

FAQ Form No 188

Form for Approval of Gratuity Fund / Superannuation Fund

Q1. What is the purpose of the new Form 188?

Ans.

Form 188 has been introduced to provide a standardised and structured application mechanism for seeking approval of a Gratuity Fund or a Superannuation Fund under Part B of Schedule XI to the Income-tax Act 2025 . The Form replaces the earlier text-based procedural requirements contained in Rule 95 (Gratuity Funds) and Rule 109 (Superannuation Funds) of the Income-tax Rules 1962.

Q2. Why was a separate Form introduced instead of continuing with Rules 95 and 109 of Income Tax Rules 1962?

Ans.

Earlier, the information required for approval was embedded within the Rules themselves. Introducing a separate Form simplifies compliance, reduces textual complexity in the Rules, ensures uniformity of information, and facilitates future migration to an online filing system.

Q3. Is this Form applicable to both Gratuity Funds and Superannuation Funds?

Ans.

Yes. Since the procedural requirements for approval of Gratuity Funds and Superannuation Funds were identical under the erstwhile Rules 95 and 109, a single consolidated Form has been prescribed for both types of funds.

Q4. Who is required to file Form 188?

Ans.

The Form must be filed by the trustees of the Fund or by an authorised person acting on behalf of the trustees. As the Fund is treated as a distinct legal entity, the responsibility for filing and compliance rests with the trustees.

Q5. When is Form 188 required to be filed?

Ans.

Form 188 is required to be filed only once, at the time of seeking initial approval for a new or existing Gratuity Fund or Superannuation Fund.

Q6. What information is required to be furnished in Form 188 ?

Ans.

The Form broadly requires the following particulars:

- Details of the employer (name, address, nature of business)
- Details of the Fund (Name, PAN, Date of creation and Type)
- Classes and number of employees eligible for the Fund
- Place where Fund accounts are maintained
- Status of the Fund, including existing investments (if any)
- Declaration and verification by the trustees

Q7. What documents are required to be submitted along with Form 188 ?

Ans.

The following documents are required to be enclosed:

1. Trust Deed constituting the Fund.
2. Fund Rules governing its administration.
3. Copy of the accounts of the fund relating to previous years (if the Fund is already functional).
4. Copy of the Balance sheet of the fund as on 31st March of the financial year preceding the date of Application, if the fund is already in existence.

Q8. Where should Form 188 be submitted?

Ans.

The Form is to be submitted to the jurisdictional Authority .

Q9. What is the process after submission of Form 188 ?

Ans.

Upon submission:

1. The application is examined by the competent authority.
2. Clarifications or additional information may be sought, if required.
3. A decision is taken to grant approval, issue a deficiency notice, or reject the application.

Q10. What is the outcome if approval is granted?

Ans.

On approval, the Fund is granted a Certificate of Approval, making it eligible for the tax benefits provided under the Income-tax Act in respect of approved Gratuity Funds or Superannuation Funds.

Q11. Does the introduction of Form 188 change the substantive conditions for approval?

Ans.

No. The Form does not alter the substantive conditions for approval. It only reorganises and standardises the manner in which information is furnished, without changing the underlying legal requirements under Schedule XI.

Q12: Can Form 188 be filed electronically?

Ans.

Where electronic filing has been notified, Form 188 is required to be filed electronically in the manner specified by the Board. Until such notification, filing shall be done in the prescribed mode.

Q13: What happens if approval is not granted?

Ans.

If approval is not granted, the reasons are communicated to the applicant. The applicant may file appeal against the order as per the law.