

PROCEDURE FOR MUTATION OF PROPERTY IN ASSESSMENT & COLLECTION DEPARTMENT MUNICIPAL CORPORATION OF DELHI

Change of name of taxpayer u/s 128(5) of the DMC Act is culmination of notice of transfer / devolution made to MCD and is popularly called mutation. The mutation in the municipal records is for the purpose of payment of property taxes only and it does not mean a legal title in the name of the person in whose name the property has been mutated in the municipal records.

Section 128 of the DMC Act, 1957 provides for giving a notice of transfer or devolution of the property. According to this section, when the title of any property is transferred, the transferor and the transferee have to give to the Commissioner, MCD a notice of the transfer of the property so that the name of the transferee is recorded in the municipal records. One of the conditions for the mutation is that no property tax should be outstanding on the date of intimation of transfer or the same may also be paid before giving notice of transfer. If notice under the Act has not been given by the transferor and transferee, liability for payment of property tax will continue to be that of the transferor, till the transfer is recorded in MCD record. In case of death of a person primarily liable for payment of property taxes, the person(s) on whom the title of the property devolves should give such notice. The effect of actions u/s 128 of the DMC Act is neither an approval of sub-division of the property nor a confirmation of title for ownership of the property for any other purposes under the Act.

Procedure for giving notice for Transfer of Property / Mutation:-

As per Bye Law 3 of the Taxation Miscellaneous Provisions Bye Laws, 1959, the notice regarding transfer of title required to be given under Section 128 shall be either in Form 'A' or Form 'B' (**available at page No. 5 & 6**) as the case may be, and shall state clearly and correctly all the particulars required by the said form.

- a) Whenever the title of any person to any land or building is transferred, both the transferor and transferee shall give notice of such transfer within a period of three months after the execution of the instrument of transfer or after registration / transfer is effected {Sec 128(1)};
- b) In case of death of an owner, the person on whom the title devolves shall give notice of such devolution within six months from the date of death of the deceased {Sec 128(2)}

Note:-

As and when there is death of the person primarily liable for payment of taxes, the person on whom the title of the property devolves, should within six months of the death, apply to the MCD about the devolution of the property on the legal heirs so that mutation of property takes place. The person(s) on whom the property devolves should be cautious in moving for transfer in municipal records as early as possible as there has been cases whereby some of the legal heirs got the property mutated in their names to the exclusion of others.

As per departmental Instructions on the subject, in case of death, a copy of Will or succession certificate is required to ensure that there is no malpractice in mutation cases.

However, where the Assessing Officer is satisfied that there is no malpractice in the claim of mutation, the following documents may be insisted upon for the purpose of mutation in respect of such properties:

- (i) Death certificate (original copy) of the previous assessee / recorded taxpayer;
- (ii) Certified copy of the Will and the codicil (if applicable);
- (iii) Affidavit together with No Objection Certificate from the other legal heirs of the deceased or their successors in interest in cases of Unregistered Will;
- (iv) In cases of Registered Will, affidavit from the person on whom the title devolves;

Note:-

Prior to allowing the mutation, the name(s) and addresses of the family member(s) and legal heir(s) should be obtained and after allowing mutation on the basis of Registered Will, intimation should be given to those family member and legal heirs.

- (v) Indemnity bond containing an undertaking of the applicant that he/she shall indemnify the Corporation in the event of dispute arising from the mutation made upon his/her application;
- (vi) Rough site plans showing different portions of the building and the signatures/thumb impression etc. of the persons occupying these portions;
- (vii) In case of inheritance of a property by more than one legal heirs, mutation in the name of all the legal heirs may be allowed subject to clearance of up to date taxes by each of them for their respective portions;
- (viii) If entire building / plot has been purchased through registered sale deed or any instrument, mutation is allowable on payment of up-to-date dues;
- (ix) If a part of the building/plot has been purchased through registered instrument, mutation may be allowed in the name of the purchaser on payment of up-to-date taxes for the portion purchased;
- (x) In case a person is aggrieved of the order of mutation carried out in favour of mutatee(s), the aggrieved person shall get the dispute settled by the court of law and on the basis of the decision of the Hon'ble Court, necessary modification in the mutation shall be carried out.

Note:-

Whenever the transferees present the instruments of transfer, a letter may be issued to the transferor inviting objections, if any, in respect of the claim for mutation and consider objections received, if any, within 15 days of the issue of such letter. If no objection is received within 15 days, the property will be mutated in the name of the transferee, subject to fulfillment of other conditions.

Mutation fee:-

Under the DMC (Amendment) Act, 2003, and the Bye – laws framed thereunder regarding the apportionment of property tax on such vacant land or building among the several occupiers of such vacant land or building for the current period of assessment or for any preceding period of assessment shall be one hundred rupees per assessee for each period of assessment for each apportionment, fee of Rs.100/- is to be paid, along with composition fee of Rs. 50/- (wherever applicable).

As per latest Departmental Instruction No.1 issued vide No. Tax/A&C/PC/SAU/2005-06/7 dated 26.4.2005, immediately on receipt of the application for mutation / transfer of a property, the applications / requests is examined by the Department in accordance with the instructions already in force and in case the application so received is in order, the mutation will be allowed within 15 days of the receipt of the application under intimation to the applicant. The period now is 30 days of the receipt of application u/s 128 of the Act.

In case of any deficiency in the application / request for mutation, a letter to the applicant is sent within 15 days of the receipt of the application by the Department and on receipt of the required information / documents, the mutation case be processed further and final orders allowing the mutation will be passed under intimation to the applicant within 15 days of the submission of the such documents / information. In case requisite information / documents are not furnished along with up to date payment of property tax within the stipulated period, the application for mutation may be rejected / filed and intimation to this effect may be sent to the applicant.

Thus the application for mutation is disposed of in 30 days of the receipt of application.

List of Documents required for Mutation:-

(A) In case of Transfer:-

1. Notice in Form-A (at page No. 5)
2. Copy of valid instrument(s) of transfer – deed of such transfer must be duly stamped and registered. Transfer duty on such stamp duty must have been paid;
3. Possession letter / mutation, if any;
4. Application for mutation with Rs.3/- Court fee stamp affixed on it;
5. Indemnity Bond on Rs.100/- Stamp Paper duly attested by Notary;
6. Affidavit on Rs.10/- Stamp Paper duly attested by Notary (Annex-A);
7. Clearance of up-to-date Property Tax;
8. Apportionment fee of Rs. 100/- per assessee for each period of assessment alongwith compounding fee of Rs. 50/- (wherever applicable) for each default u/s 128(1), 128(2) and 128(3) of the DMC Act.

(B) In case of devolution / inheritance:-

1. Notice in Form-B (at page No. 6)
2. Death Certificate of earlier owner;
3. Copy of Will along with codicil (if applicable) or Succession Certificate;
4. Indemnity Bond on Rs.100/- Stamp Paper duly attested by Notary;
5. Affidavit on Rs.10/- Stamp Paper duly attested by Notary (Annex-B);
6. Affidavit / No objection from other legal heir(s) / co-assessee(s) on Rs.10/- Stamp Paper duly attested by Notary in case of “Unregistered Will” (Annexure-C);
7. In case of Registered Will, affidavit from the person on whom the title devolves;
8. Clearance of up-to-date Property tax;
9. Apportionment fee of Rs. 100/- per assessee for each period of assessment alongwith compounding fee of Rs. 50/- (wherever applicable) for each default u/s 128(1), 128(2) and 128(3) of the DMC Act.

(C) In case of Power of Attorney / agreement to sell:-

1. Notice in Form-A (at page No. 5);
2. Copy of Power of Attorney duly registered in the office of Sub-Registrar;
3. Copy of Agreement to Sell duly registered in the office of Sub-Registrar;
4. Copy of Will;
5. Receipt of payment duly registered by Sub-Registrar;
6. Application for mutation with Rs.3/- Court fee stamp affixed on it;
7. Indemnity Bond on Rs.100/- Stamp Paper duly attested by Notary;
8. Affidavit on Rs.10/- Stamp Paper duly attested by Notary (Annex-A);
9. Clearance of up-to-date Property Tax;
10. Apportionment fee of Rs. 100/- per assessee for each period of assessment alongwith compounding fee of Rs. 50/- (wherever applicable) for each default u/s 128(1), 128(2) and 128(3) of the DMC Act.

In case the will is not registered, no objection from other legal heirs in favour of the beneficiaries may be insisted upon by the Deptt. Indemnity Bond and Affidavit may be modified subject to facts of each case.

Mutation once allowed, shall not be cancelled without prior approval of the Assessor & Collector.

Form-A at page No. 5

Form-B at page No. 6

Sample Indemnity Bond at Annexure-1

Sample affidavit (in case of purchased property) at Annexure-A

Sample affidavit (in case of death of recorded owner) at Annexure-B

Sample affidavit {No Objection from other legal heir(s) / coassessee(s)} at Annexure-C

FORM – A

Form of Notice of Transfer to be given when the transfer has been effected by Instrument

To

The Joint Assessor & Collector
_____ Zone / HQ,
Municipal Corporation of Delhi,
Office address-----
New Delhi

I (A.B.) hereby give notice, as required by Section 128 of the Delhi Municipal Corporation Act, 1957, of the following transfer of property:

Description of the Property:

1.	Date of notice	
2	Date of instrument	
3	Name of vendor or assigner	
4	Name of purchaser or assignee	
5	Amount of consideration	
6	Of what it consists	
7	Situation	
8	UPIC No. (if available)	
9	Ledger & Folio No. (if available)	
10	Dimensions of land	
11	Boundaries	
12	If instrument has been registered, date of registration	
13	Remarks	

Date of payment of the last property tax
Period of the last property tax paid

Signature

FORM – B

Form of Notice of Transfer to be given when the transfer has taken place otherwise than by Instrument

To

The Joint Assessor & Collector
_____ Zone / HQ,
Municipal Corporation of Delhi,
Office address-----
New Delhi

I (A.B.) hereby give notice, as required by Section 128 of the Delhi Municipal Corporation Act, 1957, of the following transfer of property:

Description of the Property:

1.	Date of notice	
2	Name in which the property is at present entered in the municipal records	
3	To whose name it is to be transferred	
4	Of what it consists	
5	Situation	
6	UPIC No. (if available)	
7	Ledger & Folio No. (if available)	
8	Dimensions of land	
9	Boundaries	
10	Remarks	

Date of payment of the last property tax
Period of the last property tax paid

Signature

(SPECIMEN OF INDEMNITY BOND)

INDEMNITY BOND

(on non-judicial stamp paper worth Rs.100/-)

THIS DEED OF INDEMNITY is executed at _____ this _____ day of _____ 200 _____
by _____ Shri/Smt./Kumari/M/s _____ s/o/w/o/d/o
Shri _____ aged _____ resident of _____ (hereinafter called
the new assessee), which expression shall always include his heirs, executors, administrators
and assigns in favour of the Municipal Corporation of Delhi (hereinafter called 'the
Corporation'), which expression shall include its heirs, executors, administrators and assigns.

WHEREAS Shri/Smt./Km.M/s _____ is the recorded owner of property bearing
Municipal No. _____ and has been the person primarily liable for making payment of
property taxes leviable under the DMC Act to the Corporation.

AND WHEREAS the said Shri/Smt/Km. _____ had died
on _____ / has transferred the said property bearing No. _____
vide Registered Deed No. _____ dated _____ by way of sale / perpetual lease /
gift-deed / mortgage with possession / exchange of immovable property and the same New
Assessee became the owner of the said property wholly / partly to the extent of
_____ share therein distinctly shown in the plan submitted along with the
application for mutation/sub-division.

AND WHEREEAS the New Assessee has now moved an application under Section 128 of
the Delhi Municipal Corporation Act, 1957 (as amended in 2003), read with the Bye-laws
made thereunder for mutation/sub-division of the property referred to above, in respect of the
portion of which he/she is now the owner.

AND WHEREAS pending final disposal of and decision on the aforesaid application, the
Corporation has provisionally agreed to mutate/sub-divide the said premises in favour of the
New Assessee for the purpose of levy/collection of property taxes (only) under the Delhi
Municipal Corporation Act, 1957, on the following terms & conditions:

1. That the New Assessee shall provide to the Corporation all the relevant documents and information on the basis of which the said mutation/sub-division is claimed.
2. That the New Assessee shall also furnish a site plan of the premises distinctly showing the respective portion therein of which the New Assessee claims mutation/sub-division.
3. That the New Assessee also agrees to the revision/re-assessment of the portion of the premises of which he/she is seeking mutation/sub-division provided that the same is otherwise warranted under the Act and the Bye-laws framed thereunder.
4. That the New Assessee also agrees that in case by allowing sub-division of the premises under reference if the rateable value or any portion thereof is reduced to Rs.1000/- per annum below, the same shall be reckoned with and reasonably enhanced so as to bring the same out of the exemption limits;

5. That the New Assessee agrees to make the payment of arrears of property taxes on the existing rateable values / annual values or the rateable values / annual values that may be fixed or the demand arising on the taking of any pending increase action or due to mistake in the calculation of taxes. The New Assessee also agrees that he/she shall not agitate or object to the disposal of 126 proceedings (since repealed) already initiated against the previous owners; and
6. That the New Assessee undertakes to indemnify the Corporation against all costs, damages, losses, claims etc. which the Corporation may have to suffer, undergo or pay as a result of mutation/sub-division of the property in the name of the New Assessee.
7. That New Assessee undertakes to file self assessment property tax return and to pay property tax in time as prescribed under the rules in respect of portion / premises / property mutated in his / her name.

NOW, THEREFORE, THESE PRESENT WITNESSTH:

That in pursuance of conditions hereinbefore mentioned, which the New Assessee has accepted without any condition or reservation, the New Assessee hereby agrees to indemnify and keep harmless the said Corporation against all damages, losses, claims, costs etc. which the Corporation may have to suffer, undergo, incur or pay as a result of mutation/sub-division of property bearing No._____ as per plan attached with the application for mutation.

IN WITNESS WHEREOF the New Assessee, as aforesaid, has set and subscribed his hand on these presents, on the day, month and year first above written.

(Shri/Smt.)
New Assessee

Witness:-

1. _____

2. _____

SPECIMEN AFFIDAVIT
(In case of purchased property)
(on non-judicial stamp paper worth Rs.10/-)

I, _____ S/o, D/o Sh. _____
Resident of _____ hereby solemnly affirm and
declare as under:

1. That the Property No. _____
was owned by Shri/Smt. _____.
2. That the said Shri/Smt. _____ has sold out the said property in the name(s)
of _____ vide registered sale deed dated _____
executed in the office of Sub-Registrar, New Delhi.
3. That on the basis of above sale deed, I / we (name) _____ have become the
lawful owner of the said property.

DEPONENT

Verification:

Verified at New Delhi, this _____ day of _____ 200_____ that the contents of
above affidavit are correct and true to the best of my knowledge and belief and nothing has
been concealed therefrom.

DEPONENT

SPECIMEN OF AFFIDAVIT

(In case of death)

(on non-judicial stamp paper worth Rs.10/-)

I, _____ S/o,D/oSh. _____ Resident of _____ do hereby solemnly affirm and declare as under:

1. That the Property No. _____ was owned by Shri/Smt. _____.
2. That the said Shri/Smt. _____ has expired on _____
3. That the said Shri/Smt. _____ did not leave any Will registered or unregistered.

OR

That the said Shri / Smt. _____ has / have left behind a registered or unregistered Will.

4. That after the death of Shri / Smt. _____ there are following legal heirs of the deceased:-

1. Shri/Smt. _____ aged _____ years, relation _____
2. Shri/Smt. _____ aged _____ years, relation _____
3. Shri/Smt. _____ aged _____ years, relation _____

5. That the following legal heirs out of 3 above, have no objection to the mutation of the property in the names of Shri / Smt. _____ & Shri / Smt. _____

1. Shri/Smt. _____
2. Shri/Smt. _____

DEPONENT

Verification:

Verified at New Delhi, this _____ day of _____ 200_____ that the contents of above affidavit are correct and true to the best of my knowledge and belief and nothing has been concealed therefrom.

DEPONENT

SPECIMEN OF AFFIDAVIT
(NO OBJECTION FROM OTHER LEGAL HEIR/COASSEESSEE)
(on non-judicial stamp paper worth Rs.10/-)

I, _____ S/o, D/o Shri _____ resident of _____
do hereby solemnly affirm and declare as under:

1. That I am one of the legal heirs of Shri/Smt. _____
2. That I do not have any objection if the Property No. _____ is mutated in the names of Shri/Smt. _____ & Shri/Smt. _____

DEPONENT

Verification:

Verified at New Delhi, this _____ day of _____ 200____ that the contents of above affidavit are correct and true to the best of my knowledge and belief and nothing has been concealed thereof.

DEPONENT