



RAMA UNIVERSITY

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WEALTH TAX ACT 1957 cont...

Wealth-tax and residential status

A person may own assets in India as well as abroad. The taxability of an asset will be determined on the basis of the residential status and the location of the asset. Residential status will be ascertained in the same manner as is determined under Income-tax Law. Following persons are liable to pay wealth-tax in respect of their world assets (i.e., on the assets located in India as well as on the assets located outside India):

- (a) A resident and ordinarily resident individual, who is an Indian citizen.
- (b) A resident and ordinarily resident HUF.
- (c) A resident company.

Following persons are liable to pay wealth-tax only in respect of assets located in India. In other words, following persons are not liable to pay wealth tax in respect of assets owned by them and which are located outside India:

- (a) An individual who is not a citizen of India (whether resident and ordinarily resident or not).
- (b) A resident but not ordinarily resident individual and a resident but not ordinarily resident Hindu Undivided Family.
- (c) A non-resident (may be individual or HUF or company).

Assets covered under wealth-tax

Wealth tax is levied on the value of assets. The term “assets” is defined under Section 2(ea) of the Wealth-tax Act. Hence, wealth tax is levied only on those properties which are covered in the definition of the term “assets” as defined in the Wealth-tax Act. Following items are covered in the definition of the term “assets”.

- Any building or land appurtenant thereto, whether used for residential or commercial purposes or for the purpose of maintaining a guest house or otherwise. It will also include a farm house situated within 25 kilometers from local limits of any municipality or a Cantonment Board. However, following buildings or land appurtenant thereto are not included in this category :

- A house meant exclusively for residential purposes and which is allotted by a company to an employee or an officer or a director who is in whole-time employment, having a gross annual salary of less than Rs. 10,00,000.
- Any house (may be residential house or used for commercial purposes) which forms part of stock-in-trade of the taxpayer.
- Any house occupied by the taxpayer for the purposes of any business or profession carried on by him.
- Any residential property which has been let-out for a minimum period of 300 days in the previous year.
- Any property in the nature of commercial establishments or complexes.
- Motor cars (other than those used by the taxpayer in the business of running them on hire or held as stock-in-trade).
- Jewellery, bullion, furniture, utensils or any other article made wholly or partly of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals. However, this category does not include any of the above items held as stock-in-trade by the taxpayer.
- Yachts, boats and aircrafts (other than those used by the taxpayer for commercial purposes).
- Urban land (*), other than following :
 - Land on which construction of a building is not permissible under any law for the time being in force; or
 - Any land on which construction is done with the approval of the appropriate authority; or
 - Any unused land held by the taxpayer for industrial purposes for a period of two years from the date of its acquisition by him; or
 - Any land held by the taxpayer as stock-in-trade for a period of ten years from the date of its acquisition by him.
 - Land classified as agricultural land in the records of the Government and which is used for agricultural purpose.

(*) Urban land means a land situated:

- a. Within jurisdiction of municipality, notified area committee, town area committee, cantonment board and which has a population of not less than 10,000;

b. Within range of following distance measured aerially from the local limits of any municipality or cantonment board:

i. not being more than 2 KMs, if population of such area is more than 10,000 but not exceeding 1 lakh;

ii. not being more than 6 KMs , if population of such area is more than 1 lakh but not exceeding 10 lakhs; or

iii. not being more than 8 KMs , if population of such area is more than 10 lakhs.

- “Population” means the population according to the last preceding census of which the relevant figures have been published before the date of valuation. Cash in hand, in excess of Rs. 50,000 in case of an individual and HUF. In case of any other person, any amount not recorded in the books of account.

Net wealth to include certain assets

Generally, wealth tax is to be paid on assets owned by the taxpayer on the valuation date. However, in the following cases, though assets are held by other persons, yet they are to be included in the net wealth of the taxpayer, i.e., assets of other persons are clubbed with the wealth of the taxpayer.

- Asset transferred by an individual without adequate consideration to any of the following persons shall be included in the net wealth of such individual:
 - Assets transferred to the spouse, not being a transfer in connection with an agreement to live apart.
 - Assets transferred by an individual to his/her son’s wife.
 - Assets transferred to a person or an association of persons for the immediate or deferred benefit of the individual, his/her spouse or his/her son’s wife.
- Assets belonging to minor child of an Individual will be included in the net wealth of such individual. However, no clubbing will be done in respect of assets belonging to a minor child suffering from any disability specified in section 80U of the Income-tax Act or a minor married daughter of the individual. Further, clubbing provisions will not apply in respect of any asset acquired by the minor out of his income arising to him by: (a) manual work done by him; or (b) activity involving application of his skill, talent or specialized knowledge and experience. Note: where the assets held by a minor child are to be included in computing the net wealth of an individual, such assets shall be included,²

a) where the marriage of his parents subsists, in the net wealth of that parent whose net wealth (excluding the assets of the minor child so includible under this sub-section) is greater ; or

b) where the marriage of his parents does not subsist, in the net wealth of that parent who maintains the minor child in the previous year as defined in section 3 of the Income-tax Act,

and where any such assets are once included in the net wealth of either parent, any such assets shall not be included in the net wealth of the other parent in any succeeding year unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do.

- Assets transferred under revocable transfer will be clubbed in the net wealth of the transferor.
- Interest (i.e., assets) in a partnership firm or an association of persons. A partnership firm or an AOP is not liable to wealth-tax; however, value of taxable assets of the firm or AOP is to be computed in the prescribed manner and then the value of interest of each partner/member in such asset is included in the net wealth of the partner/member.

However, where a minor is admitted to the benefits of partnership in a firm, the value of the interest of such minor in the firm shall be included in the net wealth of the parent of the minor.

- If an individual transfers his property to his HUF without adequate consideration or treats his property as the property of his HUF, then such asset will be included in the net wealth of the transferor.

Further, if the converted property becomes the subject-matter of a total or a partial partition among members of the family, the converted or transferred property or any part thereof, which is received by the spouse of the transferor, is deemed to be the asset of the transferor and is includible in his wealth.

- In the case of gift of money made by means of book entries, if the Assessing Officer is not satisfied that the money was actually gifted (i.e., transaction is merely a book entry and not a genuine gift), the value of such gift will be included in the net wealth of the donor.
- Holder of an impartible estate will be deemed to be the individual owner of all the properties comprised in the estate.
- In case of property allotted or leased by a co-operative society to the member of the society, the member will be treated as the owner of the property, and the value of such property (i.e., building or

part), shall be included in his net wealth. This rule is also applicable in case of a member of a company or association of person. In case of property acquired in part performance of a contract, i.e., in accordance with section 53A of the Transfer of Property Act, the person allowed to take or retain possession of any building or part thereof shall be deemed to be the owner. Accordingly, the value of such building or part shall be included while computing the net wealth of such person.

- In the case of property acquired as per section 269UA(f) of the Income-tax Act, 1961, it shall be included in the net wealth of a person who acquires any rights in or with respect to such building excluding any rights by way of a lease from month to month or for a period not exceeding one year.

Assets exempt from wealth-tax

Following assets are exempt from wealth-tax, i.e., they are exempt assets:

- One house or part of a house or a plot of land (not exceeding 500 Sq. Mtrs.) in case of Individual or HUF
- The interest of a person in the coparcenary property of any HUF of which he is a member.
- Any property held by the taxpayer under trust or other legal obligation for any public purpose of a charitable or religious nature in India. This exemption is not applicable to business assets of charitable/religious trust except when business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business or the business is carried on by an institution, fund or trust referred to in clause (23B) or (23C) of section 10 of the Income-tax Act. Any one building in the occupation of former Ruler, i.e., used for the residence by a former ruler.
- Jewellery in possession of a former ruler of a princely State, not being his personal property which has been recognised by the Central Government as a heirloom before 1-4-1957 or by the CBDT after 1-4-1957.
- Certain assets belonging to a person of Indian origin or an Indian citizen who was residing abroad and now returning with an intention of permanently residing in India is exempt subject to following conditions:
 - This exemption is available only to a person of Indian origin or a citizen of A person will be said to be of Indian origin if he or any of his parents or grandparents were born in un-divided India.
 - Such person was residing in foreign country.
 - Exemption is available at the time he returns to India, i.e., he is an Indian repatriate.

- Exemption is available for a period 7 years (starting from the year in which he returns to India).

The above discussed exemption is available in respect of following assets:

- (1) Money brought into India at the time of his return to India.
- (2) Value of assets brought into India at the time of his return to India.
- (3) Money standing to the credit of such person in a Non-resident (External) Account in any bank in India on the date of his return to India.
- (4) Assets acquired by him out of money referred to in (1) and (3) above within a period of one year prior to the date of his return and any time thereafter.

Valuation of asset

Wealth tax is levied on the value of assets owned by the taxpayer on the valuation date, i.e., 31st March of the relevant year. Value of any asset liable to wealth-tax (other than cash) is to be determined in the manner prescribed in the Valuation Rules (i.e., rules given in Schedule III of Wealth-tax Act).

Some of the significant provisions of Wealth-tax Law

- Every person whose net wealth on the valuation date exceeds Rs. 30,00,000 shall file his/her return of net wealth.
- The due dates for filing the return of net wealth are the same as the due dates prescribed for filing the return of income under section 139 of Income-tax Act, *inter-alia*, if the taxpayer is liable to audit under Income-tax Act, the due date will be 30th September and in other cases, the due date will be 31st July.
- A belated return or revised return can be filed within a period of one year from the end of the assessment year or before completion of assessment, whichever is earlier.
- Interest @ 1% per month or part of the month is levied for delay in filing the return of net wealth.
- Where the taxpayer fails to pay the whole or any part of tax or interest or both, he shall be deemed to be an assessee-in-default in respect of the tax or interest or both. If the amount is not paid within 30 days or within such lesser time specified in the notice of demand, then the taxpayer is liable to pay interest @ 1% per month or part of a month comprised in the period commencing from the

expiry of the day specified in the demand notice for payment and upto the date on which the amount is paid.

- Penalty in case of concealment of wealth can be between 100% to 500% of tax sought to be avoided.
- Apart from levy of penalty for various defaults, the law also provides for prosecution for defaults like willful attempt to evade tax, not filing return of wealth, failure to produce accounts, records; and false statement in verification, etc.