

# **District Centre Janakpuri Study Circle of NIRC of ICAI**

## **WEALTH TAX – LEGAL & PRACTICAL ISSUES**

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# New era started w.e.f. A Y 1992-93

- Conceptually wealth tax is a levy on unproductive “assets” held by an assessable person.
- For the purpose of wealth tax the taxable persons can be broadly classified as:
  - **Direct Assessee:** Persons directly assessable to wealth tax
  - **Indirect Assessee:** Persons indirectly assessable to wealth tax

# Assesseees

## Direct Assesseees

- Individual
- HUF
- Company

## Indirect Assesseees

- Partner >>> Firm
- Member >>> AOP : Sec 21AA

Trust (diversion of property , or of income , contravention of provision of section 13(1)(d) ) Sec 21A

Journey to Wealth Tax in this PPT is  
divided in two parts . 'A' and 'B'

PART – A

# Charge of wealth-tax

## Section 3

- Charged for every assessment year
- Wealth-tax in respect of the
- Net wealth
- Valuation date
- Every individual, Hindu undivided family and company,
- At the rate of 1% of the amount by which the net wealth exceeds 30,00,000 Rupees

# Persons not assessable to Wealth tax – Sec 45

- Company registered u/s 25 of the Companies Act (non-profit organizations)
- Co-operative society
- Social club
- Political party
- Mutual fund u/s 10(23D) of the Income tax Act

# ASSETS AS PER WEALTH TAX



ASSETS INCLUDES : BUILDINGS, CARS, JEWELLERY, AIRCRAFTS, SHIPS, YACHTS, URBAN LAND AND CASH

# WT computation

(A) Value of assets belonging to assessee as on valuation date (Assets as per sec. 2(ea))

- ❖ House ( valuation as per rules / MV)
- ❖ Cars ( book value / MV)
- ❖ Jewellery (MV on rate as on date)
- ❖ Urban Land (book value / MV)
- ❖ Cash In hand
- ❖ Aircraft/ boat/ yacht (MV)



# How to compute wealth tax

(A) Value of assets belonging to assessee as on valuation date (Assets as per sec. 2(ea))	xxxx
(B) Deemed assets (Sec.4)	xxxx
(C) Exempted Assets (Sec.5)	xxxx
Gross Wealth            A+B-C	xxxx
Less: Liabilities incurred on assets included in wealth.	xxxx
Net Wealth	xxxx

Valuation of assets - schedule III read with sec.7 of WT Act

# Rate of Taxation

- 1% on taxable wealth in excess of Rs 30 lacs
- Exemption limit of Rs 30 lacs is applicable to all category of assesseees
- No surcharge levy on wealth tax
- No cess levy on wealth tax
- There is no advance Tax.

# Section & Rules

Chapter	I to VIII
Section	1 to 47
Schedule	III – Valuation
Rules	1 to 13
Forms	A to O-12

# IMPORTANT SECTIONS

- ✓ CHAPTER 1 - Section 2 >> DEFINITIONS
- ✓ Section 2(ea) >> Assets
- ✓ Section 2(m) >> Net Wealth
- ✓ Section 2(q) >> Valuation Date

# IMPORTANT SECTIONS Contd..

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

- 3 Charge of wealth tax
- 4 Net wealth to include certain assets
- 5 Exemptions in respect of certain assets
- 6 Exclusion of assets and debts outside India
- 7 Value of assets, how to be determined

## SCHEDULE III – RULES FOR DETERMINING THE VALUE OF ASSETS

# RULES

3	Form of return of net wealth
3A	Jurisdiction of Valuation Officers
3B	Conditions for reference to Valuation Officers
8C	Scale of fees to be charged by a registered valuer
8D	Form of report of valuation by registered valuer
13	Forms for certificate of valuation of jewellery

# FORMS

BB	Return of net wealth
E	Form of appeal to the Commissioner of Wealth-tax (Appeals) under section 23A of the Wealth-tax Act, 1957
F	Form of appeal to the Appellate Tribunal under sub-section (1) or sub-section (2) of section 24 or sub-section (1) of section 26 of the Wealth-tax Act, 1957
G	Form of memorandum of cross-objections to the Appellate Tribunal under sub-section (2A) of section 24 of the Wealth-tax Act, 1957
O-1	Report of valuation of immovable property (other than agricultural lands, plantations, forests,) mines and quarries
O-8	Report of valuation of jewellery
O-8A	Statement of valuation of jewellery

# Road map

Re-visit Wealth Tax Act  
through  
Wealth Tax Return form



# **FORM BB**

# **RETURN OF NET WEALTH**

**Assessment year : 2014-15**

# Filing of Return of Wealth Tax

	A.Y. 2013-14 (and earlier assessment year)	A.Y. 2014-15		A.Y 2015-16
Applicability	Paper format	Individual/HUF >> No Tax audit >> paper format / online	Tax audit assesseees and every company online filing mandatory	All assessee
Form No	BA	BB	BB	BB
Mode of submission	Paper format	Electronically (it may be submitted in paper format at the option of assessee)	Electronically	Electronically
Digital signature	Not applicable	Digital signature compulsory (if return submitted electronically)	Compulsory	Compulsory

# SCHEDULES TO RETURN FORM

<b>Schedule IP</b>	<b>Immovable Property</b>	<b>S.2(ea)(i) or S.2(ea)(v)]</b>
<b>Schedule MP</b>	<b>Movable Property [other than jewellery], etc.</b>	<b>S.2(ea)(ii),(iv) &amp; (vi)</b>
<b>Schedule JE</b>	<b>Jewellery, etc.</b>	<b>S.2(ea)(iii)</b>
<b>Schedule INW</b>	<b>Includible net wealth of other persons</b>	<b>Clubbing provisions</b>
<b>Schedule IFA</b>	<b>Interest held in the assets of a firm or association of persons (AOP) as a partner or member thereof</b>	<b>S 4(1)(b)</b>
<b>Schedule ACE</b>	<b>Assets referred to in section 2(ea) which are claimed as exempt</b>	<b>Section 5</b>
<b>Schedule ACE</b>	<b>Other properties to be filled up by individual or HUF only</b>	<b>All assets &gt;excluding &gt; assets 2(ea), exempt 5, excluded in 6, Assets which is part of tax audit &gt; BP.</b>

**Schedule JE**  
**Jewellery, etc. referred to in S.2(ea)(iii)**

Description	Item of jewellery, etc. (A)	Item of jewellery, etc. (B)	Item of jewellery, etc. (C)
1. Description of item			
2. Gross weight			
3. Net weight of precious metal			
4. Description and weight of precious or semi-precious stones			
5. Value of each precious or semi- precious stone and total value of all such stones			
6. Total value of jewellery as per schedule III			

**Schedule JE**  
**Jewellery, etc. referred to in S.2(ea)(iii)**      **(contd.....)**

Description	Item of jewellery, etc. (A)	Item of jewellery, etc. (B)	Item of jewellery, etc. (C)
7. Debt owed in relation to the jewellery			
8. Net amount (6-7)			
9. Name of Registered Valuer			
10. Registration Number of Valuer			
11. Date of report by Valuer			
12. Aggregate net amount of all jewellery, etc. [8(i)+8(ii)+8(iii)]			

## Schedule OPR

Other properties to be filled up by individual or HUF only

Properties		Cost
<b>A Immovable Property</b>		
<b>I. Agricultural Land</b>		
(a) Description		
(b) Complete address		
(c) Survey/plot No. of land		
<b>II. Non-Agricultural Land</b>		
(a) Description		
(b) Complete address		
(c) Survey/plot No. of land		
<b>III. Commercial Building</b>		
(a) Description		
(b) Complete address		
(c) Survey/plot No. of land		

## Schedule OPR (contd.....)

Properties		Cost
<b>IV. Residential Building</b> (a) Description (b) Complete address (c) Survey/plot No. of land		
<b>B. Movable Property</b>  I. Total amount of deposits in Bank accounts (FDRs, Term Deposits and all other types of Deposits including saving accounts), with Financial Institutions, Non Banking Financial Companies and Cooperative societies. II. Amount of investment in Bonds, Debentures/shares and units in companies/Mutual Funds. III. Amount of investment in NSS, Postal Savings, Insurance Policies and investment in any Financial Instrument in Post office or Insurance company.		

## Schedule OPR (contd.....)

Properties	Cost
IV. Total amount of loans/advance given to any person or entity including firm, Company, Trust etc. and other receivables from debtors V. Any other property including value of Claims/interest etc.	
Total value at cost of other properties	
Total liability in relation to other properties	
Net amount of other properties	



# Assets

Assets	Section	Valuation rule In schedule -iii
Buildings	2(ea) (i)	3 to 8
Cars	2(ea)(ii)	14/20
Jewellery	2(ea)(iii)	18
Aircrafts, ships, yatches	2(ea)(iv)	20
Urban land	2(ea)(v)	14/20
Cash	2(ea)(vi)	N.A

# House / Buildings

Includes:

- ✓ Any building or land appurtenant thereto
- ✓ ***whether used for residential, commercial, guest house etc***
- ✓ Any farm house if situated within 25 kms from local limits of any municipality or cantonment board
- ✓ One house exempted

# NOT TO BE TREATED AS House / Buildings

## Excludes:

- ✓ House meant exclusively for residential purposes occupied by an employee/officer/director of ***a company***, having a gross salary of less than Rs 10 lacs
- ✓ House held as **stock in trade** by the assessee
- ✓ Any house occupied by the assessee for the **purpose assessee's business or profession**
- ✓ Any ***residential property*** let out for MORE than 300 days in the previous year
- ✓ Any property in the nature of commercial establishments or complexes

# Motor Car

- Includes all motor cars whether Indian or Foreign
- Excludes:
  - Cars held as stock in trade
  - Cars used by the assessee in the business of running them on hire

## Jewellery Bullion etc

- Includes 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 metal.
- Excludes  
Assets held as stock in trade

# Yachts, boats and aircrafts

- Includes all categories of Yachts, boats and aircrafts
- Excludes those yachts, boats and aircrafts used for ***commercial purposes***

## **Urban land A.Y 2014-15 onward**

"urban land" means land situate—

- ✓ in municipality or a cantonment board and which has a population of not less than ten thousand;

or

## Urban land A.Y 2014-15 onward (contd.....)

- ✓ In any area within the distance, measured aerially,—

<b>From local limit of any municipality or cantonment</b>	<b>Population</b>
Not more than 2 km	> Ten thousand $\leq$ one lac
Not more than 6 Km	> One lac $\leq$ ten lac
Not more than 8km	> Ten lac

- ✓ Explanation— "population"- last preceding census of published before the date of valuation.



## but does not include

- a) Land classified as agricultural land in the records of the Government and used for agricultural purposes.
- b) 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.
- c) Land occupied by any building which has been constructed with the approval of the appropriate authority.
- d) Any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him.
- e) Land held by the assessee as stock-in-trade for a period of ten years from the date of its acquisition by him.

# Urban land upto A.Y. 2013-14

Urban land means land situated:

- ❖ In any municipality or cantonment which has a population of not less than 10,000 as per latest available census prior to the valuation date.
- ❖ Within 8 kms from municipality or cantonment

# Cash in Hand

- a) Individuals and Hindu undivided families

Cash in hand : in excess of Rs. 50,000/-

- b) Company

any amount not recorded in the books of account

# Clubbing / Deemed Assets

- a) Assets transferred to spouse- section 4(1)(a)(i)
- b) Assets held by a minor child- section 4(1)(a)(ii)
- c) Assets transferred to a person or Association of Persons for the benefit of the individual, his/her spouse- section 4(1)(a)(iii)
- d) Assets transferred to a person or Association of Persons under revocable transfer - section 4(1)(a)(iv)
- e) Assets transferred to son's wife – section 4(1)(a)(v)
- f) Assets transfer to person or association of persons for the benefit of son's wife - section 4(1)(a)(vi)
- g) Converted property - section 4(1A)
- h) Holder of an impartible estate – section 4(6)

## Point to be noted clubbing of assets or deemed assets

- If properties are assets as on valuation date then it is to be clubbed in transferor wealth even if these were not assets at time of transfer.
- Relationship must exist at time of transfer and also as on valuation date.
- Accretions to Assets in transferee hand will not be clubbed with transferors wealth.

# EXEMPTIONS IN RESPECT OF CERTAIN ASSETS (SEC.5)

i) Any property (in India or outside India) held under trust or under legal obligation for any public purpose of charitable or religious nature in India.

Exemption is available for business assets only when such business in incidental and separate books maintained.

## EXEMPTIONS IN RESPECT OF CERTAIN ASSETS (SEC.5) contd...

- (ii) Interest in co-parcenary property of HUF.
- (iii) Any one building in occupation (i.e. own possession but not let out) of Ruler which was declared by C.G as his official residence.
- (iv) Heirloom jewellery (kept permanently in India and in original shapes) in possession of Ruler not being his personal property.

## EXEMPTIONS IN RESPECT OF CERTAIN ASSETS (SEC.5) contd

- v) An Indian citizen or person of Indian origin who was Non Resident and who has returned to India with intention of permanently residing in India, then the money and assets brought to India and value of assets acquired out of money sent from abroad and NRE account within one year immediately preceding his date of return and assets acquired after coming back out of such money shall be exempt for a period of 7 successive A.Y. commencing with A.Y next following date on which he returned.



## EXEMPTIONS IN RESPECT OF CERTAIN ASSETS (SEC.5) contd....

- (vi) Any one house (may be let out, Residential, commercial, farm house, self occupied, or Guest house etc.) or part of a house or a plot of land (land area 500 Sq. Mt. or less) belonging to Individual or HUF.

# Scope of net wealth

	Whether to be included		Whether to be deducted	
	Assets located in India	Assets located outside India	Debts located in India	Debts located outside India
<u>1 Individual</u> In case of a citizen of India (i) Resident any ordinarily resident in India  (ii) resident but not ordinarily resident in India	Yes	Yes	Yes	Yes
	Yes	No	Yes	No To be deducted if it is incurred, in relation to assets located in India.

## Scope of net wealth cont...

(iii) non-resident	Yes	No	Yes  Not to be deducted if it is incurred, in relation to asset located outside India	No  To be deducted if it is incurred, in relation to asset located in India .
In case of an individual who is a foreign national  (Residential status in this case shall not have any effect)	Yes	No	Yes  Not to be deducted if it is incurred, in relation to asset located outside India	No  To be deducted if it is incurred, in relation to asset located in India.

## Scope of net wealth cont...

2. In case of HUF – -(i) Resident and ordinary resident	Yes	Yes	Yes	Yes
(ii) non-resident or resident but not ordinarily resident in India	Yes	No	Yes Not to be deducted if it is incurred, in relation to asset located outside India	No To be deducted if it is incurred, in relation to asset located in India.
3. In case of a company -Resident -Non-resident	Yes Yes	Yes No	Yes Yes Not to be deducted if it is incurred, in relation to asset located outside India	Yes No To be deducted if it is incurred, in relation to asset located in India.

## Other important sections

- Procedure of Assessment under wealth tax is almost similar to Income Tax Act.
- Return below specified exemption limit i.e. 30 Lacs deemed never furnished. Relation with survey.
- No Advance Tax and Education Cess in Wealth Tax.
- Wealth R/off to nearest Rs. 100

# **VALUATION RULES**

Rule 3 to 8

Valuation of immovable property

# Valuation of immovable property

## Step- I: Gross maintainable rent:

If property is not let out then annual value assessed; if no such assessment then annual rent (fair value) (or) If the property is let out then annual rent or annual value assessed by local authority whichever is higher;

The Annual rent shall be computed as below.

Actual rent received or receivable

XX

XXX

**Add:**

- |   |    |  |
|---|----|--|
| a. The amount of taxes borne by the tenant, if any  | XX |  |
| b. If the repairs are borne by tenant; 1/9 <sup>th</sup> of actual rent.  | XX |  |
| c. If any deposit is accepted (not being rental advance; if any, for 3 months or less) amount calculated at 15% per annum as reduced by actual interest paid. | XX |  |
| d. If premium for leasing of the property is received -amount obtained by dividing the premium by the number of years of the period of lease.                 | XX |  |
| e. The value of any benefit or perquisite derived as consideration for leasing of the property.   | XX |  |
| f. Any sum paid by a tenant or occupier in respect of any obligation payable by the owner.  | XX |  |

Annual Rent (GMR)

XXX



# Valuation of immovable property

<b>Step -II Net maintainable rent:</b>		
Gross maintainable rent		XX
Less:		
a. Municipal tax levied by local authority	XX	
b. A sum equal to 15% of the gross maintainable rent	XX	
Net maintainable rent (NMR)	XXX	

# Valuation of immovable property

## Step III - Valuation by capitalization:

A. If the property is constructed on free hold land then the value =  $\text{NMR} \times 12.5$

XXX

B. If such property is constructed on lease hold land, then

XXX

i. Where the unexpired lease period is 50 years or more, the value is equal to  $\text{NMR} \times 10.0$

XXX

ii. Where the unexpired lease period is less than 50 years, the value is equal to  $\text{NMR} \times 8.0$

XXX

# Valuation of immovable property

## Step IV – Further adjustments to be made :

To the value arrived at in step III, the following adjustments shall have to be made :

Value as computed under step III		XXX
a. If the unbuilt area of the plot of land on which the property is constructed exceeds the specified area, addition is to be made on the following basis i.e., (UBA- SA)		
If the excess is - above 5% upto 10% above 10% upto 15% above 15% upto 20% Above 20% of the aggregate area	Addition to be made, 20% of the above value 30% of the above value 40% of the above value This rule is not applicable	XXX
b. Adjusted NMR		XXX

# Valuation of immovable property

## Step V – Deduction of unearned increase :

Particulars	Rs.	Rs.
Adjusted Net Maintainable Rent		XXX
Deduct the least of the following:		
1. Amount liable to be claimed and recovered as unearned increase or	XXX	
2. An amount equal to 50% of the value arrived in SNMR	XXX	XXX
Value of immovable property as per Wealth Tax Act.		XXX

Specified area is determined as follows

LOCATION OF PROPERTY	SPECIFIED AREA
a. Mumbai, Calcutta, Delhi, Chennai	60% of the aggregate area
b. Agra, Ahmedabad, Allahabad, Amritsar, Bangalore, Bhopal, Cochin, Hyderabad, Indore, Jabalpur, Jamshedpur, Kanpur, Lucknow, Ludhiana, Madurai, Nagpur, Patna, Pune, Salem, Sholapur, Srinagar, Surat, Tiruchirapalli, Trivandrum, Vadadara (Baroda) or Varanasi (Benaras)	65% of the aggregate area
c. Any other place	70% of the aggregate area

PART – B

FAQ

Q > >1

- A house belongs to an individual
- who is a partner in a firm and
- the firm uses the same for its business,
- will this house be subject to wealth tax?

Solution >> No

Q >> 2

- A house property was used for Mr. Ram
- for his own business for 95 days in the year 2013-14
- And thereafter it was let out for residential purposes during the remaining period of 270 days.
- Will this house property, be excluded in the definition of the asset and thus not liable to wealth tax?

Solution >> liable to tax , ( Tracstar Investment Pvt Ltd Vs CWT (2009) 118ITD365(Mum)



Q >> 3

- Mr. Ram Partner of Ram & Co.
- has given Factory building on rent to the firm for carrying on it business.
- Whether Ram is liable to wealth tax?

Solution >> yes

CIT vs Ponnamma Lakshmi Narayani Asiatic  
Export enterprises (2009) 184 Taxman 206 (Ker)

Q >> 4

- A house which is owned by Mr. Ram
- an individual doing business
- is allotted to his employees as rent free accommodation
- will it be a taxable asset ?

Solution >> yes

Q >> 5

- Office premises which are let out
- on leave-and-license basis
- is whether includible in the net wealth?

Solution >>No

Satvinder Sinh Kalra Vs Dy CWT (2007) 109 ITD  
241 (Pune)

Q >> 6

- Motor car given on lease
- by M/s Ram leasing Ltd a leasing company
- whether liable to wealth tax ?

Solution >> yes

Q >> 7

- The building is under construction,
- whether land or building under construction liable to wealth tax?

Solution >> both view >>case laws

- Apollo Tyres Ltd vs ACIT (2010) 325 ITR 528 (Ker)
- CIT vs Neena Jain (2010) 189 Taxmann 308 (P & H )
- CWT Vs Giridhar G Yadalm (2010) 325 ITR 223 ( Karn)

Q >> 8

- R purchased urban land for industrial purposes on 1.6.2011.
- He started the construction of the factory on such land w.e.f. 1.3.2013 and
- the same was completed on 30.11.2014 and
- was used for business immediately thereafter.
- Whether this urban land is subject to WT for the A. yr. 2014-15

Solution >> No

Q >> 9

- Discuss whether the land, the building under construction and
- the land and building after completion
- shall form part of asset for wealth tax purpose in the A.Y 2014-15?

Solution>> both view –case laws

Q >> 10

- List out the cases
- when assets belong to another person
- included in computing the net wealth of an individual assessee?

Solution>> section 5



Q >> 11

- List out the assets
- which are deemed assets and
- to be included in the net wealth of the any assessee for computation of wealth tax?

Solution>> section 5

Q >> 12

- On 5.6.2011 R transfers his house property to S till his death.
- S died on 7.1.2014.
- Who is liable for wealth tax for the assessment year 2014-15.

Solution>> R

Q >> 13

- Car and building is with charitable trust registered u/s 12A and
- trust has incidental business and these assets are being use for that business.
- Whether these are liable to tax?

Solution>> No

Q >> 14

- Mr Ram Indian citizen and person of Indian origin,
- after spending 2 year in USA comes back to India
- and brings 5 Cr with him and
- from that amount he buys two houses 50 lacs each, car of Rs 25 lac .
- What is the position of these Assets in wealth tax?

Solution>> No till seven yrs section 5(v)

Q >>15

- Charitable or religious trust assessed under Wealth tax Act
- When exemption under section 5(i) forfeited and
- taxable under section 21A?

Solution >> Yes - 5(1)-Doing business –other than 11(4A) or 10(23B) 10(23C) and Sec 21A- Property / Income –benefit to person of 13(3) and investment other than mode given in 11(5) I. Tax Act

Q >> 16

- What is the procedure of wealth tax assessment
- in case of association of persons
- when the share of member is determined or
- alternatively not determined?

Solution >> determined – member, otherwise AOP as Individual

Q >> 17

- Farm house in Delhi situated 30 Km from local limit of Delhi and
- with in 6 Km from the Faridabad municipality
- Whether to be included in the net wealth of the any assessee for computation of wealth tax?

Solution >> yes

Q – 18 - Valuation officer :

1) The Assessing officer had referred the valuation of an asset to the Valuation officer, whether the action is correct?

Solution >> Section -16A

2) What are the steps to be taken by Assessing officer on receipt of the Valuation order from the Valuation officer?

Solution >> Section 16(6)- conformity

3) Whether Reference can be made for valuation made after assessment is completed?

Solution >> No 16A(1)

4) Whether Reference for valuation can be made in reassessment proceedings?

Solution >> Yes 6A(1)

6) Whether Assessing officer can make second reference?

Solution >> no

7) Whether an appeal is permissible against valuation report?

Solution >> No, only appeal against Assessment order



Questions ?

**THANK YOU**  
Of

Wealthy  
Professionals