

The Law of Gifts

Gift Defined

Section 122 of the Transfer of Property Act, 1882 defines a Gift as the transfer of certain existing moveable or immoveable property made voluntarily and without consideration, by one person, called the donor, to another, called the donee, and accepted by or on behalf of the donee.

Acceptance of Gift (Para 2 of Sec. 122)

A gift is required to be accepted during the lifetime of the donor and while he is still capable of giving.

If the Donee dies before acceptance, the gift is void.

Requirement of Registered Instrument (Sec. 123)

Immoveable property – Mandatory

Moveable property – Optional

Certain Gifts Void

1. Gift of 'future' property. (Sec. 124)
2. Gift revocable at the mere will of the donor is void. (Sec. 125)

Suspension or Revocation of a Gift

A gift may be revoked, only:

1. by agreement b/w the Donor and Donee, that on happening of any specified event which does not

depend on the will of the donor, a gift shall be suspended or revoked.

2. in any of the cases (save want or failure of consideration) in which, if it were a Contract, it might be rescinded.

Onerous Gifts

A gift is said to be onerous, if the property is burdened by any obligation.

Single Transfer to the same person of several things of which one is, and the others are not burdened by an obligation, the donee can take nothing by the gift unless he accepts fully.

Two or more separate and independent transfers to the same person of several things – Choice of Donee to accept one of them and refuse others – even if the chosen one is beneficial and the others onerous.

Universal Donee

Gift consisting of the whole of Donor's property.

Subject to the provisions relating to Onerous gifts, the donee is personally liable for all the debts due by and liabilities of the donor at the time of gift and to the extent of the property comprised therein.

* All sections referred to are of the Transfer of Property Act, 1882.

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MEMORANDUM OF GIFT

This MEMORANDUM OF GIFT is executed this 18 December, 2007:

BY Mr. DONOR NAME Son of FATHER'S NAME Residing at RESIDENCE ADDRESS hereinafter referred to as the DONOR of the ONE PART.

IN FAVOUR OF Mrs. DONEE NAME Daughter of FATHER'S NAME Residing at RESIDENCE ADDRESS hereinafter referred to as the DONEE of the OTHER PART.

WHEREAS

- (1) The DONOR having natural love and affection, is desirous of giving the DONEE by way of an absolute and irrevocable gift, the amount / property described in Schedule "A" below.
- (2) The DONOR has to give effect to the said desire transferred the previously mentioned property to the DONEE who has willingly accepted the same on the date mentioned in Schedule "A" below.
- (3) The DONOR & DONEE, now consider it expedient, to record the terms of GIFT in writing to serve as an *aide memoire*.

NOW THEREFORE THIS MEMORANDUM OF GIFT WITNESSETH AS FOLLOWS:

- (1) The amount / property specified in Schedule "A" hereto has been gifted to the DONEE by way of an absolute and irrevocable gift.
- (2) The amount / property specified in Schedule "A" has been withdrawn by the DONOR from the source mentioned in Schedule "A" hereto.
- (3) The DONOR (including his heirs, administrators, assignees or any other person claiming through him / her) shall henceforth have no claim or interest whatsoever in the said amount / property.
- (4) The DONEE (including its heirs, administrators, assignees or any other person claiming through it) shall henceforth be the absolute owner of the amount / property so gifted to him / her.
- (5) The DONOR & DONEE have been allotted the Permanent Account No. specified in Schedule "A" hereto for the purpose of Income Tax assessment.

Schedule "A" Referred Above

Amount / Property of Gift	
Date of Gift / Transfer	
Acceptance By	
Source	
Mode of Payment	
Relation (Donor / Donee)	
PAN (DONOR)	
PAN (DONEE)	

IN WITNESS WHEREOF, the parties hereto have set and subscribed their hands to this MEMORANDUM OF GIFT on the day, month and year first above mentioned.

Signature of Witness

1.
(X)

()

2.
(X)

()

Signature of Parties

One Part (DONOR)
(X)

(Name & Title)

Other Part (DONEE)
(X)

(Name & Title)

By **NIRMAL GHORAWAT**

The Law of Gifts

MEMORANDUM OF GIFT

This MEMORANDUM OF GIFT is executed this 18 December, 2007:

BY Mr. DONOR NAME Son of FATHER'S NAME Residing at RESIDENCE ADDRESS hereinafter referred to as the DONOR of the ONE PART.

IN FAVOUR OF M/s DONEE NAME, a Hindu Undivided Family represented by its *Karta* Mr. KARTA NAME Son of FATHER'S NAME Residing at RESIDENCE ADDRESS hereinafter referred to as the DONEE of the OTHER PART.

WHEREAS

- (1) The DONOR having natural love and affection, is desirous of giving the DONEE by way of an absolute and irrevocable gift, the amount / property described in Schedule "A" below.
- (2) The DONEE is a Joint Hindu Family consisting of the members, more properly described in Schedule "B" below.
- (3) The DONOR has to give effect to the said desire transferred the previously mentioned property to the DONEE (represented by its *Karta*) who has willingly accepted the same, for and on behalf of the family, on the date mentioned in Schedule "A" below.
- (4) The DONOR & DONEE, now consider it expedient, to record the terms of GIFT in writing to serve as an *aide memoire*.

NOW THEREFORE THIS MEMORANDUM OF GIFT WITNESSETH AS FOLLOWS:

- (1) The amount / property specified in Schedule "A" below has been gifted to the DONEE by way of an absolute and irrevocable gift.
- (2) The amount / property specified in Schedule "A" has been withdrawn by the DONOR from the source mentioned in Schedule "A" hereto.
- (3) The DONOR (including his heirs, administrators, assignees or any other person claiming through him / her) shall henceforth have no claim or interest whatsoever in the said amount / property.
- (4) The DONEE (including the present and would be members of the family and also including its heirs, administrators, assignees or any other person claiming through it) shall henceforth be the absolute owner of the amount / property so gifted to him / her.
- (5) The DONEE family shall hold the said amount / property as properties of the Joint Hindu Family and the respective rights of the members of the family shall be governed by the *Mitakshara* School of Hindu Law.
- (6) The Gift has been accepted by the *Karta* for and on behalf of the family. The *Karta* affirms that the Gift so received has been blended / merged with the other properties / assets of the said family.
- (7) The DONOR & DONEE have been allotted the Permanent Account No. specified in Schedule "A" hereto for the purpose of Income Tax assessment.

By **NIRMAL GHORAWAT**

The Law of Gifts

Schedule "A" Referred Above

Amount / Property of Gift	
Date of Gift / Transfer	
Acceptance By	
Source	
Mode of Payment	
Relation (Donor / Donee)	
PAN (DONOR)	
PAN (DONEE)	

Schedule "B" Referred Above

Name & Style of HUF	
Name of Members	Capacity / Relation with the Karta
	Karta
	Karta's Wife
	Son
	Son
	Daughter

IN WITNESS WHEREOF, the parties hereto have set and subscribed their hands to this MEMORANDUM OF GIFT on the day, month and year first above mentioned.

Signature of Witness

1.
(X)

_____)

2.
(X)

_____)

Signature of Parties

One Part (DONOR)
(X)

_____)
(Name & Title)

Other Part (DONEE)
(X)

_____)
(Name & Title)

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AFFIDAVIT

(Declaration of Gift in Favour of a Hindu-Undivided Family)

I, Mr / Mrs / Ms _____ (Name), S/o (D/o) _____
resident of _____ do
hereby take oath and solemnly affirm as under:-

1. The Deponent - Donor having natural love and affection for the members of the (Name of Donee-HUF) has made an absolute and irrevocable gift to the Donee - HUF as per details given below:-

Amount of Gift	Amount / Property of Gift
Date of Gift / Transfer	17 December, 2007
Mode of Payment	

2. The Donee - HUF presently consists of the following family members:-

Name of Members	Capacity / Relation with the Karta
	Karta
	Karta's Wife
	Son
	Son
	Daughter

3. The Donee - HUF shall hold the said amount / property as properties of the Joint Hindu Family styled as M/s _____ (Name of HUF) and the respective rights of the members of the family shall be governed by the *Mitakshara* School of Hindu Law.
4. I declare that the facts stated by me herein, are true to the best of my knowledge and belief. I further declare that the same have been made by me honestly and consciously.

(x)

Date: _____.

Place: _____.

Deponent

Note: Affidavit Accompanying the Memorandum of Gift.

By **NIRMAL GHORAWAT**