

## CHAPTER II

### CHARGE OF WEALTH-TAX AND ASSETS SUBJECT TO SUCH CHARGE

#### Charge of wealth-tax .

3. <sup>58</sup>[(1)] <sup>59</sup>[Subject to the other provisions contained in this Act], there shall be charged for every <sup>60</sup>[assessment year] commencing on and from the first day of April, 1957 <sup>61</sup>[but before the first day of April, 1993], a tax (hereinafter referred to as wealth-tax) in respect of the net wealth on the corresponding valuation date of every individual, Hindu undivided family and company <sup>62</sup>at the rate or rates specified in <sup>63</sup>[Schedule I].

<sup>64</sup>[(2) Subject to the other provisions contained in this Act, there shall be charged for every assessment year commencing on and from the 1st day of April, 1993, <sup>64aa</sup>*[but before the 1st day of April, 2016]*, wealth-tax in respect of the net wealth on the corresponding valuation date of every individual, Hindu undivided family and company, at the rate of one per cent of the amount by which the net wealth exceeds fifteen lakh rupees:]

<sup>64a</sup>**[Provided** that in the case of every assessment year commencing on and from the 1st day of April, 2010, the provisions of this section shall have effect as if for the words "fifteen lakh rupees", the words "thirty lakh rupees" had been substituted.]

#### Net wealth to include certain assets .

4. (1) <sup>65</sup>[In computing the net wealth—

(a) of an individual, there shall be included, as belonging to that individual, the value of assets which on the valuation date are held—

<sup>66</sup>[(i) by the spouse of such individual to whom such assets have been transferred by the individual, directly or indirectly, otherwise than for adequate consideration or in connection with an agreement to live apart, or

(ii) by a minor child, not being <sup>67</sup>[a minor child suffering from any disability of the nature specified in section 80U of the Income-tax Act or] a married daughter, of such individual, <sup>68</sup>[\*\*\*] or

(iii) by a person or association of persons to whom such assets have been transferred by the individual <sup>69</sup>[directly or indirectly] otherwise than for adequate consideration for the immediate or deferred benefit of the individual, his or her spouse <sup>70</sup>[\*\*\*], or]

(iv) by a person or association of persons to whom such assets have been transferred by the individual otherwise than under an irrevocable transfer, <sup>71</sup>[or]

<sup>71</sup>[(v) by the son's wife, <sup>72</sup>[\*\*\*] of such individual, to whom such assets have been transferred by the individual, directly or indirectly, on or after the 1st day of June, 1973, otherwise than for adequate consideration,] <sup>73</sup>[or]

<sup>73</sup>[(vi) by a person or association of persons to whom such assets have been transferred by the individual, directly or indirectly, on or after the 1st day of June, 1973, otherwise than for adequate consideration for the immediate or deferred benefit of the son's wife, <sup>74</sup>[\*\*\*] of such individual or both,]

whether the assets referred to in any of the sub-clauses aforesaid are held in the form in which they were transferred or otherwise :

<sup>75</sup>[**Provided** that where the transfer of such assets or any part thereof is either chargeable to gift-tax under the Gift-tax Act, 1958 (18 of 1958), or is not chargeable under section 5 of that Act, for any assessment year commencing after the 31st day of March, 1964, <sup>76</sup>[but before the 1st day of April, 1972,] the value of such assets or part thereof, as the case may be, shall not be included in computing the net wealth of the individual :]

<sup>77</sup>[**Provided further** that nothing contained in sub-clause (ii) shall apply in respect of such assets as have been acquired by the minor child out of his income referred to in the proviso to sub-section (1A) of section 64 of the Income-tax Act and which are held by him on the valuation date :

**Provided also** that 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,—

- (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 ;]

<sup>78</sup>[(b) of an assessee who is a partner in a firm or a member of an association of persons (not being a co-operative housing society), there shall be included, as belonging to that assessee, the value of his <sup>79</sup>[interest in the assets of the firm] or association determined in the manner laid down in Schedule III :

<sup>80</sup>[**Provided** that where a minor is admitted to the benefits of partnership in a firm, the value of the interest of such minor in the firm, determined in the manner specified above, shall be included in the net wealth of the parent of the minor, so far as may be, in accordance with the provisions of the third proviso to clause (a).]

<sup>81</sup>[(1A) Where, in the case of an individual being a member of a Hindu undivided family, any property having been the separate property of the individual has, at any time after the 31st day of December, 1969, been converted by the individual into property belonging to the family through the act of impressing such separate property with the character of property belonging to the family or throwing it <sup>82</sup>[into the common stock of the family or been transferred by the individual, directly or indirectly, to the family otherwise than for adequate consideration (the property so converted or transferred being hereinafter referred to as the converted property)], then, notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, for the purpose of computing the net wealth of the individual under this Act for any assessment year commencing on or after the 1st day of April, 1972,—

- (a) the individual shall be deemed to have transferred the converted property, through the family, to the members of the family for being held by them jointly ;
- (b) the converted property or any part thereof<sup>83</sup>[\*\*\*] shall be deemed to be assets belonging to the individual and not to the family ;
- <sup>84</sup>[(c) where the converted property has been the subject-matter of a partition (whether partial or total) amongst the members of the family, the converted property or any part thereof which is received by the spouse<sup>85</sup>[\*\*\*] of the individual on such partition shall be deemed to be assets transferred indirectly by the individual to the spouse<sup>85</sup>[\*\*\*] and the provisions of sub-section (1) shall, so far as may be, apply accordingly :]

**Provided** that the property referred to in clause (b) or clause (c) shall, on being included in the net wealth of the individual, be excluded from the net wealth of the family or, as the case may be, the spouse<sup>85</sup>[\*\*\*] of the individual.]

<sup>86</sup>(2) [Omitted by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989.]

<sup>87</sup>(3) [Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(4) Nothing contained in clause (a) of sub-section (1) shall apply to any such transfer as is referred to therein made by an individual before the 1st day of April, 1956, and the value of any assets so transferred shall not be included in the computation of his net wealth.

<sup>88</sup>[(4A) Notwithstanding anything in sub-section (4), nothing contained in clause (a) of sub-section (1) shall apply to any such transfer as is referred to therein made before the 1st day of April, 1963, by an individual who but for the extension of this Act to the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, would not have been an assessee, and the value of any assets so transferred shall not be included in the computation of his net wealth.]

(5) The value of any assets transferred under an irrevocable transfer shall be liable to be included in computing the net wealth of the transferor as and when the power to revoke arises to him.

<sup>89</sup>[(5A) Where a gift of money from one person to another is made by means of entries in the books of account maintained by the person making the gift or by an individual or a Hindu undivided family or a firm or an association of persons or body of individuals with whom or which he has business or other relationship, the value of such gift shall be liable to be included in computing the net wealth of the person making the gift unless he proves to the satisfaction of the<sup>90</sup>[Assessing Officer] that the money has actually been delivered to the other person at the time the entries were made.]

<sup>91</sup>[(6) For the purposes of this Act, the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate.]

<sup>92</sup>[(7) Where the assessee is a member of a co-operative society, company or other association of persons and a building or part thereof is allotted or leased to him under a house building scheme of the society, company or association, as the case may be, the assessee shall, notwithstanding anything contained in this Act or any other law for the time being in force, be deemed to be the owner of such building or part and the value of such building or part, shall be included in computing the net wealth of the assessee; and, in determining the value of such building or part, the value of any outstanding instalments of the amount payable under such scheme by the assessee to the society, company or association towards the cost of such building or part and the land appurtenant thereto shall, whether the amount so payable is described as such or in any other manner in such scheme, be deducted as a debt owed by him in relation to such building or part.

(8) A person—

- (a) who is allowed to take or retain possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A<sup>93</sup> of the Transfer of Property Act, 1882 (4 of 1882) ;
- (b) who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or part thereof by virtue of any such transaction as is referred to in clause (f) of section 269UA of the Income-tax Act, 1961 (43 of 1961),

shall be deemed to be the owner of that building or part thereof and the value of such building or part shall be included in computing the net wealth of such person.]

*Explanation.*—For the purposes of this section,—

- (a) the expression "transfer" includes any disposition, settlement, trust, covenant, agreement or arrangement ; <sup>94</sup>[\*\*\*]
- <sup>95</sup>[(aa) the expression "child" includes a step-child and an adopted child;]
- <sup>95</sup>[(b) the expression "irrevocable transfer" includes a transfer of assets which, by the terms of the instrument effecting it, is not revocable for a period exceeding six years or during the lifetime of the transferee, and under which the transferor derives no direct or indirect benefit, but does not include a transfer of assets if such instrument—
  - (i) contains any provision for the retransfer, directly or indirectly, of the whole or any part of the assets or income therefrom to the transferor, or
  - (ii) in any way gives the transferor a right to reassume power, directly or indirectly, over the whole or any part of the assets or income therefrom] ; <sup>96</sup>[and]
- <sup>97</sup>[(c) the expression "property" includes any interest in any property, movable or immovable, the proceeds of sale thereof and any money or investment for the time being representing the proceeds of sale thereof and where the property is converted into any other property by any method, such other property <sup>98</sup>[\*\*\*].]  
<sup>98</sup>[\*\*\*]

#### Section - 5, Wealth-Tax Act, 1957

#### **Exemptions in respect of certain assets.**

<sup>99</sup> 5. <sup>1</sup>[[\*\*\*] Wealth-tax shall not be payable by an assessee in respect of the following assets], and such assets shall not be included in the net wealth of the assessee—

- (i) any property held by him under trust or other legal obligation for any public purpose of a charitable or religious nature in India :  
<sup>2</sup>[**Provided** that nothing contained in this clause shall apply to any property forming part of any business, not being a business referred to in clause (a) or clause (b) of sub-section (4A) of section 11 of the Income-tax Act in respect of which separate books of account are maintained or a business carried on by an institution, fund or trust referred to in <sup>3</sup>[\*\*\*] clause (23B) or clause (23C) of section 10 of that Act;]
- (ii) the interest of the assessee in the coparcenary property of any Hindu undivided family of which he is a member ;
- (iii) <sup>4</sup>[any one building in the occupation of a Ruler, being a building which immediately before the commencement of the Constitution (Twenty-sixth Amendment) Act,

1971, was his official residence by virtue of a declaration by the Central Government] under paragraph 13 of the Merged States (Taxation Concessions) Order, 1949, or paragraph 15 of the Part B States (Taxation Concessions) Order, 1950;

(iv)

to <sup>5</sup> [Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(xiii)

<sup>6</sup>[(iv)] <sup>7</sup>jewellery in the possession of any Ruler, not being his personal property, which has been recognised before the commencement of this Act, by the Central Government as his heirloom or, where no such recognition exists, which the Board may, subject to any rules that may be made by the Central Government in this behalf, recognise as his heirloom at the time of his first assessment to wealth-tax under this Act :

<sup>8</sup>[**Provided** that in the case of jewellery recognised by the Central Government as aforesaid, such recognition shall be subject to the following conditions, namely :—

- (i) that the jewellery shall be permanently kept in India and shall not be removed outside India except for a purpose and period approved by the Board ;
- (ii) that reasonable steps shall be taken for keeping the jewellery substantially in its original shape ;
- (iii) that reasonable facilities shall be allowed to any officer of Government authorised by the Board in this behalf to examine the jewellery as and when necessary ; and
- (iv) that if any of the conditions hereinbefore specified is not being duly fulfilled, the Board may, for reasons to be recorded in writing, withdraw the recognition retrospectively with effect from the date of commencement of clause (b) of section 5 of the Rulers of Indian States (Abolition of Privileges) Act, 1972, and in such a case, wealth-tax shall become payable by the Ruler for all the assessment years after such commencement for which the jewellery was exempted on account of the recognition.

*Explanation.*—For the purposes of clause (iv) of the foregoing proviso, the fair market value of any jewellery on the date of the withdrawal of the recognition in respect thereof shall be deemed to be the fair market value of such jewellery on each successive valuation date relevant for the assessment years referred to in the said proviso :

**Provided further** that the aggregate amount of wealth-tax payable in respect of any jewellery under clause (iv) of the foregoing proviso for all the assessment years referred to therein shall not in any case exceed fifty per cent of its fair market value on the valuation date relevant for the assessment year in which recognition was withdrawn;]

(xv)

to <sup>9</sup> [Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(xxxii)

<sup>10</sup>[<sup>11</sup>[(v)] <sup>12</sup>in the case of an assessee, being a person of Indian origin <sup>13</sup>[or a citizen of India (hereafter in this clause referred to as such person)] who was ordinarily residing in a foreign country and who, on leaving such country, has returned to India with the intention of permanently residing therein, moneys and the value of assets brought

by him into India and the value of the assets acquired by him out of such moneys <sup>14</sup>[within one year immediately preceding the date of his return and at any time thereafter] :

**Provided** that this exemption shall apply only for a period of seven successive assessment years commencing with the assessment year next following the date on which such person returned to India.

*Explanation* <sup>15</sup>[1].—A person shall be deemed to be of Indian origin if he, or either of his parents or any of his grand-parents, was born in undivided India.]

<sup>16</sup>[*Explanation 2.*—For the removal of doubts, it is hereby declared that moneys standing to the credit of such person in a Non-resident (External) Account in any bank in India in accordance with the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder, on the date of his return to India, shall be deemed to be moneys brought by him into India on that date;]

<sup>17</sup>[(vi) <sup>18</sup>one house or part of a house or a plot of land belonging to an individual or a Hindu undivided family :

**Provided** that wealth-tax shall not be payable by an assessee in respect of an asset being a plot of land comprising an area of five hundred square metres or less.]

(xxxiv) <sup>19</sup>[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

(1A) <sup>20</sup>[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

(2) <sup>21</sup>[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

(3) <sup>22</sup>[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

(4) <sup>23</sup>[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

#### Section - 6, Wealth-Tax Act, 1957

#### **Exclusion of assets and debts outside India.**

<sup>24</sup> 6. In computing the net wealth of an individual <sup>25</sup>[who is not a citizen of India or of an individual] or a Hindu undivided family not resident in India or resident but not ordinarily resident in India, or of a company not resident in India during the year ending on the valuation date—

- (i) the value of the assets and debts located outside India ; and
- (ii) the value of the assets in India represented by any loans or debts owing to the assessee in any case where the interest, if any, payable on such loans or debts is not to be included in the total income of the assessee under <sup>26</sup>[section 10] of the Income-tax Act ;

shall not be taken into account.

*Explanation 1.*—An individual or a Hindu undivided family shall be deemed to be not resident in India or resident but not ordinarily resident in India during the year ending on the valuation date if in respect of that year the individual or the Hindu undivided family, as the case may be, is not resident in India or resident but not ordinarily resident in India within the meaning of the Income-tax Act.

<sup>27</sup>[*Explanation 1A.*—Where in the case of an individual the value of an asset in India is represented by any debt owing to him, being any moneys to his credit in a Non-resident (External) Account, the interest payable on which is not to be included in his total income under <sup>28</sup>[sub-clause (ii) of clause (4)] of section 10 of the Income-tax Act, the provisions of



this section shall, in relation to such asset, apply subject to the modification that the reference in this section to an individual not resident in India shall be construed as a reference to a person resident outside India as defined in clause (q) of section 2<sup>29</sup> of the Foreign Exchange Regulation Act, 1973 (46 of 1973)].

*Explanation 2.*—A company shall be deemed to be resident in India during the year ending on the valuation date, if—

- (a) it is a company formed and registered under the Companies Act, 1956 (1 of 1956), or is an existing company within the meaning of that Act ; or
- (b) during that year the control and management of its affairs is situated wholly in India.

Section - 7, Wealth-Tax Act, 1957

<sup>30</sup>[**Value of assets, how to be determined.**

<sup>31</sup> 7. (1) Subject to the provisions of sub-section (2), the value of any asset, other than cash, for the purposes of this Act shall be its value as on the valuation date determined in the manner laid down in Schedule III.

(2) The value of a house belonging to the assessee and exclusively used by him for residential purposes throughout the period of twelve months immediately preceding the valuation date, may, at the option of the assessee, be taken to be the value determined in the manner laid down in Schedule III as on the valuation date next following the date on which he became the owner of the house or the valuation date relevant to the assessment year commencing on the 1st day of April, 1971, whichever valuation date is later :

<sup>32</sup>[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

*Explanation.*—For the purposes of this sub-section,—

- (i) where the house has been constructed by the assessee, he shall be deemed to have become the owner thereof on the date on which the construction of such house was completed ;
- (ii) "house" includes a part of a house being an independent residential unit.]