

TAX OBLIGATIONS UNDER THE WEALTH TAX ACT

Contents	
1	Wealth Tax
2	Incidence of Wealth Tax
3	Assets
4	Deemed Assets
5	Exempt Assets
6	Debts Owed
7	Wealth Tax Liability <input type="checkbox"/> Whether a Debt Owed?
8	Valuation of Assets
9	Return of Wealth Tax
10	An Illustration

Besides Income-tax, there is an other direct tax act namely Wealth Tax Act, 1957 which imposes tax, inter alia, on individuals coming within its purview. Pensioners, retired persons or senior citizens have not been accorded any special benefits under this Act. Wealth tax is an annual tax like income tax. The important provisions concerning the Act are mentioned hereinafter.

1. Wealth Tax

Wealth tax is charged for every assessment year in respect of net wealth of corresponding valuation date, inter alia, on every individual Hindu Undivided Family and company at the rate of one per cent of the amount by which net wealth exceeds Rs. 15 lakhs. "Valuation Date" is 31st March immediately preceding the assessment year [S.2(a)], Assessment year, as under the Income-tax Act, means a period of 12 months commencing from 1st day of April every year falling immediately after the valuation date [S.2(d)]. Net wealth means taxable wealth. It means the amount by which the aggregate value of all assets (excluding exempted assets) belonging to the assessee on the valuation date including assets required to be included in the net wealth, is in excess of the aggregate value of all debts owed by the assessee on the valuation date which have been incurred in relation to the taxable assets.

2. Incidence of Wealth Tax

Incidence of tax in the case of an individual depends upon his residential status and nationality. Residential status is decided as per the provisions of the Income-tax Act (Chapter I Supra).

The scope of liability to wealth tax is as follows :

- a. In the case of an individual who is a citizen of India and resident in India, a resident HUF and company resident in India; Wealth tax is chargeable on net wealth comprising of
 - i. All assets in India and outside India;
 - ii. All debts in India and outside India are deductible in computing the net wealth.
- b. In the case of an individual who is a citizen of India but non-resident in India or not ordinarily resident in India, HUF, non-resident or not ordinarily resident in India and a company non-resident in India;
 - i. All assets in India except loan and debts interest whereon is exempt from income-tax under section 10 of the Income-tax Act are chargeable to tax.
 - ii. All debts in India are deductible in computing the net wealth.
 - iii. All assets and debts outside India are out of the scope of Wealth Tax Act.
- c. In the case of an individual who is not a citizen of India whether resident, non-resident or not ordinarily resident in India: Same as in (b):

Explanation

The credit balance in a Non-resident (External) Account is exempt from wealth tax provided the depositor is a person resident outside India as defined in the Foreign Exchange Regulation Act, 1973.

Valuation Date

Wealth Tax is levied on the net wealth of a person as on a particular date. This date is known as valuation date. According to section 2(Q) the valuation date is the last day of the previous year relevant to the assessment year. Hence, valuation date is March 31, immediately proceeding the assessment year.

3. Assets

The assets liable to wealth tax as per the definition given in section 2(ea) of the Wealth Tax Act are as under :

(1) Any building or land appurtenant thereto which shall include :

- i. commercial buildings;
- ii. residential buildings;
- iii. any guest house;
- iv. a farm house situated within 25 kilometres from the local limits of any municipality (whether known as Municipality, Municipal Corporation or by any other name) or a Cantonment Board.

However, the following buildings will not be included to assets:

- i. a house meant for residential purposes 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. 5,00,000/-.
- ii. any house for residential or commercial purposes which forms part of stock-in-trade;
- iii. any house which the assessee may occupy for the purposes of any business of profession carried on by him.

The following buildings shall also not be an asset w.e.f. A.Y. 1999-2000:

- a. any residential property that has been let out for a minimum period of 300 days in the previous year.
- b. any property in the nature of commercial establishments or complexes.

(2) Motor Cars (excluding those used by the assessee in the business of running them on hire or as stock-in-trade).

(3) 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 (excluding those held as stock-in-trade by the assessee). Jewellery includes:

- i. ornaments made of gold, silver, platinum or any other precious metal of any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stones, and whether or not set in any furniture, utensils or other article or worked or sewn into any wearing apparel;
- ii. precious or semi-precious stones, whether or not set in any furniture, utensils or other articles or worked or sewn into any wearing apparel.

For the removal of doubts it has been clarified by explanation 2 to section 2(ea) that the term jewellery does not include the Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government.

(4) Yachts, boats and aircrafts (excluding those used by the assessee for commercial purposes).

(5) Urban land; "Urban Land" means land situated :

- i. in any area which is comprised within the jurisdiction of a local authority and which has a population of not less than ten thousand according to the last proceeding census of which the relevant figures have been published before the valuation date; or
- ii. any area within such distance, not being more than eight kilometres from the local limits of a local authority as the Central Government may, having regard to the extent, and scope for urbanisation of that may, and other relevant considerations, specify in this behalf by notification in the Official Gazette.

However, the following urban land shall not be included in assets;

- i. land on which construction of a building is not permissible under any law for the time being in force in the area in which such land is situated;
- ii. land occupied by any building which has been constructed with the approval of the appropriate authority;
- iii. any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him.
- iv. land held by an assessee as stock-in-trade for a period of five years from the date of its acquisition by him. (Ten years w.e.f. A.Y. 1999-2000).

Note: Agricultural land situated in urban area is not liable to wealth-tax.

(6) Cash in hand;

- a. In case of an individual and HUF cash in hand in excess of Rs. 50,000/- shall be included in assets.
- b. In cash of any other person cash in hand not recorded in the books of account shall be included in assets.

4. Deemed Assets

In computing the net wealth of an assessee, the following assets are included as belonging to the assessee by virtue of section 4(l)(a) of the Wealth Tax Act, 1957.

- a. Assets transferred by one spouse or another.
- b. Assets held by minor children. Whether the assets are held by a physically or mentally handicapped minor child (specified in section SOU of the Income Tax Act) such assets will not be clubbed with the net wealth of the parent. In such a case the net wealth of the handicapped minor child shall be determined separately and assessee in his hands.
- c. Assets transferred to a person or an Association of Persons for immediate or deferred benefit of the transferrer, his or her spouse without adequate consideration.
- d. Assets transferred under revocable transfer.
- e. Assets transferred to son's wife. Assets transferred to a person or Association of Persons for the benefit of son's wife.

5. Exempt Assets

The following assets are totally exempt from Wealth Tax (Section 5).

- a. Property held under a trust or other legal obligation for any public purpose of a charitable or religious nature in India subject to the satisfaction of the stipulated conditions;
- b. Coparcenary interest in a HUF property;
- c. One residential building belonging to a former Ruler;
- d. Former Ruler's jewellery (excluding his personal jewellery) which has been recognized as a heirloom by the Central Government before 1.4.1957 or by the CBDT after that date;
- e. Assets belonging to the Indian repatriates for 7 years on fulfillment of the conditions prescribed;
- f. One house or part of a house (with effect from 1.4.1999 one house or part of a house or a plot of land) belonging to an individual or HUF is exempt from Wealth Tax.

6. Debts Owned

Wealth tax is levied on the 'net wealth' which means that from the aggregate of all assets (including deemed assets but excluding exempt assets) the value of debts owed on the valuation date shall be deducted subject to the satisfaction of the following two conditions viz.

- a. Only debts which are 'owed' on the valuation date are deductible.
- b. Debts should have been incurred in relation to those assets which are included in the net wealth of the assessee.

Broadly, a debt could be defined as an obligation to pay a liquidated or certain sum of money. A sum which may or may not become due or the payment of which depends upon contingencies which may or may not happen is not a debt. (See Sardar C.S. Angre v. CWT (1968) 69 ITR 336 (MP)).

7. Wealth Tax Liability—Whether a Debt Owed?

Wealth tax liability is not deductible in computing the net wealth liable to tax. This position has been made clear by the amendment of section 2(m) with effect from the assessment year 1993-94. Liability under the Wealth-tax Act has been considered as a 'debt owed' by the assessee incurred in relation to the assets taxable under the Wealth-tax Act. Such a liability has been considered to be the personal liability of the assessee and is not a debt incurred but a debt created by statute. Hence its deduction is not permissible (See CBDT's circular No. 663 dated 28th September, 1993).

8. Valuation of Assets

For the purpose of Wealth-tax the value of any asset (other than cash) shall be its value as on the valuation date determined in the manner laid down in Section 7(2) and in Schedule III to the Wealth Tax Act.

9. Return of Wealth Tax

Every person is required to file a return of net wealth in Form 'A' if his net wealth or net wealth of any other person in respect of which he is assessable under the Act on the valuation date is such an amount as to render 'him liable to wealth tax. The dates of filing the return are the same as under the Income-tax Act for filing returns. Where wealth tax is payable on the basis of return to be furnished, the assessee is required to pay the tax before filing of the return and such return is to be accompanied by the proof of payment.

10. An Illustration

For the assessment year 2001-2002, 'R' an Indian National and resident and ordinary resident in India furnishes the following particulars regarding his assets and liabilities.

1 Residential House outside India	50,00,000
2 Jewellery in India	50,00,000
3 Loans taken:	
i) For residential house outside India	10,00,000
ii) For acquiring jewellery	5,00,000

Computation of taxable wealth :

1 Jewellery in India	50,00,000	
<i>Less:</i> Debt owed concerning jewellery	5,00,000	

Net value of jewellery		45,00,000
2 Property outside India	50,00,000	
<i>Less :</i> Debt owed	10,00,000	

Net value of property		40,00,000
		=====
Total net wealth		85,00,000

In cases of non-resident or resident but not ordinarily resident or a foreign national who is a non-resident, no wealth tax would be leviable on property outside India. In their cases, wealth-tax would be leviable on a sum of Rs. 45,00,000 lakhs only.

