BAGGAGE

U/s 2(3), baggage includes unaccompanied baggage but does not include motor vehicle. Baggage means the following.

1. All ***dutiable article*** imported by a passenger or a member of the crew in his baggage.
2. In includes unaccompanied baggage if dispatch previously or subsequently within the prescribed period.
3. Baggage dews not include motor vehicles, alcoholic drinks, goods imported through courier.
4. Baggage does not include article imported under an import license for his own use or on behalf of others.

Sec 77: DECLARATION BY THE OWNER OF THE BAGGAGE

The owner of any baggage shall for the purpose of clearing. He shall make a declaration of his contents to the proper officer.

Sec.78: **DETERMINATION OF RATE OF DUTY AND TARIFF VALUATION IN RESPECT OF BAGGAGE.**

The rate of duty and tariff value if any applicable to baggage shall be the rate and valuation in force on the date on which a declaration is made in respect of such baggage u/s 77

<u>GREEN CHANNEL</u>: it is impractical to ask every passenger to declare the contents of his baggage hence customs authorities have provided two channels at airports.

If a person does not have any dutiable goods he can go through Green channel on the basis of oral declaration on declaration on his embarkation card.

Note: Any person found walking through green channel with dutiable or prohibited goods is liable for strict penal actions, Seizer and confiscation. He can even be arrested and prosecuted.

<u>RED CHANNEL:</u> persons carrying dutiable goods should pass through red channel should submit a declaration. Mis- declaration in quantity, values or description attracts strict penal action.

RATE OF DUTY ON BAGGAGE: is 100% as per customs Tariff Act, 1975. However the effective rate of duty as notified by Central Govt is ***35%***

Baggage is ***exempt from CVD and Special CVD*** however education cess and secondary and higher education cess are payable. Therefore ***aggregate customs duty on baggage is 36.05%***

Note: duty is payable at baggage rate even if goods are leviable to duty at a lower rate as per tariff.

Associated Cement Co *Vs* CC:

If CTA, 1975 says that the duty as duty free, these are not dutiable goods, then no customs duty would be levied even if the goods are brought as baggage.

Sec 79: **BONAFIED BAGGAGE IS EXEMPT FROM BAGGAGE.**

The following baggage is passed free of duty

1. Articles in use by the passenger or crew for minimum period prescribed by baggage rules.
2. Articles for use by the passenger or crew.
3. Articles that are bonafied gifts or souveniours.

Note: the value of the articles individually and collectively shall be within the limits laid down by the baggage Rules.

79 (2): BAGGAGE RULES: the central Govt may make rules for implementing sec 79. These rules may specify.

1. Minimum period of use of an article by a passenger or crew.
2. Maximum value of an individual article and maximum value of all articles.
3. Conditions to be fulfilled before or after clearance for passing the baggage free of duty.

Sec 79(3): based on the powers vested u/s 79 the central Govt has made baggage Rules, 1998

Sec 80: TEMPORARY DETENTION OF BAGGAGE

Sec80 provides that where the baggage of a passenger contains any article.

1. which is ***dutiable or import of which is prohibited*** and
2. In respect of which a true declaration is made by the passenger u/s 77 then proper officer may at the request of the passenger detain such article for the purpose of being returned to him on his leaving India.

However, if for any reason the passenger is not able to collect the article at the time of his leaving India, the article may be returned to him.

1. To any other passenger ***authorized by him*** leaving India. or
2. As ***cargo consigned in his name***.

Note: if the said articles are concealed and not declared, this concession is not available

Sec 81: **REGULATION IN RESPECT OF BAGGAGE:**

The ***CBEC may make regulation*** providing for following.

1. Manner of filing baggage declaration.
2. The custody, examination, assessment and clearance of baggage.
3. Transit and transshipment of baggage.

<u>DUTY ON GOLD AS BAGGAGE</u>:

Note -1: Gold can be brought as baggage ***upto 10 kgs*** by a passenger of Indian origin or by a person holding Indian passport

The duty payable is only ***Rs.200* per 10 grams*** for import of gold bars bearing manufacturer or refiners engraved serial no and weight expressed in metric units and gold coins.

The duty is ***Rs. 500* per 10 grams*** in case of other gold including tola bars and ornaments

<u>Conditions to be satisfied:</u>

1. The person should have been staying abroad ***for 6 months out of period of 6 months short visits upto 30days permitted***
2. The duty shall be ***paid in convertible foreign exchange.***

Note: No CVD is payable but education cess, secondary and higher education cess is payable at applicable rates.

Note: gold can be brought in the form of medallions, coins and jewellery except foreign currency coins and jewellery studded with precious stones and pearls.

<u>DUTY ON SILVER AS BAGGAGE:</u>

Silver can be brought as baggage by a passenger of an Indian origin holding Indian passport ***upto100 kgs,*** is chargeable to ***duty of Rs 1000* per kg [plus CESS+SHEC]***

1. The person should have been staying abroad for ***6 months out of period of 6 months short visits upto 30days permitted***
2. The duty shall be ***paid in convertible foreign exchange.***

<u>EXEMPTIONS TO LAPTOP;</u>

A laptop computer (note book) can be brought as baggage ***by a person over 18 years of age*** (other than a member of the crew) is ***fully exempt*** from customs duty. [Notification no.11/2004 customs dated 08-01-2004]

[*] : these amendments are applicable for may 2010 exam.

BAGGAGE RULES-1998

RULE-1: SHORT TITLE EXTENT AND COMMENCEMENT

- These rules may be called baggage rules, 1998.
- They shall come into force from the date of their publication in the official gazette.

RULE-2: DEFINITIONS:

In these rules when the context otherwise requires

Rule2 (ii): ***"resident "***means a person holding a valid passport under passports act 1967, and normally residing in India.

Rule2(iii): ***"tourist "*** means a person not normally resident in India, who enters for a stay of not more than 6 months in the course of any 12 months period for legitimate non immigrate purposes . Such as touring, recreation, sports, health, family reason, study, religions, pilgrimage or business

Rule2 (IV): ***"family "***includes all persons who are residing in the same house and form part of same domestic establishment.

Rule2(v): ***"professional equipment "*** means such portable equipments , instrument, apparatus and appliances as are required in his professional by a carpenter, a plumber, welder, a massion and the like and ***shall not include items of common use*** such as cameras ,cassettes recorders, dicta phones, personal computers, typewriter and other similar articles.

RULE-3:- APPLICABLE TO PASSENGERS RETURNING FROM COUNTRIES OTHER THAN NEPAL, BHUTAN, MYANMAR AND CHINA

An Indian resident or a foreigner residing in India, returning from other than above stated countries shall be allowed General Free Allowance (GFA) as follows

Age of the passenger and period of stay	**Articles allowed free of duty**
All passenger of and ***above 10 years of age*** and returning after ***stay abroad of more than 3 days***	a. Used personal effects other than jewellery. b. Articles upto a value of **Rs.25000**
All passengers of and ***above 10 years of age*** and returning after ***stay abroad of 3 days or less***	a. Used personal effects other than jewellery. b. Articles upto a value of **Rs.12000**
All passengers ***upto 10 years of age*** and returning after ***stay abroad of more than 3***	a. Used personal effects other than jewellery.

days	b. Articles upto a value of **Rs.6000**
All passenger ***upto 10years of age*** and returning after ***stay abroad of 3 days or less***	a. Used personal effects other than jewellery. b. Articles upto a value of **Rs.3000**

NOTE: THE GFA under this rule will not be allowed to be pooled with GFA of another person.

RULE-4: APPLICABLE TO PASSENGER RETURNING FROM NEPAL, BHUTAN, MYANMAR AND CHINA

An Indian resident or a foreigner residing in India, returning from Nepal , Bhutan, Myanmar or china ***other than by land route*** is allowed GFA as follows

Age of the passenger and period of stay	Articles allowed free of duty
All passenger of and ***above 10 years*** of age and returning after stay abroad of **more than 3 days**	a. Used personal effects other than jewellery. b. Articles upto a value of **Rs.6000**
All passengers ***upto 10 years*** of age and returning after stay abroad of **more than 3 days**	a. Used personal effects other than jewellery. b. Articles upto a value of **Rs.1500**

Note-1: the GFA under this rule will not be allowed to be pooled with GFA of another person.

Note -2: ***No GFA*** would be allowed if the ***passenger returning by land ro***ute or returns in 3 days or less

RULE-6: FREE ALLOWANCE IN CASE OF PERSONAL JEWELLERY;

An Indian passenger returning to India, who has been residing abroad for over 1 year, shall be allowed ***additional clearance*** free of duty jewellery in his bonafied baggage to the extent mentioned below

1. In case of ***gentlemen passenger*** jewellery upto an aggregate value of **Rs.10000**
2. in case of ***lady passenger*** jewellery upto an aggregate value of **Rs.20000**

RULE-5: APPLICABLE TO PROFESSIONALS RETURNING TO INDIA

When an Indian passenger who was engaged in his profession abroad returns to India, he shall be allowed GFA under rule 3 or rule 4 and in addition the clearance of the following articles free of duty with regard to his ***professional equipment and used household articles.***

A. **INDIAN PASSENGER (PROFESSIONAL) RETURNING TO INDIA *AFTER AT LEAST 3 MONTHS***

1. GFA under rule 3 or rule 4 ***plus***
2. used ***house hold articles*** upto an aggregate value of ***Rs.12000 plus***
3. ***professional equipment*** upto a value of **Rs.20000**

B. INDIAN PROFESSIONAL RETURNING TO INDIA AT LEAST AFTER 6 MONTHS

1. GFA under rule-3 or rule -4 ***plus***
2. used ***house hold articles*** upto an aggregate value of ***Rs.12000 PLUS***
3. ***professional equipment*** upto a value of ***Rs.40000***

RULE-10: APPLICABILITY OF BAGGAGE RULE TO MEMBERS OF CREW

In case of members of crew engaged in foreign going vessel or aircraft the free allowance under these rules will be applicable for importation of their baggage at the time of final pay off, on termination of their engagement only

However, a crew member of a vessel or an aircraft shall be allowed to bring items like chocolates, cheese, cosmetics and other petty gift items for their personal or family use ***not exceeding Rs.600 in value.***

Rule-7: FREE ALLOWANCE TO TOURISTS.

Tourists of Nepal origin coming from Nepal or of Bhutan origin from Bhutan ***shall not be allowed*** clearance of any article ***free of duty.***

The other tourists arriving into India shall be allowed clearance free of duty articles in his bonafied baggage as follows

Used personal effects and travel souveniours. If

a. these goods are for the personal use of the tourist ***and***
b. these goods other than those consumed during the stay in India or re-exported, when the tourist leaves India for a foreign destination

The following ***other article are also allowed free of duty*** to the extent as mentioned below.

Class of the tourist	Articles allowed free of duty
Tourists of Indian origin ***coming to India other than*** those coming by ***land routes***	1. GFA under rule 3 or rule 4
Tourists of foreign origin other than those of Pakistan, origin coming from Pakistan	1. Articles upto a value of ***Rs.8000 for making gifts***.
1. Tourist of Pakistan origin coming from Pakistan other than by land route. 2. tourist of Indian origin or Pakistan origin or foreign tourists coming by land route	Articles upto a value of ***Rs.6000 for making gifts.***

Rule-8: concessions available to a person transferring his residence

Rule-8 provides that a passenger who have been ***staying abroad*** and ***transferring his residence to India*** shall be allowed clearance ***free of duty*** articles in his bonafied baggage to the extent mentioned below

1. GFA as mentioned in rule 3 or rule 4.
2. Used personal and house hold articles.
3. Jewellery upto a limit of ***Rs.10000*** in case of ***gentlemen passenger*** and upto a limit of ***Rs.20000*** in case of a ***lady passenger***.
4. Jewellery taken out earlier by the passenger or a member of his family from India. If AC is satisfied regarding the jewellery having been taken out earlier from India.

Conditions subject to which free allowance under 2 and 3 above is given

1. The passenger must have stayed abroad for a ***minimum period of two years*** immediately preceding the date of his arrival on transfer of residence.

Note: short fall ***upto 2 months*** can be condoned by ***the AC/DC***. If the early return is due to

a. ***terminal leave or vacation*** of the passenger or
b. Any other ***special circumstances***.

2. ***Tota**l **stay*** in India ***on short visits*** during the preceding ***2 years*** should ***not exceed 6 months.***

Note: CC may ***condone*** such short visits ***in excess of 6 months in deserving cases***.

3. Passenger has not availed of this concession in the preceding 3 years.

Note: No relaxation in this regard.

Rule-9: provisions relating to unaccompanied baggage

The free allowance given in respect of baggage under baggage Rules, 1998, will apply even in respect of unaccompanied baggage if

a. the accompanied baggage had been ***in possession*** abroad ***of a passenger*** and is dispatched ***within one month*** of his arrival in India or within such further period allowed by AC/DC **(or)**
b. The unaccompanied baggage lands in India ***upto 2 months*** before the arrival of the passenger or within such period ***not exceeding one year*** as AC/DC may allow for reasons to be recorded in writing.

the AC/DC may do so if he is satisfied that the passenger is prevented from arriving in India within the period of 2 months due to the circumstances beyond his control such as sudden illness of the passenger or a member of his family or natural calamities or disturbed condition etc. which nauseated a change in the travel schedule of the passenger