyond the reasonable period, even if there is willingness to file to return.

We hope that our representation will receive due consideration as this will simplify unwarranted hardship caused to a representative of a deceased assessee.

Thanking you,

Yours Sincerely,

**For The Chamber of Tax Consultants**

Sd/-

Ajay Singh  
President

Sd/-

Mahendra Sanghvi  
Chairman  
Law & Representation Committee

Sd/-

Paras Savla  
Co-Chairman