

CHAPTER III

STATUTORY PROVISIONS OF

WEALTH-TAX ACT, 1957.

3.1 INTRODUCTION.

The entire scheme of the Wealth-tax Act, 1957, is divided into eight Chapters, which deals exhaustively with the descriptive portion of the subject. It is further accompanied by three Schedules, the first Schedule is related to rate structure, the second Schedule covers the list of articles and the third is related to the rules for determining the value of assets. The Act is further accompanied by Annexures. Apart from these, the Act is also supported by Wealth-tax Rules and certain significant decisions of Supreme Court, which have from time to time made a thorough impact on entire subject.

The present research work is titled as "A CRITICAL STUDY OF WEALTH-TAX ACT, 1957." Among its eight Chapters, Chapter-I is related to different definitions under the Wealth-Tax Act. Chapter-II includes the charge of Wealth-Tax (Section 3), Net wealth includes certain assets (Section 4), exemption in respect of certain assets (Section 5), exclusion of certain assets and debts outside India (Section 6) and finally, the determination of the value of the assets (Section 7).

Chapter III is related to the Wealth-Tax authorities. It is significant to note that this Chapter, has been substantially modified and is governed by the Provisions of the Income-tax Act, 1961.

Chapter-IV is related to Return of Wealth, Assessment and Penalties (Sections 14 to 18). Under the Wealth-tax Act, Chapter-V is related to the liability to Assessment in Special Cases Chapter-VI is related to the procedure of Appeal, Revisions and References. Here it is important to note that the Procedure relating to the Assessment of Cases, Appeals, Revisions and References, Settlement of Cases and certain Miscellaneous Provisions also are parallel to the Income-tax Act, 1961; and as such, the Wealth-tax is substantially similar to the Procedural Provisions of Income-Tax Act, 1961. Chapter-VII is related to Payment and Recovery of Wealth-Tax. Finally, Chapter-VIII is related to miscellaneous provisions of Act.

In this Act, number of changes are made by the Government through the Finance Act as well as Direct Tax Laws (Amendment) Act. Among these amendments, Amendments through The Finance Act, 1960, Direct Tax Laws (Amendment) Act, 1987, and the Finance Act, 1992 and Finance Act, 1993, are very important in the history of this Act.

WEALTH-TAX ACT, 1957.

3.2

THE SCHEME OF TAXATION

CHAPTER	SECTION	PARTICULARS
I	1	<u>PRELIMINARY</u> Applicability of Act.
	2	Definitions.
II		<u>CHARGE OF WEALTH-TAX AND ASSETS SUBJECT TO SUCH CHARGE.</u>
	3	Charge of Wealth-tax.
	4	Deemed Wealth.
	5	Exemption in respect of certain Assets.
	6	Incidence of Tax.
	7	Valuation of Assets.
III		<u>WEALTH-TAX AUTHORITIES.</u>
	8	Wealth-Tax Authorities.
	9	Control of Wealth-Tax Authorities.
	10	Central Board of Direct Taxes.
	11	Jurisdiction of Assessing Officer & power to transfer cases.
	12A	Appointments of Valuation Officer.
	13A	Powers of Director General, Chief Commissioner and Deputy Commissioner to make inquiries.
IV		<u>ASSESSMENT.</u>
	14	Return of Wealth.
	15	Return after due date and amendments of Return.
	16	Assessments.
	17	Wealth escaping Assessment.
	18	Penalty.
V		<u>LIABILITY TO ASSESSMENT IN SPECIAL CASES.</u>
	19	Tax of deceased person payable by legal representative.
	20	Assessment after Partition of Hindu Undivided Family.
	21	Assessment when Assets, are held by Courts of wards administrators, general, etc.
VA	22	Assessment of persons residing outside India. Settlement of cases.

Continued...

CHAPTER	SECTION	PARTICULARS
VI		<u>APPEALS, REVISIONS, AND REFERENCES.</u>
	23	Appeal to the Deputy Commissioner from the Orders of Assessing Officer.
	24	Appeals to the Appellate Tribunal From Orders of the (Deputy Commissioner (Appeal)).
	25	Power of Commissioner to revise orders of Sub-ordinate Authorities.
	26	Appeal to the Appellate Tribunal from orders of enhancements by (Chief Commissioner or Commissioner).
	27	References to High Court.
	28	Hearing by High Court.
	29	Appeal to Supreme Court.
VII		<u>PAYMENT AND RECOVERY OF WEALTH-TAX.</u>
	30	Notice of Demand.
	31	When tax, etc. payable and when assessee deemed in default.
	32	Mode of Recovery.
	33	Liability of Transferees of Properties in certain cases.
VIIA	34A	Refunds.
VIIB	34AA	Appearance by Registered Valuers.
VIII		<u>MISCELLANEOUS.</u>
	35	Rectification of Mistakes.
	36	Proof of Entries in Records or Documents.
	37	Power to take evidence on oath, etc.
	38	Information, Returns and Statements.
	39	Effect of Transfer of Authorities on Pending Proceedings.
	40	Computation of periods of Limitation.
	41	Service of Notice.
	42	Prohibition of Disclosure of Information.
	43	Bar of Jurisdiction.
	44	Appearance before Wealth-Tax Authorities by authorised representative.
	45	Act not apply in certain cases.
	46	Power to make rules.
	47	Power to remove difficulties.

3.3 IMPORTANT DEFINITIONS.

At the beginning of the Wealth-tax Act 1957, Chapter-I includes its short title, extent and commencement, as also definitions which give information as follows:

1. This Act may be called the Wealth-Tax Act, 1957.
2. It extends to the whole of India.
3. It shall be deemed to have come into force on 1st day of April 1957.

The above information indicates the name of Act, where it is to be applied and the time from which the implementation of the Act takes place.

In Section 2 are given various definitions that are commonly related to different provisions of the Act. Important definitions among these are as follows:

3.3.1 Assets.

The definitions of assets as given in Section 2(e) of the Act, is very precise.

"Assets" includes property of every description, movable or immovable, but does not include:

1. in relation to the assessment year commencing on 1st day of April, 1969 or any earlier assessment year -

(i) agricultural land and growing crops, grass or standing trees on such land;

(ii) any building owned or occupied by a cultivator of, or a receiver of rent or revenue out of, agricultural land:

Provided that building is on or in the immediate vicinity of the land and is a building which the cultivator or the receiver of rent or revenue by reason of his connection

with land requires as a dwelling house or a store house or an out-house;

- (iii) animals;
- (iv) a right to any annuity in any case where the terms and conditions relating thereto preclude the commutation of any portion thereof into a lumpsum grant;
- (v) any interest in property where the interest is available to an assessee for a period not exceeding six years from the date the interest vests in the assessee;

(2) In relation to the assessment year commencing on the 1st day of April, 1970, or any subsequent assessment year (but before the 1st day of April, 1993) -

- (i) animals;
- (ii) a right to [any annuity (not been an annuity purchased by the assessee or purchased by any other person in pursuance of a contract with the assessee)] in any case where the terms and conditions relating thereto preclude the commutation of any portion thereof into a lumpsum grant;
- (iii) any interest in property where the interest is available to an assessee for a period not exceeding six years from the date of interest vests in the assessee;

Provided that in relation the assessment year commencing on 1st day of April 1981, (and the assessment commencing on the 1st day of April, 1982), this sub-clause shall have effect subject to the modification that for item (i) thereof, the following items shall be substituted, namely:-

- (i)(a) agricultural land other than land comprised in any tea, coffee, rubber or cardamom plantation;
- (b) any building owned or occupied by a cultivator of or receiver of rent or revenue out of, agricultural land other than land comprised in any tea, coffee, rubber or cardamom plantation;
- (c) animals.

(provided further that in relation to the assessment year commencing on the 1st day of April, 1983 or any subsequent

assessment year, this sub-clause shall have effect subject to the modification that for item 1 thereof, the following items shall be substituted, namely -

- 1.(a) agricultural land, growing crops (including fruits on trees), grass or standing trees on such land.
- (b) One building or one group of building owned or occupied by a cultivator of or receiver of rent or revenue out of agricultural land. Provided that such building or group of buildings in is or in the immediate vicinity of the land and is a building which the cultivator or the receiver of the rent or revenue by reasons of his connection with the land requires as a store house or for keeping livestock.
- (c) (animals).

(Provided also that) in relation to the State of Jammu and Kashmir, this sub-clause shall have effect subject to the modification that for the assets specified in [(item(i)), (i)] of this sub-clause, the assets specified in [(item (i)) to (iii)] of sub-clause (1) shall be substituted and the other provisions of this act shall be construed accordingly).

{(ea) "assets" in relation to the assessment year commencing on the 1st day of April, 1993 or any subsequent assessment year, means:

(i) any guest house and residential house (including a farm house situated within 25 Kms from the local limits of any Municipality) whether known as a Municipality, Municipal Corporation, Notified Area Committee, Town Area Committee, Town Committee or by any other name or a Cantonment Board but does not include

1. a house meant exclusively for residential and which is allotted by a company to an employee or an officer or a director who is in whole time employment, having a gross annual salary of less than two lakh rupees.

2. any house for residential purposes which forms part of stock in trade.

(ii) Motor cars (other than those used by the assessee in the business of running them on hire or stock in trade.

(iii) Jewellery, bullions and furnitures, utensils or any other article made wholly or partly of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals.

(iv) Yachts, boats and aircrafts (other than used by the assessee for commercial purposes.)

(v) Urban land.

(vi) Cash in hand, in excess of fifty thousand rupees, of individuals and Hindu undivided families and in the case of other persons any amount not recorded in the books of accounts.

Explanation for the purpose of this clause:

(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 any other article or worked or sewn any wearing apparel.

(b) "Urban land" means land situated:

(i) in any area which is comprised within a jurisdiction of a Municipality (whether known as a Municipality, Municipal Corporation, Notified area Committee, Town Area Committee, Town Committee, or by any other name) or a Cantonment Board and which has a population of not less than ten thousand according to the last preceding census of which the relevant figures have been published before the valuations date or

(ii) in any area within such distance, not being more than eight Kms. from the local limits of any Municipality or Cantonment Board referred to in sub-clause (i) as the Union Government may having regard to the extent of, and the scope for, urbanisation of that area and other relevant consideration, specify in this behalf by notification in the Official Gazette.

but does not includes land on which construction of a building is not permissible under any law for the times being enforce in the area in which such land is situated or the land occupied by any building which has constructed with the approval of appropriate authority or an unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him (or any land held by the assessee as stock-in-trade for a period of three years from the date of its acquisition by him.

By the Finance Act, 1994, the Government made only one amendment relating to the increase in duration from three years to five years in respect of any land held by assessee as a stock-in-trade for a period of five years from the date of its acquisition by him.

3.3.2 VALUATION DATE:

The term "valuation date" is very important under the Wealth-tax Act, because it is the base for the levy of Wealth-tax. The residential status of an assessee is determined with reference to the year ending on the valuation date. The value of an asset other than cash is estimated to be the price which, in the opinion of the Wealth-Tax Officer, it would fetch if sold in open market on the valuation date. The term 'valuation date' has been defined under section 2(Q) of this Act as below"

"Valuation date in relation to any year for which an assessment is to be made under this Act, means the last day of the previous year as defined in (Section 3) of the Income-Tax Act, if an assessment were to be made under that Act for that year."

provided that:-

[(i) Omitted by the Direct Tax Laws (Amendments) Act, 1987 w.e.f. 1/4/1989]

(ii) In the case of a person who is not an assessee within the meaning of the Income-Tax Act, the valuation date for the purpose of this Act, shall be the 31st day of March immediately preceding the assessment year.

(iii) Where an assessment is made in pursuance of Section 19A, the valuation date shall be the same valuation date as would have been adopted in respect of the net wealth of the deceased if he were alive.

2. Such assets and debts have to be valued in accordance with the provisions of the Wealth-tax.
3. It includes certain assets though not belonging to the assessee but are required by the Act to be included in his assets.
4. It excludes certain debts which are not to be taken into account even though they are owed by the assessee.
5. It includes the assets wherever located.

From this explanation, it is clear that the definition of net wealth is both inclusive and exclusive. The Government has made one important amendment in this clause through the Finance Act, 1992, due to which the debts are incurred in relation to that assets, are excluded from the net wealth.

3.4 CHARGE OF WEALTH-TAX ACT (SECTION 3)

Section 3 of the Wealth-tax is the charging section. It provides basic principles on which wealth-tax will be charged at the rates of the wealth-tax under the Finance-Act. Section 3 of the Act reads as under:

1. 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 1957 (but before the 1st 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 at the rate or the rates specified in the (Schedule I).

2. [(Subject to other provisions contained in this Act)] there shall be charged for every assessment commencing on and from the 1st day of April 1993 a tax on net wealth on the corresponding valuation date of every individual, Hindu undivided family and company at the rates of 1% of net wealth in excess of Rs.15 lakhs.

It is important to note here that the Direct Tax Laws (Amendments) Act, 1993, w.e.f. 1st April 1994 has instead of minimum wealth, charging maximum. Introduced a standard method of charging i.e., maximum wealth and minimum tax i.e., from the assessment year 1993-94 wealth-tax is chargeable at the rate of 1% of net wealth in excess of Rs.15 lakhs. This is significant amendment as it eliminates the arithmetical complications for determining the tax. It gives stability in charging of wealth tax. On the other hand, due to this amendment, the proportion of tax avoidance may increase and it would badly affect the revenue as well as the avoidance of the tax through investment in wealth upto maximum exemption limit of wealth-tax is also possible.

3.5 NET WEALTH INCLUDES CERTAIN ASSETS: (Section 4)

The term "net wealth" assumes wider interpretations under the Act as defined under Section 2(m). It means:

"Net wealth means the amount by which the aggregate value computed in accordance with the provisions of this Act, of all the assets, wherever located, belonging to the assessee on the valuation date, including the assets required to be included in his net wealth as on that date under Section 4 of this Act, is in

excess of aggregate value of all debts owed by the assessee on the valuation date."

A detailed discussion is made in the earlier part of this study. Ordinarily, while computing the net wealth of an assessee, only the assets which belong to him on the valuation date are taken into account. However, to reduce the tax liability to wealth-tax, an individual may transfer his assets without adequate consideration in money or money's worth to the person in whom he may be interested. In order to prevent avoidance of wealth-tax, Section 4 provides that the assets transferred by an individual after 31st March 1956, under certain circumstances, shall be included in the net wealth of the transferer.

It is to be noted that Section 4 applies to only individuals and consequently transfer made by a Hindu undivided family shall be out of the scope of this section. Assets belonging to others shall be included in the net wealth of an individual (transferer) only, if the following conditions are satisfied:

1. The individual must be the owner of the assets.
2. These assets must be transferred without adequate consideration in money or money's worth.
3. The assets must be held by the transferee on the valuation date.

The Law further subjects to taxation certain notional transactions falling under deeming provisions as contained under Section 4 which read as under:

1. [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:]

- 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 a married daughter of such individual.
- iii. by a person or a association of persons to whom such assets have been transferred by the individual (directly or indirectly) otherwise than for adequate consideration for the immediate or deferred benefit of the individual, his or her spouse 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,
- v. by the son's wife 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,
- 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 the adequate consideration for the immediate or deferred benefit of the son's wife 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.

Provided that where the transfer of such assets are any party 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 31st day of March 1964, (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 individual.

[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 the 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 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 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 necessary so to do.]

(b) of an assessee, who is a partner in a firm or a member of an association of persons (not being of Co-operative Housing Society) there shall be included, as belonging to that assessee the value of his (interest in the assets of the firm) or association determined in the manner laid down in the Schedule III.

[Provided that where a minor is admitted to the benefits of partnership of 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 parents of the minor. So far as may be in accordance with the provisions of the third proviso to clause (a)]

[(1A) Where, in the case of an individual being a member of Hindu undivided family, any property having been the separate property of the individual has, at any time after

31st day of December 1969, has 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 (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 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 enforce, for the purpose of computing net wealth of the individual under this Act for any assessment year commencing on or after the 1st day 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 shall be deemed to assets belonging to the individual and not to the family.

(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 of the individual on such partitions shall be deemed to be assets transferred indirectly by the individual to the spouse and the provisions of the sub-section (1) shall, so far as may be, apply accordingly.]

Provided that the property referred to in 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 of such individual.]

[(2) Omitted by the Direct Tax Laws (Amendments) Act, 1989 w.e.f. 1/04/1990]

[(3) Omitted by the Finance Act, 1992, w.e.f. 1/04/1993]

(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 transferred shall not be included in the computation of his net wealth.

[(4A) Notwithstanding anything contained 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 & Nagar Haveli, Goa, Daman, and Diu

and Pondicherry shall not be included in the computing 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 transferer as and when the power to revoke arises to him.

[(5A) Where a gift of money from one person to another is made by means of entries in the books maintained by the persons making the gifts 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 gifts 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 (Assessing) Officer that the money has been delivered to the other persons at the time of entries were made.]

[(6) For the purpose 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.]

[(7) Where the assessee is a member of an association of persons, being a co-operative society, and building or a part thereof is allotted or leased to him under a house building scheme of the society, the assessee shall, notwithstanding anything contained in this Act or any other law for the time being enforce, be deemed to be the owner of such building or part and the value of such building or part shall be included in 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 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.]

Explanation: For the purpose of this section-

(a) the expression "transfer" included any disposition, settlement, trust, convenient, agreement or arrangement:-

[(aa) The expression "child" includes a step child and an adopted child.]

(b) the expression "irrevocable transfer" includes a transfer of assets, which, by the terms of the instruments effecting it, is not revocable for a period exceeding six years or during the life time of the transferee and under which the transferer derives no direct or indirect



benefit, but does not include a transfer of assets if such instruments:-

- (i) Contains any provisions for the re-transfer directly or indirectly, of the whole or any part of the assets or income therefrom to the transferer or.
- (ii) In any way give the transferer a right to reassume power, directly, or indirectly, over the whole or any part of the assessment or income therefrom;] and

[(C) The expression "property" includes any interest in any property, movable or immovable, the proceeds of the sale thereof and any money or investments 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.]

This is most important mode of checking tax evasion which was effected from the 1st of March 1956. Hindu undivided family can transfer its assets to co-parcener's wife or sons and son's wife for avoidance of tax. This is a frequently loophole used for avoiding tax by the Hindu undivided family, which is also brought to halt. With this provisions, all possible areas of tax evasion by transfer of property are arrested. The main intention behind this provision is to avoid all sorts of attempts by a tax planner to escape levies under the Income-tax Act and Gift-tax Act. It is right that the provision of this Act are closely linked with the Income-tax Act and Gift-tax Act. There are corresponding provisions of same nature under the Gift-tax Act, 1958, and the Income-tax Act, 1961. With the introduction of this Act, no doubt, a good beginning had been made to have an integrated tax structure.

3.6 EXEMPTIONS IN RESPECT OF CERTAIN ASSETS. (Section 5)

Section 5 of the Act deals with the provisions granted to the assessee regarding the exemption, which is to encourage the people to save and invest in a profitable manner. Section 5 of the Act, as it stands on 31st March 1993, is supported by the remarks, which pertain to the relevant insertion introduced by the amending legislation are reproduced here. The objectives behind these exemptions granted to the assessee are as below:

1. Exemptions are intended for the promotion and advancement of charitable purposes;
2. To promote and encourage the activities relating to the construction of residential houses;
3. To promote an advancement of agricultural production condition of India;

Section 5 of the Act, as it stands on 31st March 1993 and as supported by the remarks which pertain to the relevant insertion introduced by the amending legislation are reproduced here:

(1) [Subject to the provisions of sub-section (1A) 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 purposes of a charitable or religious nature in India.

[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 accounts are maintained or a business carried on by an institution fund

or trust referred to in clause (22) or clause (22A) or clause (23B) or clause (23C) of section 10 of that Act.]

(ii) the interest of the assessee in the co-parcenary property of any Hindu undivided family of which he is member.

(iii) any one building in the occupation of a ruler being a building which immediately before the commencement of the constitution (26th amendment) Act, 1971, was his official residence by virtue of a declaration of Union Government, under the paragraph 13 of the merged states. (Taxation concessions) order, 1949, or paragraph 15 of the part B states (Taxation concessions) Order, 1950.

(iv) One house or part of house belonging to the assessee

(xiv) Jewellery in the possession of any ruler, not being his personal property, which has been recognised before the commencement of this Act, by the Union Government as his heirloom, or where no such recognition exists, which the board may, subject to any rules that may be made by the Union Government in this behalf, recognised as his heirloom at the time of his first assessment of his wealth tax under this Act.

[provided that in the case of jewellery recognised by the Union 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 step 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, herein before specified is not being duly fulfilled, the Board may, for reason to be recorded in writing withdraw the recognition retrospectively with effect from the date of commencement of clause (b) of section 5 of the Ruler 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 purpose of the clause (iv) of the foregoing proviso, the fair market value of any jewellery on the date of 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 50% of its fair market value on the valuation date relevant for the assessment year in which recognition was withdrawn.

Here the provisions of the Wealth Tax Act under section 5 are abolished from sub-section (xv) to (xxxii) (xxxiii) in the case of assessee, being a person of Indian origin.

[or a citizen of India (hereinafter in this clause referred as such person) who, was ordinarily residing in a foreign country, and who, on leaving such a country has returned to India with the intention of permanently residing therein, moneys and value of assets brought by him into India and the value of the assets acquired by him out of such moneys (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 persons returned to India.

Explanation: (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.

[Explanation: (2) For the removal of doubts, it is hereby declared that moneys standing to the credit of such persons in a Non-resident (External) Account in any Banks 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.]

Section 5 of the Wealth-tax Act provides various exemptions to the taxpayers, that, in turn, affect the revenue of the Union Government. But from the Assessment Year 1993-1994, an amendment in section 5, had been effected under which only a few assets are exempt from tax. This amendment is made on two grounds, one was to

reduce the arithmetical complications and second is to increase the revenue. But, in reality, it will adversely affect the revenue as the Government has increased the taxable wealth limit. From the Assessment Year 1993-94, wealth tax is chargeable at the rate of 1% of the net wealth in excess of Rs.15 lakhs. Hence, the Government will have to reduce the total taxable wealth limit in an attempt to increase the revenue.

3.7 EXCLUSION OF ASSETS AND DEBTS OUTSIDE INDIA.(Section 6)

In section 6 of the Act, is indicated the scope of liability to wealth tax. The scope of liability depends upon two factors, namely, citizenship and residential status of an individual. In case of Hindu undivided family and companies, it depends upon their residential status only. Section 6 of the Wealth Tax Act reads as under:

[In computing the net wealth of an individual who is not 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 a assets and debts located outside India and
- (ii) the value of the assets is 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 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 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 Income-Tax Act.

Explanation (1A) Where in the case of an individual the value of an asset in India is represented any debt owing to him, being any moneys to his credit in Non-Resident (External) Account, the interest payable on which is not to be included in his total income under (Sub clause (ii) of clause (4) of section 10 of the Income tax Act, the provisions of this section shall, in relation to such assets, apply subject to the modification that the reference in this section to an individual no resident in India shall be construed as a reference to a person resident outside India as defined in clause (a) of Section 2 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 control and management of its affairs is situated wholly in India.

Residential Status - It is important to note that, for the purpose of Wealth-tax, Residential Status is that, which an individual, a Hindu undivided family or company enjoys for the previous year ending on the valuation date under the Income-Tax Act, 1961.

From the assessment year 1994-95 the Government of India has reduced in total days for becoming resident and ordinarily resident in India.

3.8 VALUE OF ASSETS: HOW TO BE DETERMINED. (Section 7)

Section 7 of the Act provides information regarding how to make valuation of wealth or assets. Valuation as is to be expected, has been a major problem particularly with regard to the real estate and wealth in the form of business assets. Section 7 read as under:

[Value of assets: How to be determined-

- (1) Subject to the provision of the sub-section (2), the value of any asset, other than cash, for the purpose 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 house belonging to the assessee and exclusively used by him for residential purposes throughout the period of 12 months immediately preceding the valuation date, may at the option of the assessee, be taken to be value determined in manner laid down in Schedule III as on the valuation date next following the date on which he became the owner of house or the valuation date relevant to the assessment year commencing on the 1st day of April 1971, whichever valuation date is later.

provided that where more than one house belonging to the assessee is exclusively used by him for residential purposes, the provisions of this Sub-section shall apply only in respect of one of such houses which the assessee may, at his option, specify in this behalf in the return of net wealth.

Explanation: For the purpose of this sub-section.-

(i) where the house has been constructed by the assessee, shall be deemed to have become 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.

The valuation of assets how to determine for each and every type of asset is given in a detailed manner in

Schedule III of the Wealth-Tax Act. However, the valuation of the assets and checking the veracity of claims regarding liabilities have proved to be intractable problems. Measuring net wealth involves working out the current market value of the assets. It is difficult if the market quotations and prices are not available. Thus, important items of wealth such as houses, particularly owner-occupied houses, works of art, unquoted shares of private limited companies and assets used in the business by partnerships and proprietorships cannot be properly valued. So, in practice, the net wealth tax becomes an inequitable and distorting levy.

3.9 WEALTH TAX AUTHORITIES: (Section 8)

Section 8 of the Act , deals with the administrative process. The administration of the Wealth-tax Act is vested in Authorities laid down under Chapter III of the Act. Substantial changes have been made in this Chapter. Amendments have been effected by the Direct Tax Laws (Amendments) Act, 1987, operative from 1st day of April 1988. The Law is administered by the Income-tax Authorities as specified in section 116 of the Act. The said section under Chapter III of the said Act read as under:

[The Income-tax Authorities specified in Section 116 of the Income-tax shall be the Wealth-tax authorities for the purpose of this Act and every such authority shall exercise the powers and perform the functions of the Wealth-tax authority under this Act in respect of any

individual, Hindu undivided family or company, and for this purpose his jurisdiction under this Act shall be the same as he has under the Income-tax Act by virtue of orders or directions issued sections 120 of that Act (including orders or directions assigning concurrent jurisdiction) or under any other provisions of that Act.

Explanation: For the purpose of this section, the Wealth-Tax Authority having jurisdiction in relation to a person who is not an assessee within the meaning of the Income-tax Act shall be the Wealth-tax authority having jurisdiction in respect of the area in which that person resides.

The Authorities under the Section 116 of the Income-tax Act, "shall exercise the powers and perform the functions of a Wealth-tax authority." Similarly, the jurisdiction under the Income-tax Act shall be the same for Wealth-tax Act. Section 120 of the Income-tax Act, determines the jurisdiction of the Income-tax Authorities. The Section 116 and the Chapter XIII of the Income-tax Act were also amended by the Direct Tax Laws (Amendment) Act, 1987. Following are the Authorities under the Income-tax Act, designated for the administration of the Wealth-tax Act.

- (a) The Central Board of Direct Taxes constituted under the Central Board of Revenue Act 1963 (54 of 1963);
- (b) Director General of Income-tax or Commissioner of Income-tax;
- (c) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals);

- (d) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax or Deputy Commissioners of Income-tax (Appeals);
- (e) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax;
- (f) Income-tax Officers;
- (g) Tax recovery Officers;
- (h) Inspectors of Income-Tax.

The Central Board of Direct Taxes is an authority, which by general or special orders, decides the jurisdiction or authorities of Director General or Director to perform such function assigned to him by the Board or any empower even the Commissioner to perform such functions.

The Direct Tax Laws (Amendment) Act, 1987, has further amended the provisions relating to control of Wealth-tax Authorities which read as under:

[Section 9 Control of wealth-tax authorities - Section 118 of the Income-tax Act and notification issued thereunder shall apply in relation to the control of the Wealth-tax authorities as they apply in relation to the control of the corresponding Income-tax authorities, except to the extent to which the Board may, by notification in the Official Gazette, otherwise direct in respect of any wealth-tax authority.]

Thus with effect from the 1st day April 1988, the Wealth-tax Law is administered by the Income-tax Authorities as specified in Section 118 of the Income-tax Act.

3.10 ASSESSMENT PROCEDURES. (Section 14 to 18)

In the Wealth-tax Act, under Chapter III, has been given the procedure of assessment and includes Section 14 to 18 of the Act. These sections are more or less similar to those of the Income-tax and Gift-tax Acts.

3.10.1 Return Of Wealth: (Section 14)

Section 14 determines the liabilities to wealth-tax on every individual, Hindu undivided family and Company in respect of taxable wealth. The term 'Return of Wealth' has been defined in section 14 of the Wealth-tax Act as under:

(1) Every person, if his net wealth or the net wealth of any other person in respect of which he is assessable under this Act, on the valuation date, exceeded the maximum amount which is not chargeable to wealth-tax, shall, on or before the due date, furnish a return of his net wealth or the net wealth of such other person as on that valuation date in prescribed form and verified in the prescribed manner setting forth particulars of such net wealth and such other particulars as may be prescribed.

Explanation: In this sub-section, "due date" in relation to the assessee under this Act shall be the same date as that applicable to an assessee under the Income-tax Act under the Explanation to Sub-section (1) of Section 139 of the Income-tax Act.

(2) Notwithstanding anything contained in any other provision of this Act, a return of net wealth which shows the net wealth below the maximum amount by which, it is not chargeable to tax shall be deemed never to have been furnished;

Provided that this sub-section shall not apply to a Return furnished in response to a notice under Section (17).

Sub-section (3) of Section 14 related to the powers of the Assessing Officer to extend the date for the delivery of Return under this Section which was omitted with effect from 1st day of April 1989. The return of wealth must be furnished by every person whose total wealth exceeds the exemption limit. The return of Wealth must be submitted before 30th day of June or the corresponding assessment year to the Assessing Officer in the prescribed form and in prescribed manner. In the Indian Tax system there are many more complications in the proforma of return and which is not easily understandable to ordinary person.

3.10.2 Return After Due Date And Amendment Of Return (Section 15).

Under this Section, if any person has not furnished a return within the time allowed under Section 14 or under a Notice issued under Section 16(4)(i), than, he may furnish a return or a revised return. This Section reads as under:

If any person has not furnished a return within a time allowed under sub-section(1) of section 14 or under a notice issued under clause (i) of sub-section (4) of Section 16, 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 before the expiry of one year from the end of the relevant assessment year or before the completion of assessment, whichever is earlier;

Provided that -

- (a) Where such return or revised return relates to the assessment year commencing on the 1st day of April 1987, or any earlier assessment year, it may be furnished at any time upto and inclusive of the 31st March 1990, or before the completion of the assessment, whichever is earlier;
- (b) Where such return or revised return relates to the assessment year commencing on the 1st day of April, 1988, it may be furnished at any time upto and inclusive of the 31st day of March, 1991 or, before the completion of the assessment, whichever is earlier.

Further a revised return may again be revised if the assessee discovers any omission or wrong statements therein. But due to the revised return again revised, some difficulties arise to the Tax Officers. It will be required to check the accounting information for the assessment. Besides, delay in the Official work may be increased. For this purpose, wrong or omitted return must be revised one time only.

Then Section 15A provides information relating as to who may sign the return. It shows who is a responsible person for furnishing return. In the case of individual; himself or authorised person, the guardians of mentally incapacitated persons are responsible for signing and

furnishing the return of the wealth. In case of Hindu undivided family, the 'Karta' or any other adult member of the family are responsible for furnishing and signing the return. In case of a company, the Managing Director thereof or (where there is no managing director) any other Director thereof are responsible for signing the return.

Section 15B is related to self assessment. A provision for self assessment was first introduced from the assessment year 1964-65. The idea behind this was to accelerate the collection of tax. It was applicable in such condition where the tax payable on the basis of return furnished under Section 14 of the Wealth-tax Act, besides the amount of tax payable through return, exceeds Rs.500. In such a case the assessee was required to pay tax so payable within 30 days of furnishing a return.

3.10.3 Assessment.(Section 16)

The word "assessment" is used in the Act to mean the computation of the income, determination of amount of tax payable and sometimes the procedures laid down in the Act for imposing liability on the taxpayers. The term "assessment" has been defined under Wealth-Tax Act in Section 2(cb) as under:

"assessment includes reassessment "

The term assessment has not been clearly defined in the Act, but in general context the word 'assessment' means computation of tax and the procedure for imposing tax liability. The term 'assessment' as read under this Act, is as under:



(1) (a) where a return has been made under section 14 or Section 15 or in response to notice under clause (i) of sub-section (4), -

- (i) If any tax or interest is found due on the basis of such return after adjustment of any amount paid by way of tax or interest, an intimation shall be sent to the assessee specifying the sum so payable, and intimation shall be deemed to be a notice issued under Section 30 and all the provisions of this act shall apply accordingly; and
- (ii) if any refund is due on the basis of such return, it shall be granted to the assessee.

Provided that in computing the tax or interest payable by, or refundable to, the assessee, the following adjustment shall be made in the net wealth declared in the return, namely:-

- (i) any arithmetical errors in the return, accounts, or documents accompanying it, shall be rectified;
- (ii) any exemption or deduction, which on the basis of the information available in such return, accounts or documents, is prima facie admissible but which is not claimed or made in return, shall be allowed;
- (iii) any exemption or deduction claimed or made in the return, which on the basis of information available in such return, accounts or documents, is prima facie inadmissible, shall be disallowed.

[Provided further that where adjustments are made under the first proviso, an intimation shall be sent to the assessee, notwithstanding that no tax or interest is found due from him after making the said adjustments.]

[Provided, (also) that an intimation for any tax or interest due under this clause shall not be sent after expiry of two years from the end of the assessment in which the net wealth was first assessable.]

(b) Whereas a result of an order made under (Sub-section (3) or Sub-section (5) of this Section or) Section 17 or Section 23 or Section 24 or Section 25 or Section 27 or Section 29 or Section 35 or order of the Wealth-tax Settlement Commission under sub-section (4) of Section 22D relating to any earlier assessment year and passed subsequent to the filing of the return referred to in

clause (a), there is any variation in the exemption or deduction claimed or made in the return, and as result of which, -

(i) if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 30 and all the provisions of this Act shall apply accordingly, and

(ii) if any refund is due, it shall be granted to the assessee.

Provided that an intimation for any tax or interest due under this clause shall not be sent after the expiry of four years from the end of the financial year in which any such order was passed.

[(1A) (a) where in the case of any person, the net wealth, as a result of the adjustments made under the (first) proviso to clause (a) of sub-section (1), exceeds the net wealth declared in the return by any amount, the Assessing Officer shall,-

(i) further increase the amount of tax payable under sub-section (1) by an additional wealth-tax calculated at the rate of twenty percent of the tax payable on such excess amounts and specify the additional Wealth-tax in the intimation to be sent under sub-clause (i) of clause (a) of sub-section (1);

(ii) where any refund is due under sub-section (1), reduce the amount of such refund by an amount equivalent to the additional Wealth-tax calculated under the sub-clause (i).

(b) where as a result of an order under section 23 or section 24 or section 25 or section 27 or section 35, the amount on which the additional Wealth-tax is payable under clause (a) has been increased or reduced, as the case may be, the additional Wealth-tax shall be increased or reduced accordingly, and, -

(i) in a case where the additional Wealth-tax increased the Assessing Officer shall serve on the assessee a notice of demand under Section 30;

(ii) in a case where the additional Wealth-tax is reduced, the excess amount paid, if any, shall be refunded.

Explanation: for the purposes of this sub-section, "tax payable on such excess amount" means the difference between the net wealth and the tax that would have been chargeable had such net wealth reduced by the amount of adjustments.

[(1B) Where an assessee furnishes a revised return under section 15 after the issue of an intimation, or the grant of refund, if any, under sub-section (1) of this sub-section, the provisions of sub-section (1) and (1A) of this section shall apply in relation to such revised return and -

(i) The intimation already sent for any Wealth-tax, the additional Wealth-tax or interest shall be amended on the basis of the said revised return and where any amount payable by way of Wealth-tax, additional Wealth-tax or interest specified in the said intimation has already been paid by the assessee then, if such amendment has the effect of, -

(a) enhancing the amount already paid, the intimation amended under this clause shall be sent to the assessee specifying the excess amount payable to him and such intimation shall be deemed to be a notice of demand issued under section 30 and all the provisions shall apply accordingly;

(b) reducing the amount already paid, the excess paid shall be refunded to the assessee,

(ii) The amount of the refund already granted shall be enhanced or reduced on the basis of said revised return and where the amount of refund already granted is -

(a) enhanced, only the excess amount of refund due to the assessee shall be paid to him;

(b) reduced, the excess amount so refunded shall be deemed to be the tax payable by the assessee and an intimation shall be sent to the assessee specifying the amount so payable, and such intimation shall be deemed to be a notice of demand issued under section 30 and all the provisions of this Act shall apply accordingly;

Provided that an assessee, who has furnished a revised return under section 15 after the service upon him of the intimation under sub-section (1) of this section, shall be liable to pay additional Wealth-tax in relation to the adjustment made under the first proviso to clause (a) of

sub-section (1) and specified in the said intimation, whether or not he has made the said adjustment in the revised return.)

[(2) Where a return has been made under section 14 or section 15 or in response to a notice under clause (i) of sub-section(4) of this section, the Assessing Officer shall, if he] considers it necessary or expedient to ensure that the assessee has not understated the net wealth or has not underpaid the tax in any manner, serve on the assessee a notice requiring him, on a date to be specified therein, either to attend at the office of the Assessing Officer or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return:

[Provided that no notice under this sub-section shall be served on the assessee of the expiry of twelve months from the end of the month in which return is furnished.]

(3) On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be, after hearing such evidence the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by order in writing, assessee the net wealth of the assessee and determine the sum payable by him on the basis of such assessment.

(4) For the purpose of making an assessment this Act, the Assessing Officer may serve, on any person who has made a return under section 14 or section 15 or in whose case the time allowed under sub-section (1) of section 14 for furnishing the return has expired, a notice requiring him, on a date to be specified therein, -

(i) where such person has not made a return (within the time allowed under sub-section (1) of section 14) to furnish a return of his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date, in the prescribed form and verified in the prescribed manner, setting forth the particulars of such net wealth and such other particulars as may be prescribed, or

(ii) to produce or cause to be produced such accounts, records or other documents as the Assessing Officer may require.

(5) If any person, -

- (a) fails to make the return required under sub-section (1) of Section 14 and has not made a return or a revised return under section 15, or
- (b) fails to comply with all the terms of a notice issued under sub-section (2) or sub-section (4),

the Assessing Officer, after taking into account, all relevant material which he has gathered, shall, after giving such person an opportunity of being heard, estimate the net wealth to the best of his judgement and determine the sum payable by the person on the basis of such assessment.

Provided that such opportunity shall be given by the Assessing Officer by giving a notice calling upon the person to show cause, on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgement.

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (4) has been issued prior to the making of the Assessment under this Sub-section.]

(6) where a regular assessment under sub-section (3) or sub-section (5) is made, -

- (a) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessment;
- (b) if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

(7) the provisions of this sections as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987 (4 of the 1988), shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April 1988, or any earlier assessment year and the references in this section to the other provisions of this Act shall be construed as references to those provisions for the time being enforce and applicable to the relevant assessment year.

[Explanation - An intimation sent to the assessee under sub-section (1) or sub-section (1B) shall be deemed to be an order for the purpose of sub-section (1) of section 25]

Further in Section 16A includes the references to Valuation Officer. For the purpose of making an assessment under this Act, the Assessing Officer may refer the valuation of any asset to a valuation Officer. Besides the Valuation Officer estimating the value of any asset in pursuance of a reference under Sub-section (1) then this Officer may check the value of an asset has been correctly declared in the return made by the assessee under Section 14 or 15.

3.10.4 WEALTH ESCAPING ASSESSMENT: (Section 17)

The wealth is said to have escaped assessment when it has not been charged to tax in the original assessment year to which it rightly belongs. It is not important that, the wealth was charged to tax in some other assessment year. The term 'escaped assessment' includes both non-assessment as well as under assessment. A person who is liable to tax but not assessed to tax there is non assessment, and when a person has not been fully assessed to tax, there is under assessment. The term 'Wealth escaping assessment' has been read in this Act under Section 17 as under:

[(1) if the Assessing Officer, (has reason to believe) that the net wealth chargeable to tax in respect of which any person is assessable under this Act has escaped assessment for any assessment year. (Whether by reason of under assesment, or assessment at too low a rate or otherwise), he may subject to the other provisions of this Section and Section 17A, service on such person a notice requiring him to furnish within such period, not being less than 30 days, as may be specified in the notice, a return in the prescribed form and verified in the

prescribed manner setting forth the net wealth in respect of which such person is assessable as on the valuation date mentioned in the notice, along with such other particulars as may be required by the notice, and may proceed to assess or re-assess such net wealth and also such any other net wealth chargeable to tax in respect of which such person is assessable, which has escaped assessment, and which comes to his notice subsequently in the course of the proceeding of this section for the assessment year concerned (hereinafter this section referred to at the relevant assessment year) and the provisions of this Act shall, so far as may be, apply as if the return were a return required to be furnished under Section 14:

Provided that where an assessment under sub-section (3) of section 16 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any net wealth chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 14 or section 15 or in response to a notice issued under Sub-section (4) of Section 16 or this section or to disclose fully and truly all material facts necessary for his assessments for that assessment year:

[Provided further that the Assessing Officer shall, before issuing any notice under this sub-section, record his reasons for doing so.]

Explanation: Production before the Assessing Officer of account of books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not be necessarily amount to disclosure within the meaning of the foregoing proviso;

(1A) No notice under sub-section (1) shall be issued for the relevant assessment year,-

(a) in a case where an assessment under sub-section (3) of Section 16 or sub-section (1) of this section has been made for such assessment year, -

- (i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii);
- (ii) if four years but not more than seven years, have elapsed from the end of the relevant assessment year, unless the net wealth chargeable to tax which has escaped assessment

amounts to or is, likely to amount to Rs.5 lakhs for more that year;

(iii) if seven years, but not more than ten years, have elapsed from the end of relevant assessment year, unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to Rs.10 lakhs or more for that year;

(b) In any other cases, -

(i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii);

(ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the net wealth to tax which has escaped assessment amounts to or is likely to amount to Rs.two and fifty thousand lakhs or more for that year;

(iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless net wealth chargeable to tax which has escaped assessment amount to or is likely to amount to Rs.5 lakhs or more for that year.

Explanation: For the purpose of sub-section (1) and sub-section (1A) the following shall also be deemed to be cases where net wealth chargeable to tax has escaped assessment, namely; -

(a) where no return of net wealth has been furnished by the assessee although his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date exceeded the maximum which is not chargeable to wealth-tax.

(b) Where a return of net wealth has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the net wealth has claimed excessive exemption or deduction in the return.

(1B)(a) In a case where an assessment under sub-section (3) of Section 16 or sub-section (1) of this section has been made for the relevant assessment year, no notice shall be issued under sub-section (1) (by an Assessing Officer who is below the rank of Asstt Commissioner,

unless the Deputy Commissioner is satisfied on the reasons recorded by such Assessing Officer that it is a fit case for the issue of such notice.)

Provided that, after the expiry of four years from the end of the relevant year, no such notice shall be issued unless the chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer aforesaid, that it is a fit case for the issue of such notice.

(b) in a case other than a case falling under clause (a), no notice shall be issued under sub-section (1) by an Assessing Officer, who is below the rank of Deputy Commissioner, after the expiry of four years from the end of relevant assessment year, unless the deputy Commissioner is satisfied on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.

(2) Nothing contained in this section limiting the time within which any proceeding for assessment or reassessment may be commenced, shall apply to an assessment or reassessment to be made on such person in consequence of or to any give effect to finding or direction contained in order under section 23, 24, 25, 27 or 29 (or by a Court in any proceeding under any other law.);

Provided that, the provisions of this sub-sections shall not apply in any case where any such assessment or reassessment relates to an assessment year in respect of which an assessment or reassessment could not have been made at the time the order which was the subject matter of the appeal, reference or revision, as the case may be, was made by a reason of any provision limiting the time within which any action for assessment or reassessment may be taken.]

Section 17A is related to the provisions of time limit for completion of assessment and reassessment. No order of assessment shall be made under Section 16 at any time after the expiry of two years from the end of the assessment year in which net wealth was first assessable. Then no order of assessment or reassessment shall be made under Section 17 after the expiry of two years from the end of the financial year in which the notice under sub-

section (1) of that section was served. Where an order is passed on or after the 1st day of April 1975 under Section 23 or under Section 24 or under Section 25, settling aside or cancelling an assessment, may be made at any time before the expiry of two years from the end of the financial year in which the order under section 23, 24 and 25 is received by the [Chief Commissioner or Commissioner.]

Section 17B is related to the provision of interest for defaults in furnishing return of net wealth. Where the return of the net wealth for any assessment year under Sub-section (1) of Section 14 or Section 15 or in response to a notice under clause (i) in sub-section (4) of Section 16, is furnished after the due date or is not furnished, the assessee is liable to pay simple interest at the rate of 2% for every month or part of month comprised in the period commencing on the date immediately following the due date. The provisions of the Section 17B shall apply in respect of assessment for the assessment year commencing on the 1st day of April 1989 and subsequent assessment years.

3.10.5 PENALTY (Section 18)

Penalty procedure is an essential part of taxation laws. Where is no any penal provision, there would no any way to punish an assessee with at the result that both the law-abiding and law-breaking citizens. This would not be

unjust but also induce law-abiding citizens to indulge in breaches of law. Fine and penalty are levied and collected from offenders of laws as punishment. Here main objective is not earn income as to prevent the commission of offences and infringement of law of the country. Therefore, penalty provision is provided in Wealth-tax Act also. The main object of introducing penalty provision is to compensate the Government for damage caused to it by evasion and late payment of taxes by the assessee.

Definition of Penalty:

Twentieth century dictionary gives the definition is as below:

"punishment, suffering or loss imposed for a breach of law, a fine or loss agreed upon in case of non-fulfilment of some undertaking, a fine, a disadvantage imposed upon a competitor for breach of a rule of the game, for want of success in attaining what is aimed at, as a handicap or for any other reason arising out of the rules, a loss of suffering brought upon one by his own actions or condition."

The penalty provision is summarised in Chapter IV of the Wealth-tax Act in 1957 in Section 18 of that which is read under the Act as below:

(1) If the (Assessing) Officer, [Deputy Commissioner (Appeals)] [Commissioner (Appeals)] Chief Commissioner or Commissioner or Appellate Tribunal in the course of any proceeding under this Act is satisfied that any person -

[(a) omitted by the Direct Tax Laws (Amendment) Act, 1989 with effect from 1st April 1989.]

(b) has failed to comply with a notice under sub-section (2) or sub-section (4) of Section 16, or

- (c) has cancelled the particulars of any assets or furnishing inaccurate particulars of any assets or debts.

he or it may, by order in writing, direct that such persons shall pay by way of penalty -

[(i) Omitted by the Direct Tax laws (Amendment) Act 1989 w.e.f. 1/04/1989.]

[(ii) in the cases referred to in clause (b), in addition to the amount of Wealth-tax payable by him, a sum which shall not be less than one thousand rupees but which may extend to twenty five thousand for each such failures;]

[(iii) in the cases referred to in clause (c) in addition to any Wealth-tax payable by him, a sum shall not be less than, but which shall not be exceed five times, the amount of tax sought to be evaded by reason of concealment of particulars of any assets or the furnishing of inaccurate particulars in respect of any assets or debts;

[provided that in cases referred to in clause (b), no penalty shall be imposable if the person proved that there was reasonable cause for the failure referred to in that clause.]

Explanation 1: For the purpose of clause (iii) of this sub-section, the expression "the amount of tax sought to be evaded" -

- (a) in a case to which explanation 3 applies means the tax on the net wealth assessed;
- (b) in any other case, means the difference between the tax on the net wealth assessed and the tax that would have been chargeable had the net wealth assessed been reduced by the amount which represents the value of any assets in respect of which particulars have been cancelled or inaccurate particulars have been furnished and of any debts in respect of which inaccurate particulars have been furnished.

Explanation 2: Where in respect of any facts material to the computation of the net wealth of any person under this Act,-

- (a) Such persons fails to offer an explanation or offers an explanation which is found by the (Assessing) Officer or the [Deputy Commissioner

(Appeals)] for the Commissioner (Appeals)], to be false, or

- (b) Such person offers an explanation which he is not able to substantiate [and fails to prove that such explanation is bonafide and that all the facts relating to the same and material to the computing of his net wealth have disclosed to him.],

then the amount added or disallowed in computing the net wealth of such person as a result thereof shall, for the purpose of clause (c) of this sub-section, be deemed to represent value of assets in respect of which particulars have been concealed.

[Omitted by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986 w.e.f. 10/09/1986.]

[Explanation 3: Where any person who has not previously been assessed under this Act, fails without reasonable cause to furnish within the period specified in sub-section (1) of Section 17A, a return of his net wealth which he is required to furnish under section 14 in respect of any assessment year commencing on or after the 1st day of April 1989, and until the expiry of the period of aforesaid no notice has been issued to him under clause (i) of sub-section (4) of Section 16 or sub-section (1) of Section 17 and the Assessing Officer or the Deputy Commissioner (Appeals) or the Commissioner (Appeals) is satisfied that in respect of such assessment year such person has assessable net wealth, then such person shall, for the purpose of clause (c) of this sub-section, be deemed to have concealed the particulars of his assets or furnished inaccurate particulars of any assets or debts in respect of such assessment year, notwithstanding that such person furnish a return of his net wealth at any time after the expiry of either of the periods aforesaid applicable to him in pursuance of a notice under Section 17.]

Explanation 4: - Where the value of any asset returned by any person is less than seventy percent of the value of such asset as determined in an assessment under Section 16 or Section 17, such person shall be deemed to have furnished inaccurate particulars of such asset within the meaning of clause (c) of this Sub-section, unless he proves that the value of the assets as returned by him is the correct value.

[Explanation 5: Where in the course of a search under Section 37A, the assessee is found to be the owner of any money, bullions, jewellery or other valuable article or thing (hereinafter in this Explanation referred to as

assets) and the assessee claims that such assets represent or form part of his net wealth, -

- (a) on any valuation date falling before the date of the search, but the return in respect of net wealth on such date has not been furnished before the date of search, or, where such return has been furnished before the said date, such assets have not been declared in such return; or
- (b) on any valuation date falling on or after the date of the search,

then, notwithstanding that such assets are declared by him in any return of net wealth furnished on or after date of search, he shall, for the purpose of imposition of penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of such assets or furnished inaccurate particulars of such assets. (unless-

(1) such assets are recorded, -

- (i) in a case falling under clause (a), before the date of search, and
- (ii) in a case falling under clause (b), on or before such date,

in the books of accounts, if any, maintained by him or such assets are otherwise disclosed to the [Chief Commissioner or Commissioner] before the said date; or

(2) he, in the course of the search, makes a statement under sub-section (4) of Section 37A any money, bullions, jewellery or other valuable article or thing found in his possession or under his control, forms part of his net wealth which has not been disclosed so far in his return of the net wealth to be furnished before the expiry of time specified in sub-section (1) of Section 14, and also specify in the statement the manner in which such net wealth has been acquired and pays the tax, together with interest, if any, in respect of such net wealth.]

[EXPLANATION 6 Where any adjustment is made in the wealth declared in the return under the proviso to clause (a) of sub-section (1) of Section 16 an additional Wealth-tax charged under that section, the provisions of this sub-section shall not apply in relation to the adjustment so made.]

[(1A) Omitted by the Taxation Laws (Amendment) Act, 1975 w.e.f. 1/04/1976]

(2) No order shall be made under sub-section (1) unless the person concerned has been given a reasonable opportunity of being heard.

[(3) No order imposing a penalty under sub-section (1) shall be made, -

(i) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(ii) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees,

except with the prior approval of the Deputy Commissioner.]

[(3A) omitted by the Direct Tax Laws (Amendment) w.e.f. 1/04/1994.]

(4)A [Deputy Commissioner (Appeals)] a [Commissioner (Appeals)] a [Chief Commissioner] or the Appellate Tribunal on making an order under this section imposing penalty, shall forthwith send a copy of the same to the (Assessing) Officer.

[(5) No order imposing a penalty under this section shall be passed. -

(i) in a case where the assessment to which the proceeding for imposition of penalty relate is the subject matter of an appeal to the Deputy Commissioner (Appeals) or the Commissioner (Appeals) under section 23 or an appeal to the Appellate Tribunal under sub-section 2 of section 24, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Deputy Commissioner (Appeals) or the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner, whichever is later,

(ii) in a case where the relevant assessment is the subject-matter of revision under sub-section (2) (of Section 25), after the expiry of six months from the end of the month in which such order of revision is passed;

(iii) in any other cases, after the expiry of financial year in which the proceeding, in the course of which action for the imposition of penalty has been initiated, are completed, or six

months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

Explanation: In computing the period of limitation for the purpose of this section, -

- (i) any period during which the immunity granted under section 22H, remained enforce,
- (ii) the time taken in giving an opportunity to the assessee to be reheard under the proviso to Section 39; and
- (iii) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded

(6) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being enforce and applicable to the relevant assessment year.

3.10.6 Penalty For Failure To Answer Questions, Sign Statements, Furnish Information, Allow Inspection, etc. (Section 18A)

(1) If any person, -

- (a) being legally bound to state the truth of any matter touching the subject of his assessment, refused to answer an question put to him by a Wealth-tax Authority in the exercise of his powers under this Act, or
- (b) refuse to sign any statement made by him in the course of any proceedings under this Act, which a Wealth-tax authority may legally require him to sign; or
- (c) to whom a summons is issued under sub-section (1 of Section 37) either to attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce the books of account or document at the place and time

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may be extend to ten thousand rupees for each such default or failure.

Provided that no penalty shall be imposable under clause (c) if the person proves that there was reasonable cause for said failure.

(2) If a person fails to furnish in due time any statement or information which such person is bound to furnish to the Assessing Officer under Section 38, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues;

Provided that no penalty shall be imposable under this sub-section, if the person proves that there was reasonable cause for said failure.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed -

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before a Wealth-tax authority not lower in rank than a Deputy Director or a Deputy Commissioner, by such Wealth-tax authority;

(b) in any other case, by the Deputy Director or the Deputy Commissioner.

(4) No order under this section shall be passed by any Wealth-tax authority referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed has been heard, or has been given a reasonable opportunity of being heard in the matter, by such authority.

Explanation: - In this section, "Wealth-tax authority" includes a Director General, Director, Deputy Director, Assistant Director and a Valuation Officer, while exercising the powers vested in a court under the Code Of Civil Procedure, 1908 (5 of 1908), when trying suit in respect of the matter specified in sub-section (1) of Section 37.]

3.10.7 Power To Reduce Or Waive Penalty In Certain Cases. (Section 18B)

(1) Notwithstanding anything contained in this Act, the (Commissioner) may, in this discretion, whether on his own motion or otherwise, -

[(i) Omitted by the Direct Tax Laws (Amendment) Act 1989 with effect from 1/04/1989]

(ii) reduce or waive the amount of penalty imposed or imposable on a person under clause (iii) of sub-section(1) of Section 18,

if he is satisfied that such person, -

[(a) Omitted by the Direct Tax Laws (Amendment) Act 1989 w.e.f.1/04/1989]

(b) in the case referred in clause (ii), has prior to the detection by the (Assessing) Officer, of the concealment of particulars of assets or of the inaccuracy of particulars furnished in respect of any assets or debt in respect of which the penalty is imposable, voluntarily and in good faith made full and true disclosures of such particulars,

and also has co-operated in any inquiry relating to assessment of his net wealth and has either paid or made satisfactory arrangements for the payment of any tax or interest payable in consequence of an order passed under the Act in respect of the relevant assessment year.

Explanation: For the purpose of this sub-section, a person shall be deemed to made full and true disclosure of the particulars of his assets or debts in any case where the excess of net wealth assessed over the net wealth returned is of such a nature as not to attract the provisions of clause (c) of sub-section (1) of Section 18.

[Omitted by the Finance Act, 1985, w.e.f. 24/05/1985]

(2) Notwithstanding anything contained in sub-section(1), if in a case, falling under clause (c) of sub-section (1) of Section 18, the net wealth in respect of which the penalty is imposed or imposable for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the net wealth for any one of the relevant assessment year exceeds five hundred thousand rupees, no order reducing or waiving the penalty under sub-section (1) shall be made by the [Commissioner except with the previous approval of the Chief Commissioner or Director General, as the case may be.]

(3) Where an order has been made under sub-section (1) in favour of any person, whether such order relates to one or other more assessment years, he shall not be entitled any relief under this section in relation to any other

assessment year at any time after the making of such order:

[Provided that where an order has been made in favour of person under sub-section (1) on or before the 24th day of July, 1991, such person shall be entitled to further relief only once in relation to other assessment years or years if he makes an application to the Wealth-tax authority referred to in sub-section (4) at any time before the first day of April 1992.]

(4) Without prejudice the powers conferred on him any other provisions of this Act, the (Commissioner) may, on an application made in this behalf by an assessee, and after recording his reasons for so doing, reduce or waive the amount any penalty payable by the assessee under this Act or stay or compound any proceeding for the recovery of any such amount, if he is satisfied that -

- (i) to do otherwise would cause genuine hardship to the assessee, having regard to the circumstances of the case, and
- (ii) the assessee has co-operated in any inquiry relating to the assessment or any proceeding for the recovery of any amount due from him.

(5) Every order made under this section shall be final and shall not be called into question by any court or any other authority.

[(6) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act 1989, shall apply to and in relation to any assessment for the assessment year commencing on 1st day of April, 1988, or any earlier assessment year and the references in this sections to the other provisions of this Act shall be construed as reference to those provisions as for the time being enforce and applicable to the relevant year.]

The provisions under the Wealth-tax Act charge high penalty due to which people try to avoid taxes which in turn affects the revenue of the Government. Here, penalty provisions actually encourage people to avoid tax. Hence, Government must reduce the high charge of penalty. On the other hand, Tax Law must be designed in such a way which

LIBRARY
SRI SIVANANDA THEOLOGICAL SEMINARY
MADRAS



will provide incentive to the people to make promptly and correctly payment of taxes.

3.11 LIABILITY TO ASSESSMENT IN SPECIAL CASES:

(Sections 19 to 22)

Sections 19 to 22 of the Act deal with the liability to assessments in special cases. This section provides a guidelines as to how assessment may be made in different positions. Sections 19 to 22 are covered in Chapter V of the Wealth-tax Act. Section 19 is related to the provisions where a person dies, his executor, administrator or other legal representative shall be liable to pay Wealth-tax. Section 19A deals with the assessment in case of executor. Under this provision, after the death of a person, his estate is chargeable to wealth-tax for the assessment year falling after his death, in the hands of executor. Section 20 deals with the assessment after partition of a Hindu undivided family. Under this provision for the assessment, after the partition of the family, shall not be assessed as such but each member shall be liable to pay tax on his net wealth received from family.

Under the Section 21(1)(2) assessment were made, the wealth-tax shall be levied upon and recoverable from the persons appointed under any order of the Court. Section 21(a) is related to the assessment of trust, where the funds and the property used by the founder or the

beneficiary of trust and funds of the trust are invested or deposited by the trust in contravention of the provisions of Section 13(1)(d) of the Income-tax Act, then such trust is liable to pay wealth-tax. Section 21AA deals with the assets held by an association of persons. In such a case, tax shall be levied and recovered from such association of persons assuming it to be an individual. Section 22 is related to the assessment of persons residing outside India; in such a case, the tax may be levied and collected from his agent.

3.12 APPEALS, REVISIONS AND REFERENCES. (Sections 23 to 29)

Sections 23 to 29 of the Act deal with the provisions of appeals, revisions and references, which are covered under Chapter VI of the Act. According to Section 23, any person can appeal to the Deputy Commissioner from the orders of Assessing Officer under section 24, when assessee is denied an order passed by the Deputy Commissioner (Appeals), or Commissioner (Appeals). Under Sections 18 or 18A or 23, he may appeal to the Appellate Tribunal within 60 days of the date on which the order is communicated to him. According to section 25, if the application made by the assessee to the Commissioner for revising the orders passed by the Ordinate Authority. Then the Commissioner has power to revise the order passed by the authority subordinate to him.

Section 26 is related to Appeals from orders of enhancements, by the chief Commissioner or Commissioner. Section 27 provides the information about the references to High Court. Section 28 is related to hearing by a High Court. When a case has been stated in the High Court under Section 27, it shall be heard by a bench of not less than two Judges of the High Court and shall be decided in accordance with the opinion of such Judges. Section 29 of the Act gives the guidelines as to how to appeal to the Supreme Court, and Section 29A is related to tax to be paid notwithstanding references, etc. Section 29B is the last provision of Chapter VI of the Act which provides the definition of a High Court.

3.13 PAYMENT AND RECOVERY OF WEALTH-TAX.

(Sections 30 to 34)

Sections 30 to 34A of the Act provide provision for payment and recovery of Wealth-tax. It includes different five sections. Under section 30 of the Act, when any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under Wealth-tax Act, the Wealth-tax Officer serves upon the assessee a notice of demand in prescribed form specifying the sum so payable. Section 32 deals with the provisions of when the tax, etc. is payable and when the assessee is deemed in default. When any amount is specified as payable in a notice of demand under section 30, if the amount is not paid within

30 days, then, the assessee shall be liable to pay interest at the rate of 1½% for every month or part of the month. If the amount is not paid within thirty days or within the time extended by the Assessing Officer, in such condition, assessee is deemed to be in default. Section 32 deals with the provisions of mode of recovery. The provisions under the Income-Tax Act, in Section 221 to 227, 228A, 229, 231 and 232 of the Income-Tax Act and Second and Third Schedules of that Act and the rules made thereunder shall apply to the sum imposed by way of penalty, fine, interest under the wealth-tax.

Section 33 is related to the provisions regarding the liability of transfers of properties in certain cases. When an assessee transfers his assets to any other person contained in Section 4, the value of such assets is includible in the net wealth of the assessee. The person in whose name such assets stand shall be liable and the service of notice of demand by Assessing Officer in this behalf to pay that portion of the tax assessed on the assessee. Section 34A is related to provisions of refund and section 34AA is related to the appearance of a registered valuer.

3.14 MISCELLANEOUS. (Sections 34 to 47)

Sections 34B to 47 of the Act cover various types of miscellaneous provisions. All these provisions are contained in Chapter VIII of the Wealth-Tax Act. Section

34B is related to the provisions regarding transfers that defraud revenue to be void. Section 34C is related to the provisional attachment to protect revenue in certain cases.

Rectification of mistakes is an important provision which is summarised in Section 35 of the Act. At any time within four years from the date of every order by him or it, the Commissioner, the Wealth-Tax Officer, the Appellate Assistant Commissioner, and the Appellate Tribunal may on his or its, own motion rectify any mistakes appearing from the records. Besides, section 35, includes different types of sub-sections.

Section 36 related to the proof of entries in records or documents, but it has since been omitted from the Act. Section 37 is related to the provisions regarding the power to take evidence on oath. These provisions are same as in the case of Income-tax Act. Under the Wealth-tax Act, all types of higher authorities have the same powers as are vested in a Court under the Code of Civil Procedure, 1908. under Section 38, when authorities under the Wealth-tax Act is required to obtain any statement or information from any individual, HUF, or company, such Authority may serve a notice requiring to furnish specified information or statement to the authorities.

Section 39 gives the information about the effect of transfer of authorities on pending proceeding. Section 40

provides procedure for computation of period of limitation, and section 41 is related to the provisions of service of notice. This section is on the lines of Section 282 and Section 283 of the Income-tax Act. Section 42 was omitted from the 1st day of April 1964. In this section included many other sub-sections. Section 43 relates to the provisions regarding Bar of Jurisdiction. Section 44 is related to the provisions regarding appearance before wealth-tax authorities by the authorised representatives.

Section 45 is related to the application of Act where it is not applied and this section provides full exemption of tax. Section 46 gives the information about who has the power to make rules for the purpose of this Act. Finally, the last section 47 pertains to the power to remove difficulties. The Union Government has power to remove difficulties arising in the provisions of this Act.

REFERENCES:

Note: The interpretative content of this chapter is based on the section-wise commentaries contained in:

Bhargav U.K. & B.P. Bhargav, (1992),
"Taxman's Wealth-Tax Act and Gift-Tax Act with Rules"

Bomi F. Daruwala, (1993),
"Wealth-Tax and Gift-Tax Acts with Rules" Second Ed.

Chaturvedi K. & S.M. Pithisaria (1991),
"Three Tax: Wealth-Tax, Gift-Tax & Estate Duty."

Gulanikar C.A. (1989)
"Two Acts: Gift-Tax & Wealth-Tax with law & practice."

Vinod K. Singhania (1993-94) "Direct Tax Ready Reckoners"