

CHAPTER V

LIABILITY TO ASSESSMENT IN SPECIAL CASES

Tax of deceased person payable by legal representative.

19. (1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person, to the extent to which the estate is capable of meeting the charge, the wealth-tax assessed as payable by such person, or any sum, which would have been payable by him under this Act if he had not died.

(2) Where a person dies without having furnished a return under the provisions of section 14 or after having furnished a return which the ⁸⁵[Assessing Officer] has reason to believe to be incorrect or incomplete, the ⁸⁵[Assessing Officer] may make an assessment of the net wealth of such person and determine the wealth-tax payable by the person on the basis of such assessment, and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person if he had survived, require from the executor, administrator or other legal representative of the deceased person any accounts, documents or other evidence which might under the provisions of section 16 have been required from the deceased person.

(3) The provisions of sections 14, 15 and 17 shall apply to an executor, administrator or other legal representative as they apply to any person referred to in those sections.

⁸⁶[Assessment in the case of executors.

19A. (1) Subject as hereinafter provided, the net wealth of the estate of a deceased person shall be chargeable to tax in the hands of the executor or executors.

(2) The executor or executors shall for the purposes of this Act be treated as an individual.

(3) The status of the executor or executors shall for the purposes of this Act as regards residence and citizenship be the same as that of the deceased on the valuation date immediately preceding his death.

(4) The assessment of an executor under this section shall be made separately from any assessment that may be made on him in respect of his own net wealth or on the net wealth of the deceased under section 19.

(5) Separate assessments shall be made under this section in respect of the net wealth as on each valuation date as is included in the period from the date of the death of the deceased to the date of complete distribution to the beneficiaries of the estate according to their several interests.

(6) In computing the net wealth on any valuation date under this section, any assets of the estate distributed to, or applied to the benefit of, any specific legatee of the estate prior to that valuation date shall be excluded, but the assets so excluded shall, to the extent such assets are held by the legatee on any valuation date, be included in the net wealth of such specific legatee on that valuation date.

Explanation.—In this section, "executor" includes an administrator or other person administering the estate of a deceased person.]

Assessment after partition of a Hindu undivided family.

20. (1) Where, at the time of making an assessment, it is brought to the notice of the ⁸⁷[Assessing Officer] that a partition has taken place among the members of a Hindu undivided family, and the ⁸⁷[Assessing Officer], after inquiry, is satisfied that the joint family property has been partitioned as a whole among the various members or group of members in definite portions, he shall record an order to that effect and shall make assessment on the net wealth of the undivided family as such for the assessment year or years, including the year relevant to the previous year in which the partition has taken place, if the partition has taken place on the last day of the previous year and each member or group of members shall be liable jointly and severally for the tax assessed on the net wealth of the joint family as such.

(2) Where the ⁸⁷[Assessing Officer] is not so satisfied, he may, by order, declare that such family shall be deemed for the purposes of this Act to continue to be a Hindu undivided family liable to be assessed as such.

⁸⁸[Assessment after partial partition of a Hindu undivided family.]

20A. Where a partial partition has taken place after the 31st day of December, 1978, among the members of a Hindu undivided family hitherto assessed as undivided,—

- (a) such family shall continue to be liable to be assessed under this Act as if no such partial partition had taken place ;
- (b) each member or group of members of such family immediately before such partial partition and the family shall be jointly and severally liable for any tax, penalty, interest, fine or other sum payable under this Act by the family in respect of any period, whether before or after such partial partition ;
- (c) the several liability of any member or group of members aforesaid shall be computed according to the portion of the joint family property allotted to him or it at such partial partition,

and the provisions of this Act shall apply accordingly.

Explanation.—For the purposes of this section, "partial partition" shall have the meaning assigned to it in clause (b) of the *Explanation* to section 171 of the Income-tax Act.]

Assessment when assets are held by courts of wards, administrators-general, etc.

21. (1) ⁸⁹[Subject to the provisions of sub-section (1A), in the case of assets chargeable to tax under this Act], which are held by a court of wards or an administrator-general or an official trustee or any receiver or manager or any other person, by whatever name called, appointed under any order of a court to manage property on behalf of another, or any trustee appointed under a trust declared by a duly executed instrument in writing, whether testamentary or otherwise (including a trustee under a valid deed of wakf), the wealth-tax shall be levied upon and recoverable from the court of wards, administrator-general, official trustee, receiver, manager or trustee, as the case may be, in the like manner and to the same extent as it would

be leviable upon and recoverable from the person on whose behalf ⁹⁰[or for whose benefit] the assets are held, and the provisions of this Act shall apply accordingly.

⁹¹[*Explanation.*—A trust which is not declared by a duly executed instrument in writing (including a valid deed of wakf) shall be deemed, for the purposes of this sub-section, to be a trust declared by a duly executed instrument in writing if a statement in writing, signed by the trustee or trustees, setting out the purpose or purposes of the trust, particulars as to the trustee or trustees, the beneficiary or beneficiaries and the trust property, is forwarded to the ⁹²[Assessing Officer],—

- (i) where the trust has been declared before the 1st day of June, 1981, within a period of three months from that day ; and
- (ii) in any other case, within three months from the date of declaration of the trust.]

⁹³[(1A) Where the value or aggregate value of the interest or interests of the person or persons on whose behalf or for whose benefit such assets are held falls short of the value of any such assets, then, in addition to the wealth-tax leviable and recoverable under sub-section (1), the wealth-tax shall be levied upon and recovered from the court of wards, administrator-general, official trustee, receiver, manager or other person or trustee aforesaid in respect of the value of such assets, to the extent it exceeds the value or aggregate value of such interest or interests, as if such excess value were the net wealth of an individual who is a citizen of India and resident in India for the purposes of this Act, and—

- (i) at the rates specified in Part I of Schedule I ; or
- (ii) at the rate of three per cent,

whichever course would be more beneficial to the revenue.]

(2) Nothing contained in sub-section (1) shall prevent either the direct assessment of the person on whose behalf ⁹⁴[or for whose benefit] the assets above referred to are held, or the recovery from such person of the tax payable in respect of such assets.

(3) Where the guardian or trustee of any person being a minor, lunatic or idiot ⁹⁵[***] holds any assets on behalf ⁹⁶[or for the benefit] of such beneficiary, the tax under this Act shall be levied upon and recoverable from such guardian or trustee, as the case may be, in the like manner and to the same extent as it would be leviable upon and recoverable from any such beneficiary if of full age, of sound mind and in direct ownership of such assets.

⁹⁷[(4) Notwithstanding anything contained in ⁹⁸[the foregoing provisions of] this section, where the shares of the persons on whose behalf or for whose benefit any such assets are held are indeterminate or unknown, the wealth-tax shall be levied upon and recovered from the court of wards, administrator-general, official trustee, receiver, manager, or other person aforesaid ⁹⁹[, as the case may be, in the like manner and to the same extent as it would be leviable upon and recoverable from an individual who is a citizen of India and resident in India] for the purposes of this Act, and—

- (a) at the rates specified in Part I of ¹[Schedule I] ²[***] ; or
- (b) at the rate of ³[three per cent],

whichever course would be more beneficial to the revenue :

Provided that in a case where—

- (i) such assets are held ⁴[under a trust declared by any person by will and such trust is the only trust so declared by him] ; or

- ⁵[(*ia*) none of the beneficiaries has net wealth exceeding the amount not chargeable to wealth-tax in the case of an individual who is a citizen of India and resident in India for the purposes of this Act or is a beneficiary under any other trust ; or]
- (*ii*) such assets are held under a trust created before the 1st day of March, 1970, by a non-testamentary instrument and the ⁶[Assessing Officer] is satisfied, having regard to all the circumstances existing at the relevant time, that the trust was created *bona fide* exclusively for the benefit of the relatives of the settlor or where the settlor is a Hindu undivided family, exclusively for the benefit of the members of such family, in circumstances where such relatives or members were mainly dependent on the settlor for their support and maintenance ; or
- (*iii*) such assets are held by the trustees on behalf of a provident fund, superannuation fund, gratuity fund, pension fund or any other fund created *bona fide* by a person carrying on a business or profession exclusively for the benefit of persons employed in such business or profession,

wealth-tax shall be charged at the rates specified in Part I of ⁷[Schedule I] ⁸[***].]

⁹[*Explanation 1*.—For the purposes of this sub-section, the shares of the persons on whose behalf or for whose benefit any such assets are held shall be deemed to be indeterminate or unknown unless the shares of the persons on whose behalf or for whose benefit such assets are held on the relevant valuation date are expressly stated in the order of the court or instrument of trust or deed of wakf, as the case may be, and are ascertainable as such on the date of such order, instrument or deed.]

¹⁰[*Explanation 11*[2].—Notwithstanding anything contained in section 5, in computing the net wealth ¹²[for the purposes of this sub-section or sub-section (4A) in any case, not being a case referred to in the proviso to this sub-section], any assets referred to in clauses (*xv*), (*xvi*), (*xxii*), (*xxiii*), (*xxiv*), (*xxv*), (*xxvi*), (*xxvii*), (*xxviii*) and (*xxix*) of sub-section (1) of that section shall not be excluded.]

¹³[(4A) Notwithstanding anything contained in this section, where the assets chargeable to tax under this Act are held by a trustee under an oral trust, the wealth-tax shall be levied upon and recovered from such trustee in the like manner and to the same extent as it would be leviable upon and recoverable from an individual who is a citizen of India and resident in India for the purposes of this Act, and—

- (*a*) at the rates specified in Part I of Schedule I ; or
- (*b*) at the rate of three per cent,

whichever course would be more beneficial to the revenue.

Explanation.—For the purposes of this sub-section, "oral trust" means a trust which is not declared by a duly executed instrument in writing (including a valid deed of wakf) and which is not deemed under the *Explanation* to sub-section (1) to be a trust declared by a duly executed instrument in writing.]

¹⁴[(5) Any person who pays any sum by virtue of the provisions of this section in respect of the net wealth of any beneficiary, shall be entitled to recover the sum so paid from such beneficiary, and may retain out of any assets that he may hold on behalf or for the benefit of such beneficiary, an amount equal to the sum so paid.

Explanation.—In this section, the term "beneficiary" means any person including a minor, lunatic or idiot on whose behalf or for whose benefit assets are held by any other person.]

¹⁵[(6) Nothing contained in this section shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1993 or any subsequent assessment year.]

¹⁶[Assessment in cases of diversion of property, or of income from property, held under trust for public charitable or religious purposes.]

21A. ¹⁷[Notwithstanding anything contained in clause (i) of section 5, where any property is held] under trust for any public purpose of a charitable or religious nature in India and—

- ¹⁸[(i) any part of such property or any income of such trust [whether derived from such property or from voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2 of the Income-tax Act] is used or applied, directly or indirectly, for the benefit of ¹⁹[any person referred to in sub-section (3) of section 13 of the Income-tax Act], or
- (ii) any part of the income of the trust [whether derived from such property or from voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2 of the Income-tax Act], being a trust created on or after the 1st day of April, 1962, enures, directly or indirectly, for the benefit of ¹⁹[any person referred to in sub-section (3) of section 13 of the said Act, or]
- ²⁰[(iii) any funds of the trust are invested or deposited, or any shares in a company are held by the trust, in contravention of the provision of clause (d) of sub-section (1) of section 13 of the Income-tax Act,]

wealth-tax shall be leviable upon, and recoverable from, the trustee or manager (by whatever name called) in the like manner and to the same extent as if the property were held by an individual who is a citizen of India and resident in India for the purposes of this Act ²¹[***] :

Provided that in the case of a trust created before the 1st day of April, 1962, the provisions of clause (i) shall not apply to any use or application, whether directly or indirectly, of any part of such property or any income of such trust for the benefit of ²²[any person referred to in sub-section (3) of section 13 of the Income-tax Act], if such use or application is by way of compliance with a mandatory term of the trust :

²³[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

²⁴[**Provided** ²⁵[further] that,—

- ²⁶[(a) in the case of any association referred to in clause (21) of section 10 of the Income-tax Act,—
 - (i) the provisions of clause (i) and clause (ii) shall not apply ; and
 - (ii) the other provisions of this section shall apply with the modifications that,—
 - (1) for the words, brackets, letter and figures "in contravention of the provisions of clause (d) of sub-section (1) of section 13 of the Income-tax Act", the words, brackets and figures "in contravention of the provisions contained in the proviso to clause (21) of section 10 of the Income-tax Act" had been substituted ; and
 - (2) for the words "at the maximum marginal rate", the words and figures "at the rates specified in ²⁷[sub-section (2) of section 3]" had been substituted ;]
- (b) in the case of any institution, fund or trust referred to in clause (22) or clause (22A) or clause (23B) or clause (23C) of section 10 of the Income-tax Act, the provisions of ²⁸[clauses (i) to (iii)] shall not apply.]

Explanation.—For the purposes of this section,—

- ²⁸(a) any part of the property or income of a trust shall be deemed to have been used or applied for the benefit of any person referred to in sub-section (3) of section 13 of the Income-tax Act in every case in which it can be so deemed to have been used or applied within the meaning of clause (c) of sub-section (1) of that section at any time during the period of twelve months ending with the relevant valuation date ;
- ²⁹(aa) [Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]
- (b) "trust" includes any other legal obligation.]

Section - 21AA, Wealth-Tax Act, 1957

³⁰[**Assessment when assets are held by certain associations of persons.**

21AA. (1) Where assets chargeable to tax under this Act are held by an association of persons, other than a company or co-operative society ³¹[or society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India], and the individual shares of the members of the said association in the income or assets or both of the said association on the date of its formation or at any time thereafter are indeterminate or unknown, the wealth-tax shall be levied upon and recovered from such association in the like manner and to the same extent as it would be leviable upon and recoverable from an individual who is a citizen of India and resident in India for the ³²[purposes of this Act ³³[***]].

(2) Where any business or profession carried on by an association of persons referred to in sub-section (1) has been discontinued or where such association of persons is dissolved, the ³⁴[Assessing Officer] shall make an assessment of the net wealth of the association of persons as if no such discontinuance or dissolution had taken place and all the provisions of this Act, including the provisions relating to the levy of penalty or any other sum chargeable under any provisions of this Act, so far as may be, shall apply to such assessment.

(3) Without prejudice to the generality of the provisions of sub-section (2), if the ³⁴[Assessing Officer] or the ³⁵[Deputy Commissioner (Appeals)] or the Commissioner (Appeals) in the course of any proceedings under this Act in respect of any such association of persons as is referred to in sub-section (1) is satisfied that the association of persons was guilty of any of the acts specified in section 18 or section 18A, he may impose or direct the imposition of a penalty in accordance with the provisions of the said sections.

(4) Every person who was at the time of such discontinuance or dissolution a member of the association of persons, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

(5) Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the persons referred to in sub-section (4) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

³⁶ Explanation.—[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

Section - 22, Wealth-Tax Act, 1957

Assessment of persons residing outside India.

22. (1) Where the person liable to tax under this Act resides outside India, the tax may be levied upon and recovered from his agent, and the agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such tax.

(2) Any person employed by or on behalf of a person referred to in sub-section (1) or through whom such person is in the receipt of any income, profits or gains, or who is in possession or has custody of any asset of such person and upon whom the ³⁷[Assessing Officer] has caused a notice to be served of his intention of treating him as the agent of such person shall, for the purposes of sub-section (1), be deemed to be the agent of such person.

³⁸[***]

³⁹[(3) No person shall be deemed to be the agent of any person residing outside India unless he has had an opportunity of being heard by the ⁴⁰[Assessing Officer] as to his being treated as such.

(4) Any agent, who, as such, pays any sum under this Act, shall be entitled to recover the sum so paid from the person on whose behalf it is paid or to retain out of any moneys that may be in his possession or may come to him in his capacity as such agent, an amount equal to the sum so paid.

(5) Any agent, or any person who apprehends that he may be assessed as an agent, may retain out of any money payable by him to the person residing outside India on whose behalf he is liable to pay tax (hereinafter in this section referred to as the principal), a sum equal to his estimated liability under this section, and in the event of any disagreement between the principal and such agent or person, as to the amount to be so retained, such agent or person may secure from the ⁴⁰[Assessing Officer] a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount.

(6) The amount recoverable from such agent or person at the time of final settlement shall not exceed the amount specified in such certificate, except to the extent to which such agent or person may at such time have in his hands additional assets of the principal.

(7) Notwithstanding anything contained in this section, any arrears of tax due from a person residing outside India may be recovered also in accordance with the provisions of this Act from any assets of such person which are or may at any time come within India.