

# Wealth Tax Act – a revisit & relearn

Pradeep Kumar P

**S L Gadhiya & Co**

# Overview

- Brief History about Wealth tax laws
- Laws applicable
- Assets (Including Deemed assets and exempted assets)
- Computation of wealth tax
- Valuation of assets (Section 7 r.w Schedule III)
- Procedural aspects – including penalties
- Return Form – BB – Applicable from Ay2014-15

# Brief History about WTA

- In India, the system of direct taxation, as is prevalent today tax on wealth, has been in force in one form or the other.
  - as power to tax is a matter of right to every independent Government.
- Taxing laws have ceased to be mere sources of income they are considered as instruments of social control.
- Both in Manusmriti and Arthashastra of (Kautilya/Chanakya) there are reference of a variety of tax measures.
  - Bhaga--which is the State's share or produce.
  - Bali--an undefined religious cess over the Bhagas.
  - **Kara--a tax on property levied periodically.**
  - Vivita--a levy on pastures.
  - Rajju--cess payable for survey and settlement.
  - Chora rajju--police cess or chowkidari tax.

# Brief History about WTA

- Wealth Tax was introduced in 1957 after the suggestion of the Kaldor Committee (Government of India 1956). The Wealth Tax was one of the four new taxes suggested by Kaldor, namely the Wealth Tax, the Capital Gains Tax, the Gift Tax and the Expenditure Tax.
- Following committees such as the Bhoothalingam Committee also agreed with the continuation of the Wealth Tax (Government of India 1967, Pandey 2006).
- Instead in the year 1985, the Union Finance Minister proposed to abolish the Estate Duty.
- Subsequently, even gift tax was abolished. However, they same has been included under the direct tax laws.

# Brief History about WTA

- **Tax Reforms Committee (TRC) led by R. J. Chelliah** recommended abolition of the Wealth Tax, by arguing that the revenue collected is considerably less compared to the cost incurred (Government of India 1991-93).
  - **This TRC suggested that if the Wealth Tax is maintained it should be limited to unproductive assets only and not apply to productive assets like financial assets.**
  - The acceptance of these recommendations in the Union Budget 1992-93 resulted in a massive revenue decline from the Wealth Tax from Rs. 468 crore in 1992-93 to Rs. 154 crore in 1993-94.
  - Wealth Tax revenue stagnated at around Rs. 100 crore throughout the 1990's due to the narrow tax base it was now confined to.
  - In the year 2001-02, it mobilized only Rs. 145 crore with an expenditure of Rs. 78 Crore, i.e. a budget expenditure of Rs. 53.8 for each Rs. 100 worth of tax revenue collected.
  - **This, in turn, prompted the Kelkar Task Force on Direct Taxes to suggest the complete abolition of the Wealth Tax (Government of India 2002).**
- **Also, according to a Report by the Comptroller and Auditor General (C&AG) of India (Government of India 2001), assessing officers have failed to link and correlate the records of Income Tax and Wealth Tax. A large number of assesseees are either not filing the returns of net wealth or not disclosing true taxable wealth. No efforts have been made by the tax department to identify new Wealth Tax assesseees despite recommendations of the Public Accounts Committee.**
- Presently the wealth tax is pegged to be around 1000 crore

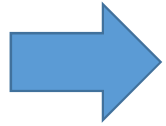
# Laws applicable

- Wealth tax is governed by the Wealth tax Act, 1957, Wealth tax Rules, 1957, circulars, Notifications and case laws.
- WTA is a levy on Non-productive assets
- framework
  - Sections – 47 sections
  - Rules – 33
  - Schedules - 2

# Framework of the act

Chapter	Description	Sections
Chapter I	Preliminary	1-2
Chapter II	Charge of WT & Assets subject to charge	3-7
Chapter III	Wealth tax authorities	8-13A
Chapter IV	Assessment	14-18BA
Chapter IVA	Special provisions for avoiding repetitive appeals	18C
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Chapter VI	Appeals, Revisions and references	23-29B
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Chapter VIIA	Refunds	34A
Chapter VIIB	Registered valuers	34AA-34AE
Chapter VIII	Miscellaneous	34B-47
Schedule – I	Rates of Wealth tax	
Schedule – III	Rules for determining the value of assets	

# Framework of the rules





# WT - Charge

- Section 3 prescribes that **every individual, HUF, and Company** shall be liable to wealth tax if the amount of **Net wealth** exceeds Rs 30 lakhs (AY 2010-2011 onwards & 15 lakhs prior to Ay 2010-2011) at the **rate of 1%**.
- **Section 45 – Excludes –**
  - Company registered under section 25 of Companies Act, 1956 (**CA2013 – Not clear**)
  - Co-operative Society (defined in section 2(ha))
  - Social club (**not defined**)
  - Political party (as defined under the ITA)
  - Mutual Fund (as defined under the ITA)
  - RBI (FA 2012 – w.r.e.f 1-4-1957)
- It is pertinent to note that Wealth tax is applicable
  - Directly to – Individual, HUF and Company
  - Indirectly to – Firm, LLP, AOP and Trust

# Computation of Net wealth

- Net wealth – Section 2(m) –
  - Aggregate value of all assets computed in accordance with the provisions of the act belonging to the assessee (All assets under section 2(ea))
  - Assets includible in the hands of assessee (Deemed assets under section 4)
  - Reduced by debts owed in relation to the asset (not defined – Judicial precedents only)
  - Will give net wealth
  - All items to be taken as on valuation date
- Assets exempted under section 5 need not be part of net wealth. However they shall be disclosed separately in Schedule ACE in new Return form BB
- Upto Rs 30 Lakhs – wealth tax would be nil, beyond the limit WT would be chargeable at 1%
- Education cess is not applicable on WT

# Debts owed

- Debts are of two kinds : solvendum in praesenti and solvendum in future.
- A sum of money which is certainly and in all events payable is a debt, without regard to the fact whether it is payable now or at a future time.
- A sum payable upon a contingency, however, is not a debt, or does not become a debt until the contingency has happened.
- If there is a debt, the fact that the amount is to be ascertained does not make it anytheless a debt if the liability is certain and what remains is only **the quantification of the amount.**
- In short, a 'debt owed' within the meaning of section 2(m) can be defined as a liability to pay in praesenti or in future an ascertainable sum of money.
- The word 'owe' means, to be under an obligation to pay; it does not really add to the meaning of the word 'debt'

**Kesoram Industries & Cotton Mills Ltd. V. CWT [1966] 59 ITR 767 (SC).**

# Valuation date

- Section 2(q) – valuation date in any assessment year shall be last day of previous year as defined under the ITA.
- In other words, Valuation date is March 31 – each year
- Even in case of deceased person – March 31 of the year of death
- Even if the person is not liable under ITA – March 31 of immediately preceding assessment year

# Location of assets and debts – Section 6 of WTA

Status	Assets Includible	Debts Deductible
<b>Resident and Ordinarily Resident</b>		
Citizen	All assets in or outside India	All Permissible Debts in or outside India
HUF–Ordinarily Resident	All assets in or outside India	All Permissible Debts in or outside India
Company–Resident	All assets in or outside India	All Permissible Debts in or outside India
Non-Citizen	All assets in India	All Permissible Debts in India
<b>Resident but not Ordinarily Resident</b>		
Citizen/Non-Citizen	All assets in India	All Permissible Debts in India
<b>Non-Resident</b>		
Citizen	All assets in India	All Permissible Debts in India
Non-Citizen	All assets in India	All Permissible Debts in India

Section 2(ka) - “India” means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976), and the air space above its territory and territorial waters;

# Location of assets – Circular No 3 dated 28.09.1957 as amended by Circular No 392 dated 24.08.1984

Asset	When located in India
Tangible Immovable property	If the property lies in India
Rights or interests in or over immovable property (otherwise than by way of security)	If the immovable property lies in India
Benefits arising out of immovable property	If the immovable property lies in India
Rights or interests in or over a movable property (otherwise than by way of security)	If the movable property lies in India. Goods on high seas cannot be considered to be in India – CWT vs Consolidated Pneumatic Tools Co Ltd – Supreme Court. (1971) 81 ITR 752
Aircrafts/ Boats/Yachts	If it is registered in India

# Assets under section 2(ea)

- Building
- Urban Land
- Motor car
- Boats, Yachts, Aircraft
- Jewellery
- Cash in hand\*

# Assets – 2(ea) – Immovable Property other than urban land

Inclusions	Exclusions
<p>Any building or land appurtenant thereto,</p> <ul style="list-style-type: none"><li>- residential or</li><li>- commercial or</li><li>- as guest house or otherwise</li><li>- (including a farmhouse within twenty-five kilometers of municipal limits)</li></ul>	<ol style="list-style-type: none"><li>1. In case of a Company, a house<ul style="list-style-type: none"><li>- meant exclusively for residential</li><li>- allotted to an employee, officer or a Whole time Director whose <b>gross annual than Rs 10 lakhs.</b> (w.e.f A.Y. 2013-14, earlier 5 lakhs)</li></ul></li><li>2. House (residential or commercial) held as Stock in trade</li><li>3. House occupied for purpose of carrying on business or profession of the assessee.</li><li>4. Residential property let out for at least 300 previous year.</li><li>5. Any property in nature of Commercial establishments or complexes</li></ol>



# Issue - Commercial establishment

- Commercial establishment or complexes have to be excluded from term 'assets' as defined in sub-clause (i) of section 2(ea). The assessee took a property on rent and created a commercial establishment by providing necessary facilities for operating commercial office. She let the said property to a company. The Assessing officer opined that said property would form part of assessee 'S wealth under section 2(ea). **The court held that said property being a commercial property was outside purview of section 2(ea).** –CIT v. Vasumatiben Chhaganlal Virani [2013] 37 taxmann.com 216 (Guj.)

# Assets – 2(ea) – Immovable Property – Urban land

Inclusions	Exclusions
<p>i. in any area within the jurisdiction of a municipality constructed with the (by whatever name called) or a Cantonment Board with a population of not less than ten thousand as per last for a period preceding Census; or</p>	<p>a. Land classified as agricultural land and used for agricultural purpose. (In FA2013 w.r.e.f 1.04.1993 overrules the decision against the assessee in the case of Sunil Kumar v. WTO [2012] 21 taxmann.com 36 (Delhi - Trib.))</p> <p>b. Land on which construction is not permissible under any law</p> <p>c. Land occupied by any building which has been constructed with the approval of the appropriate authority</p> <p>d. Unused land held for industrial purpose of 2 years from the date of acquisition (to be reckoned from date of purchase of plot)</p> <p>e. Land held as stock-in-trade for a period of 10 years from the date of acquisition.</p>
<p>ii. in an area within a distance of <b>not more than two kilometres measured aerially</b> from local limits of municipality or Cantonment Board as above and has a population <b>between ten thousand and one lakh as per last preceding Census</b>; or</p>	
<p>iii in an area within a distance of <b>not more than six kilometres (measured aerially)</b> from local limits of municipality or Cantonment Board as above and has a population <b>between one lakh and ten lakhs as per last preceding Census</b>; or</p>	
<p>iv in an area within a distance of <b>not more than eight kilometres (measured aerially)</b> from local limits of municipality or Cantonment Board as above and has a population <b>between one lakh and ten lakhs as per last preceding Census</b>; or</p>	

# Issues - Urban land

## Construction in progress – Whether a asset or not?

- A building in process of construction cannot be understood as a building which has been constructed in terms of meaning given to 'urban land' as defined under Explanation (b) to section 2(ea). Term 'constructed' would mean 'fully constructed' as understood in common parlance. Since wordings 'urban land' would mean a land on which complete building stands, such land alone would qualify for exemption – CWT v. Giridhar G. Yadalam [2007] 163 Taxman 372 (Kar.) – **Decision against the assessee**
- Incomplete building does not all within ambit of assets as defined in section 2(ea) as it does not fall within definition of 'building'; nor does it all within purview of 'urban land' – CIT v. Smt. Neena Jain [2010] 189 taxman 308 (Punj.& Har.). – **Decision in favour of assessee**
- Once land is utilized for construction purposes with approval of prescribed authority, it ceases to have its identity as vacant land and it cannot be independently valued; there is no merit in contention that value of urban land could be assessed to wealth-tax until completion of construction of building and until commencement of use of such building for commercial or industrial purpose – Apollo Tyres Ltd.V. Asstt.CIT [2010]189 Taxman 225 (Ker.) – **Decision in favour of assessee**
- Where construction of building was partly completed or was under construction, exception engrafted in definition of words 'urban land' does not get attracted and an incomplete construction on 'urban land' would still be taxable as urban land – CWT v. Sanjay Krishna Hedge [2013] 35 Taxmann.com 173 (Cal.) – **Decision against the assessee**

## Agricultural Land ?

- Agricultural land of the assessee situated in State of Karnataka, was notified in master plan under Karnataka Town and Country Planning Act, 1961. **The assessee had not applied** to Deputy Commissioner seeking permission to convert his land from agricultural to non-agricultural as required under Karnataka Land Revenue Act, 1964. **It was held that assessee's land continued to be agricultural land and should not be made liable to tax as urban land.** – M.R. Raghuram v. WTO Income-tax Department [2013] 38 taxmann.com 54(Kar.).

# Assets – 2(ea) – Movable Property – Motor cars, Yachts, boats and aircraft (other than Jewellery)

Inclusions	Exclusions
Motor cars	Used for the business of running them on hire or as stock-in-trade.
Yachts, boats and aircraft	When used by the assessee for commercial purposes.
Cash in hand i. In case of individuals/HUFs: in excess of Rs. 50,000.	Upto Rs 50000/-
Cash in hand ii. In other cases: an amount not recorded in the books of account.	Amount recorded in books.

# Assets – 2(ea) – Movable Property – Jewellery

Inclusions	Exclusions
Jewellery, bullion and furniture, utensils or any other article made of gold, silver, etc.	<ul style="list-style-type: none"><li>- When used by the assessee as stock-in-trade.</li><li>- Gold Deposit Bonds issued under Gold Deposit Scheme, 1999 (Explanation 2 to Section 2(ea))</li></ul>

Explanation 1 to clause 2(ea) (definition similar to ITA)

(a) “jewellery” includes—

(i) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stones and whether or not worked or sewn into any wearing apparel;

(ii) precious or semi-precious stones, whether or not set in any furniture, utensils or other article or worked or sewn into any wearing apparel;

# Deemed as asset – Section 4

# Deemed Assets – Section 4 of WTA

Inclusions	Exclusions
Assets transferred by individual to spouse for inadequate consideration.	Assets transferred in connection with an agreement to live apart No husband-wife relationship at time of transfer as well as on valuation date
Assets transferred by Individual to son's wife for inadequate consideration.	No father-in-law/mother-in-law/daughter-in-law relationship at time of transfer as well as on valuation date Assets transferred prior to 1-6-1973
Assets transferred by Individual for immediate or deferred benefits of individual or son's wife or both to other persons or A.O.Ps for inadequate consideration.	No father-in-law/mother-in-law/ daughter-in-law relationship at time of transfer as well as on valuation date Assets transferred prior to 1-6-1973
Assets transferred/converted by individual into joint family property. (inadequate consideration)	Assets transferred for adequate consideration Conversion or gifts effected prior to 31-12-1969
Assets held by minor child	Assets held by Minor Married Daughter Assets acquired out of Minor's Income as referred to in proviso to S. 64(1A) Minor attains on or majority before valuation date Assets held by a physically or mentally handicapped minor child

# Deemed Assets – Section 4 of WTA

Inclusions	Exclusions
Assets transferred by <b>Individual under Revocable Transfer to other persons or A.O.Ps</b>	Assets transferred <b>under Irrevocable Transfer</b>
Gifts by book entries	Money actually delivered at time of entry.
Value of House/part thereof leased/allotted to Individual by Co-op. Society net of outstanding Instalment payable to Society.	None
Possession of building taken/retained in part performance of contract (S. 53A of the Transfer of Property Act) or right with respect to building acquired by transaction u/s. 269UA(f) of I.T. Act.	None
Holder of Impartial Asset Estate	None



# Exempt assets - Section 5

# Exempt Assets – Section 5 (Assets not be included in net wealth)

- Any **property** held by public charitable/religious trusts.
  - Exemption however lost and trust property liable to tax in case of diversion of income/property of trust to specified persons or in case of investment in unapproved securities.
- Interest of a member in a HUF **property**,
- Any one building used for the residence by a former ruler,
- Any heirloom Jewellery in the possession of a Ruler (Lots of conditions prescribed)
- Assets brought within 1 year prior to return/at any time after return into India by a returning **NRI or PIO** for 7 successive A.Ys. after return to India. Balance in N.R.E. a/c. on date of return and assets purchased therefrom also exempt.
  - PIO means either he, or his parents or his grant parents were born in Undivided India
- One house or part of a house (effective from A.Y. 1994-95) or a plot of land not exceeding 500 square metres (effective from A.Y. 1999-2000), belonging to an individual or a HUF.

# Issues – Exemption – section 5

## Charitable or Public Trusts

- For purpose of exemption u/s 5(1)(i), the situs of the property is irrelevant; what is relevant is that public purpose of charitable/Religious nature should be in India – Trustee of H.E.H.The Nizam’s OPilgrimage money Trust v. CIT[2000] 111 Taxman 228/2143 ITR 676 (SC).
- Entitlement to exemption under section 11 of the Income Tax Act would justify Assessee’s claim for exemption of its properties under section 5(1)(i)- Agastiyar Trust v. CWT [2003] 130 Taxman 497 (Mad).

## Money brought in by NRI - HUF

HUF cannot be regarded as a ‘person’ for the purposes of section 5(1)(xxxviii)[now section 5(1)(v)] as it is not covered by Explanation to section 5(1)(xxxiii).

Thus , it cannot claim exemption under section 5(1)(xxxviii) now section 5(1)(v).

CWT v. PL.RM. Alagabba Chettiar [2001] 252 ITR 541 (Mad).

# Rate of Tax

- 1% on taxable wealth in excess of Rs 30 lakhs
- Exemption limit of Rs 30 lakhs is applicable to all category of assessees
- No surcharge levy on wealth tax
- No education cess levy on wealth tax

# Valuations

# Valuation - Method

- Value of an asset, other than cash, is to be determined on the basis of the rules in Schedule III to the Wealth-tax Act, 1957.
- Schedule III prescribes valuation with respect to assets (other than cash)
  - Valuation of Immovable Property – Rule 3 to 7
  - Valuation of assets of business – Rule 14
  - Valuation of Jewellery – Rule 18 & 19
  - Value of Interest in Firm or AOP – Rule 15 & 16
  - Value of life interest – Rule 17
  - Valuation of assets in other cases - Residuary – Rule 20

# Valuation of Immovable Property – (Rules 3 to 8, Sch. III, Part B)

- Step 1 - Determine gross maintainable rent (GMR) as follows:
  - If property is let out:  
Higher of:
    - Annual rent received/receivable by the owner
    - Annual value as assessed by local authority
  - If property is not let out:

Situated within jurisdiction of a local authority	Situated outside jurisdiction of a local authority
Annual rent assessed by the local authority	Amount owner can reasonably be expected to receive as annual rent had the property been let out.

# Valuation of Immovable Property – (Rules 3 to 8, Sch. III, Part B)

- Step 2 - Determine net maintainable rent (NMR) as follows:
- Deduct the following from GMR:
  - taxes levied by any local authority in respect of property (deductible on accrual basis). This deduction is available even if taxes are to be borne by the tenant; and
  - 15% of GMR.
- Step 3 - Capitalise NMR as follows:

	Property situated on	Multiply NMR by
(a)	Freehold Land	12.5
(b)	Leasehold Land (Unexpired period of lease is 50 years or more)	10
(c)	Leasehold Land (Unexpired period of lease is less than 50 years)	8



# Valuation of Immovable Property – (Rules 3 to 8, Sch. III, Part B)

## Step 4 -

	Value	Exception
Property acquired/constructed after 31-3-1974	Capitalised NMR as provided hereinafter or Actual Cost (including cost of improvement) whichever is higher.	For one house used wholly for residential purposes and cost thereof up to ` 50 lakhs (in Delhi, Kolkata, Mumbai & Chennai) or ` 25 lakhs (in other cities), the value is Capitalised N.M.R.
Property acquired/constructed on or prior to 31-3-1974	Capitalised N.M.R.	None

# Valuation of Immovable Property – (Rules 3 to 8, Sch. III, Part B)

Rule 3 not to apply in certain cases. -

- Nothing contained in rule 3 shall apply, -
- (a) where having regard to the facts and circumstances of the case, the Assessing Officer, **with the previous approval of the Joint Commissioner**, is of opinion that it **is not practicable to apply the provisions** of the said rule to such a case; or
- (b) where **the difference between the unbuilt area and the specified area exceeds twenty per cent, of the aggregate area**; or
- (c) where the property **is constructed on leasehold land and the lease expires within a period not exceeding fifteen years** from the relevant valuation date and the deed of lease does not give an option to the lessee for the renewal of the lease,

and in any case referred to in clause (a) or clause (b) or clause (c), the value of the property shall be determined in the manner laid down in rule 20,

# Valuation of assets of business (Rule 14, Para D, Schedule 3)

- In case accounts of the business are maintained regularly, value of assets as disclosed in the balance sheet shall be taken as follows:

ASSETS	VALUE TO BE TAKEN
a) Depreciable assets	Written down value
b) Non-depreciable assets	Book Value
c) Closing Stock	Value adopted for the purpose of income-tax

- If value of any asset determined as per provisions of Schedule III **exceeds value as per above table by more than 20%**, then higher value shall be taken as value of the asset.
- **Value of assets not disclosed in balance sheet** to be determined as per provisions of **Schedule III**.

# Valuation of assets of business (Rule 14, Para D, Schedule 3)

- Value of following assets disclosed in balance sheet not to be taken into account.
  - Advance tax paid under Income-tax Act.
  - Bad debts allowed as deduction u/s. 36(1)(vii) of Income-tax Act.
  - Asset in respect of which Wealth Tax is not payable.
  - Debit balance in profit & loss account, or any other amount which does not represent value of any asset.
  - Asset not really pertaining to the business.
- Value of following liabilities disclosed in balance sheet not to be taken into account:
  - Capital employed in the business other than attributable to borrowed money.
  - Reserves by whatever name called.
  - Any provision made for meeting any failure or contingent liability
  - Liability not really pertaining to the business.
  - Debt utilised for acquiring asset in respect of which Wealth Tax is not payable.

# Value of Jewellery (Rule 18, Part G, Schedule III)

- **For first Assessment Year:**

- Find out Fair Market Value (FMV) as on the valuation date and declare in Return.
- FMV = Price fetched if sold in open market.
- If FMV does not exceed Rs 5 lakhs, support Return by Statement in prescribed form. (O-8A)
- If FMV exceeds Rs 5 lakhs, support Return by Registered Valuer's Report, in prescribed form. (O-8)

- **For subsequent four assessment years:**

- Substitute price of gold, silver or its alloy obtaining on the respective valuation date.
  - Add/Deduct value of new Purchases/Sales.
- Relaxation has been granted to obtain valuation every year (if FMV exceeds Rs 5L) It would be sufficient if it is obtained once in 5 years – vide **Circular no. 646 / dt. 15-3-1993**

# Value of interest in Firm or AOP (Rule 16, Part E, Schedule III)

- Determine net wealth of the firm or AOP.
- Allocation amongst partners/members.

<b>Portion of net wealth of firm/AOP</b>	<b>Allocation to partners/ members</b>
a) That portion which is equal to the amount of capital of firm/AOP	Proportion in which capital is contributed by them.
b) Residue	Ratio in which assets will be distributed in the event of dissolution of firm/AOP as per agreement of partnership/AOP. (If no agreement, use profit sharing ratio)

# Value of life interest (Rule 17, Part F, Schedule III)

- Determine average net annual income (ANAI) derived from the life interest during three years ending on the valuation date. Expenses incurred on the collection of such income (subject to a maximum of 5% of average of annual gross income) shall be deducted.
- Value of life interest =  $ANAI \times [1 / (P+D) - 1]$   
Where,  
P = Annual premium for a whole life insurance without profit on the life of the tenant for unit sum assured as specified in the Appendix to Schedule III.  
D =  $6.5/106.5$

# Valuation of assets in other cases

- The value of any asset not covered by rules 3 to 19, shall be estimated to be the price which, in the opinion of the Assessing Officer, it would fetch if sold in the open market on the valuation date.
- The above shall apply subject to the valuation referred to Valuation Officer under section 16A, the value of such asset shall be estimated to be the price which, in the opinion of the Valuation Officer, it would fetch if sold in the open market on the valuation date.
- Where the value of any asset cannot be estimated under this rule because it is not saleable in the open market, the value shall be determined in accordance with such guidelines or principles as may be specified by the Board from time to time by general or special order.



# Issues in Valuation

- Valuation is subjective
- No valuation rules have been prescribed – separately for Yachts, boats, ships and aeroplane
- No specific rules for Vacant is prescribed – Can Guideline Value / 50C adopted
- Where the difference between unbuilt area and specified area exceeds 20% - Rule 3 to Rule 8 fails.
- Valuation for antique jewellery and articles – no rules
- Can insurance value of car be adopted or WDV or market value
- Valuation of assets outside India

# Cost of Valuation - Rule 8C

Situation	Maximum fees payable
On first Rs 5 lacs of value	0.50%
On the next Rs 10 lacs of value	0.20%
On the next Rs 40 lacs of value	0.10%
On the balance value	0.05%

## Note:

- Minimum fees payable per valuation shall be Rs 500
- Where two or more assets are required to be valued all such assets shall be deemed to constitute, a single asset for the purposes of calculating the fees payable.

# Reference to Valuation Offer – Sec.16A r.w. rule 3B

- The Assessing Officer may refer the valuation of any asset to a valuation Officer only if the following two requirements are fulfilled.
  - (i) The valuation is necessary for the purpose of making an assessment.
  - (ii) The market value of the asset is required to be adopted while making such assessment.
- The Assessing may refer valuation of any asset under the following circumstances:
  - (i) In a case where the value of the asset is returned (adopted) on the basis of the estimate by a registered valuer which in the opinion of the Assessing Officer is less than the fair market value(FMV).
  - (ii) In any other case, if the Assessing Officer is of the opinion:
    - That the fair market value of the asset exceeds by 33 1/3% or Rs. 50,000/over the value of such asset as adopted by the assessee; or
    - That having regard to the nature of the asset and the other relevant circumstances, it is necessary to make a reference.
- For the purpose of estimating the value of an asset, the Valuation Officer shall serve a notice on the assessee requiring him to produce the relevant records and documents.
- If the Valuation Officer is of the opinion that the value returned by the assessee is correct, then he shall pass an order in writing to that effect and send a copy of his order to the Assessing Officer and to the assessee.

# Procedural aspects

# Procedural sections

- **Return Showing wealth before Taxable Limit [Sec. 14(2)]** - A Return (other than the return furnished in response to a notice under section 17) which shows the net wealth, below the maximum amount which is not chargeable to Tax shall be deemed to never have been furnished.
  - Section 14 casts an obligation statutorily upon every person, whose net wealth is assessable on valuation date, to file a return and it is not permissible, having regard to scheme and purpose underlying act, for anyone to decide for himself or herself that his/her net wealth is below taxable limit and to workout himself/herself statutory deductions and to evade responsibility to file return.
  - Provisions of section 14(2) do not exonerate a person from filing of return, but it is only on filing return if it satisfies requirement engrafted in section 14(2), that 'the return of net wealth, which shows net wealth below maximum amount which is not chargeable', it is ordained to be deemed never to have been furnished.
  - The words 'a return of net wealth which shows' postulates the existence of return filed and can never relate to a return not filed. **J.Jayalithaa v. Asstt. CWT, Central Circle (II)(2)[2009] 179 Taxman 212 (Mad).**
- **Return after due date and amendment of Return [Sec. 15]** - If any person has not furnished a return within the time allowed under section 14(1) or under section 16(4)(i) or having furnished a return discovers any omission or wrong statement therein, he may furnish a return or revised return, as the case may be, at any time within one year from the end of the Assessment Year or before the completion of assessment, whichever is earlier.

# Time limit to issue notice for Assessment u/s 16

- The time limit to issue notice for assessment u/s 16 is within 12 months from the end of the month in which return is furnished.
  - Notice shall be *served* within expiry of 12 months from the end of the month in which return is furnished.
- Wherein, the return of net wealth is not furnished u/s 14 (return within due date) or 15 (Revised Return or Belated Return), the Assessing Office may serve, a notice to file return of wealth

# Time limit to issue notice for Reassessment u/s 17

- Notice for wealth escaped from assessment u/s 17 can be issued only if A.O. has **reason to believe** that wealth has escaped from assessment. Time limit to issue notice is as follows:
  - If Net Wealth believed to escape from assessment is upto Rs.10,00,000/- - within 4 years from the end of relevant assessment year.
  - If Net Wealth believed to escape from assessment is above Rs.10,00,000/- - within 6 years from the end of relevant assessment year.
  - If any asset related to Net Wealth located outside India - within 16 years from the end of relevant assessment year.

# Time limit to issue notice for Reassessment u/s 17

- The findings of A.O. during income tax assessment u/s 143(3) or 147 or any other proceeding can be a valid reason to believe for wealth escaped from assessment.



## Time limit to pass an order u/s 16/17 – section 17A

- Time limit to pass an order u/s 16 – within 24 months from the relevant Assessment Year
- Time limit to pass an order u/s 17 – within 12 months from the end of the financial year in which notice is served

# Penalties

<b>Default</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Section</b>
Failure to comply with Notices u/ss. 16(2) and (4)	1,000	25,000	18(1)(b)
Concealment of the particulars of assets or furnishing inaccurate particulars of assets or debts	Tax sought to be evaded	Five times of such tax	18(1)(c)
Refusal to answer any question	500	10,000	18A(1)(a)
Refusal to sign any statement made in course of any proceedings	500	10,000	18A(1)(b)
Omission to attend to give evidence or to produce books of account or documents [summons u/s. 37(1)]	500	10,000	18A(1)(c)
Failure to furnish statement or information on points specified in notice u/s. 38	100 per day	200 per day	18A(2)
Committing default in payment of tax, interest or penalty	Nil	Amount in arrears	32

# Provisions similar to ITA

Particulars	Wealth tax	Income tax
Filing of Returns	14(1)	139(1)
Belated / Revised Returns	15	139(4) / (5)
Deemed service of notice	42	292 BB
Presumptions as to assets, BoA,etc.,	42D, 42D(2)	132(4A), 292C
Assessment of persons outside India	22	160 & 163
Immunity from levy of penalty by commissioner	18BA	273AA
Immunity from levy of prosecution by Commissioner	35GA	278AB
Reversionary powers of commissioner		
- Application by assessee	25(2)	264
- Prejudicial to revenue	25(1)	263
Waiver or reduction of penalty by commissioner :		
- Suo motto or application by the assessee	18 B(1)	273 A(1)
- Only on application by assessee (note: prior approval of DGIT / CCIT not prescribed in Wealth Tax Act as required in Income Tax Act )	18 B(4)	273 A(4)

# Provision WTA Vs ITA

- No advance tax under the WT act
- Interest similar to section 234B/C is absent
- Maximum penalty under 271(1)(c) is 300%, whereas in WT it is 500%
- Unlike ITA (section 159 of ITA), Penalty of deceased cannot be levied on legal heir (section 19) (HS Chauhan Delhi (HC)).
- Income to be rounded off to nearest rupee under ITA, whereas it nearest 100 in respect to net wealth
- The monetary limit under section 149(1) for re-opening is income >1lakhs, it is 10lakhs in WTA
- Under WTA, 14(2) deems if the wealth is less than the amount not chargeable and return is filed, the return is deemed as if not furnished.

# Filing of Returns - WTA

# Return – Form – Rule 3 of WT Rules r.w.s 14 of WTA

- (a) in respect of assessment year 2013-14 and earlier assessment years in the case of individuals, Hindu undivided families and companies, be in Form BA and shall be verified in the manner specified therein.
- (b) in respect of the assessment year 2014-15 and any other subsequent assessment year in the case of individuals, Hindu undivided families and companies be in Form BB and shall be verified in the manner specified therein.
- From assessment year 2014-15 onwards, the return of net wealth shall be furnished electronically under digital signature except -
  - individual or Hindu undivided family to whom the provisions of section 44AB of ITA are not applicable.
- The return of net wealth in Form BB shall not be accompanied by computation or proof of the tax and interest paid, or any document or copy of any account or form of report of valuation.

# Return filing – Due date

- Same as income tax – under section – 139(1)

TYPE OF ASSESSEE	DUE DATE
Every company, person requiring audit of accounts under 'ITA' or any other law, working partner of firm subject to audit	30 <sup>th</sup> September
Person required to furnish transfer pricing report under section 92E (includes person subject to domestic transfer pricing audit)	30 <sup>th</sup> November
Other cases	31 <sup>st</sup> July

# New form BB – Ay2014-15 - Features

- The new return form is broadly divided into Part A, Part B and Schedules
- New Schedules has been introduced


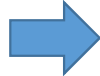

Schedule	Description
Schedule IP	Immovable Property
Schedule MP	Movable Property
Schedule JE	Jewellery etc.,
Schedule INW	Includible net wealth of other persons
Schedule IFA	Interest held in the assets of a firm or AOP as partner or member
Schedule ACE	Assets exempted under section 5
Schedule OPR	Other Properties (individual or HUF)



# New form BB – Ay2014-15 - Features

- the New Return form is extensive and seeks huge details.
- The form has been revised not only to include/ capture data of net wealth assessable to wealth tax, but also gathers huge onerous information.
  - Details of Immovable Property with all details, including the valuers report date and Name
  - Similarly even the movable property esp gold also to contain details of valuers report and name.
  - Other properties schedule - information ranges from - Deposits, Bonds, Loans given, any other claim or interest in any asset.

# Form BB – Practical aspects

- Form BB Utility 
- Form BB – as per notification 
- Information request 

# Schedule OPR – Immovable Property – Note in the ROW

In this schedule, furnish the complete details of all immovable and movable property held by the assessee, as on the valuation date, **other than the following:**

- assets which are liable for Wealth tax Act, 1957, the details of which are **already required to be furnished in other schedules** of this return form.
- assets claimed as exempt under section 5, the details of which are required to **be furnished in Schedule ACE**;
- **assets located outside India and are excluded under section 6 based on the citizenship or residential status of the assessee**; or
- **assets being part of business or profession** which is subject to audit under section 44AB of the Income-tax Act, 1961.

# Schedule OPR – Movable Property

Details	Remarks
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.	Current account – Whether to be disclosed, Whether interest accrued to be included
Amount of investment in Bonds, Debentures/shares and units in companies/Mutual Funds.	Share Whether listed or unlisted? Whether interest accrued to be included
Amount of investment in NSS, Postal Savings, Insurance Policies and investment in any Financial Instrument in Post office or Insurance Company.	Insurance polices – Life, Medical, general, PA, Term insurance ?
Total amount of loans/advance given to any person or entity including firm, Company, Trust etc. and other receivables from debtors.	Vat / Cenvat Credit? Advance tax? Rental Advance? EB/ Telephone etc? Prepaid expenses?
Any other property including value of Claims/interest etc.	Valuation of a Claim/ Interest – how to quantify?
Total liability in relation to other properties	How to quantify?

# Minor differences in the Notification Vs Java utility – Form BB

- Immovable property schedule
  - The formats for complete address as per utility and Notification is different
- Jewellery Schedule
  - In the java utility, a separate list options is provided for specifying the units— mg, g, kg, pounds, quintal, ton and carat be selected from the list. Absent in notification
- Other properties Schedule
  - In the java utility, Whether the asset is owned – Yes or No to be selected - Absent in notification
  - The formats for complete address as per utility and Notification is different

# Issues with the new form

- Onerous details have been asked
- No monetary limit (like in Income tax for AL schedule Income above 25 lakhs)
- Duplication of certain information in case of large assessee
- Information over load.

Questions are welcome

Thank you

[pradeep@slgadhiya.com](mailto:pradeep@slgadhiya.com)

+91 98842 70282