Wealth Tax Management

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Abstract:
The Direct tax Code open for Public comments, is expected to be implemented from April 1st, 2013 instead of April 1st, 2011.The direct tax code (DTC) along with a Discussion paper was released in August, 2009 for public comments. Since then, a number of valuable inputs on the proposal were made by best brains of the country including individuals, tax experts, lawyers, chartered accountants and organizations. These inputs which were received by the Government by public feed-back were examined and identified. Government made relevant changes before keeping the bill in the parliament. This paper focuses on the major changes taking place in five heads of Income under computation in DTC and also changes in corporate taxes, taxes of non profit organization and Wealth tax.

Keywords: *Direct tax, DTC, Wealth tax, Tax management*

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1. Introduction

A wealth tax is generally conceived of as a levy based on the aggregate value of all household assets, including owner-occupied housing; cash, bank deposits, money funds, and savings in insurance and pension plans; investment in real estate and unincorporated businesses; and corporate stock, financial securities, and personal trusts.[1] A wealth tax is a tax on the accumulated stock of purchasing power, in contrast to income taxes which is a tax on the flow of assets (a change in stock).

2. Objectives of the paper

As the Government is bring the change in Direct taxes through abolishing Income tax Act 1961, and including Wealth Tax under Direct tax Code. This paper discusses the major issues affecting Individual assesses, HUF's, Company assessee their Wealth Tax under Direct Tax Code.

The Wealth Tax Act, 1957 extends to whole of India and came into force on 1st April, 1957. Now, it will be abolished and is merged with Direct Tax Code and will come into force from 1st April 2013, if enacted.

Wealth tax Act, 1957 provisions are chargeable on the following basis:

- Wealth Tax is chargeable only in case of three categories of person viz, Individual, HUF and Company.
- Wealth Tax is chargeable @1% on the net wealth exceeding Rs. 30, 00,000 (As per Assessment year 2012-2013).

Under the DTC Bill, it was proposed that wealth tax will be payable by an

- Individual, HUF and Private Discretionary Trusts.
- The net wealth of an individual or HUF in excess of Rs 50 crore was to be chargeable to wealth tax at the rate of 0.25%.Later on in August 2010 the revision was made and the limit of exemption was brought down to 1 crore instead of 50 crore and was to be made chargeable to wealth Tax @ 1% instead of 0.25%.

Companies will be out of Wealth tax net.

- Net Wealth is to be computed:
- *In case of individual* – on basis of the nationality and residential status of the previous year ending on the valuation date. The residential status is to be determined in the same manner as laid down u/s 6 of the Income tax Act.
- In *case of HUF and Company*- on basis of its residential status of the previous year ending on the valuation date.
- Another important point to be noted is the residential status of Individual under Wealth Tax Act is decided on basis section 6 of Income tax Act, 1961, will also face a change under Direct Tax Code. The residential status is divided into two category Resident and Non- Resident, therefore the incidence to Tax will increase for non –Resident as even if a individual stay in India for 6o days of more in one previous year and has stayed for 365 days in preceding 4 previous years, he will be declared Resident in India. Therefore, NRI who accumulate Wealth in India for Investment purpose or in form of savings will have to pay Wealth Tax in India.

Particulars	Amount
Value of assets belonging to the assessee as on valuation date	....
Add: deemed wealth under section 4of the Act	....
Less: Assets exempt under section 5	....
Less: Debts incurred in relation to assets included in the wealth	....
Net Wealth	**************

Exemption of 1 crore can be claimed and balance is chargeable @ 1%

3. Definition of Assets [section 2(ea)]

3.1 Guest House, Residential House or Commercial Building

Any building or land appurtenant thereto whether used for commercial or residential purpose or for guest house

A farm house situated within 25 kilometers from local limits of any municipality or municipal corporation or cantonment board or by any other named they are called

Exceptions {the following are not considered as assets for the purpose of wealth tax}

- A residential house exclusively used for residential purposes and given by a company to an employee or a officer or a director who is in whole –time employment , having gross annual salary of less than Rs. 500,000
- Any house for residential or commercial purpose which forms part of Stock – in – trade
- Any house which the assessee 'may occupy' for the purpose of any business or profession carried on by him
- Any residential property that has been let-out for a minimum period of 300 days in the previous year

- Any property in the nature of commercial establishments or complexes

3.2 Motorcar

- In case of leasing company motor car is an asset,
- All motor cars including jeep, sport utility vehicle, multi utility vehicle other than heavy utility vehicles (buses, trucks, tempos) whether Indian or Foreign or purchased on hire purchase other than
- Cars used by assessee in the business of running them on hire
- Cars held by the assessee as stock-in trade.

3.3 Jewelllery, bullion, furniture, utensils etc. Made of precious metal

- Assets include Jewelllery, bullion, furniture, utensils or any other article made wholly or partly of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stones, whether or not worked or sewn into any wearing apparel, furniture , utensil or any article.
- It does not include: assets if it is held as stock-in–trade and shall not include Gold Deposit Bonds issued under Gold Deposit Scheme 1999, notified by the Central Government Yachts, boats and aircrafts
- Other than used for by the assessee for commercial purposes
- Ships are not included in the definition
- Commercial purpose means used for business purpose or held as stock-in-trade

3.4 Urban Land

- Land situated in any area which is comprised within the jurisdiction of a municipality and which has a population of not less than 10,000 according to the last preceding census of which relevant figures have been published before the valuation date
- Land situated in any area within such distance, not being more than 8 kilometers from the local limits of any municipality, as the Central Govt. may, having regard to the extent of, and scope for, transition of that area and other relevant consideration.
- **Following are not the assets for the purpose of wealth tax**
- Land on which construction of a building is not permitted under any law for the time being in force in the area in which such land is situated
- The land occupied by any building which has been constructed with the approval of the appropriate authority
- Any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him
- Any land held by the assessee as stock-in-trade for a period of ten years from the date of its acquisition by him
- ns, specify in this behalf by notification in the Official Gazette

3.5 Cash on Hand

- In case of Individual and HUF, cash in hand in excess of Rs. 50,000 will be treated as asset, whether recorded in books of accounts or not
- In case of Company, any cash not recorded in the books of account will only be treated as an asset. Under DTC Companies are out of purview
- In DTC As regards cash in hand the exemption limit has been increased from Rs. 50,000 to Rs. 200,000 for individual and HUF.

Apart from these assets following assets are introduced under DTC and will be part of Net Wealth.

- Archaeological Collections, drawings, paintings, sculptures and work of art,
- Watches where the value exceeds Rs. 50,000,
- Bank Deposits outside India held by Individual and HUF,
- Any interest in Foreign Trust or any other body located outside India other than a foreign company,
- Any equity or preference shares held by a resident in controlled finance corporation.
- **Assets specified below shall be deemed to be belonging to the person, being an individual, and included in computing his net wealth, if such assets, as**
- The on the valuation date are held, whether in the form they were transferred or otherwise. Section 114(1) gives the list of the same as follows:

i. By the spouse of such individual to whom such asset has been transferred by him, directly or indirectly, otherwise than for adequate consideration or in connection with an agreement to live apart;

ii. By a minor child, not being a person with disability or person with severe disability, of such individual; This asset shall be included in the net wealth of-
- The parent who is the guardian of the minor child; or
- The parent whose net wealth is higher, if both the parents are guardians of the child.

iii. By a person to whom such asset has been transferred by the individual, directly or indirectly, otherwise than for adequate consideration for the immediately or deferred benefit of the individual or his spouse; a transfer shall be deemed to be revocable if-
- It contains any provision for the re-transfer, directly or indirectly, of the whole or any part of the income or asset to the transferor; or
- It, in any way, gives the transferor a right to re-assume power directly or indirectly, over the whole or any part of the income or asset.

iv. By a trust to whom such asset has been transferred by the individual, if the transfer is revocable during the life time of the beneficiary of the trust;

v. By a person, not being a trust, to whom such asset has been transferred by the individual, if the transfer is revocable during the lifetime of the person; and

vi. By a Hindu undivided family by way of any converted property.

3.6 Assets Exempted Under Wealth tax

1. Property held under trust where there is no direct benefit derived by any person, and trust is of public importance or notified
2. Interest in coparcenary property of the HUF, as HUF itself is a unit of taxation under Wealth Tax Act,
3. One official residence of a ruler,
4. Heirloom Jewelllery of an erstwhile Ruler, where recognition has been grated by Central Government w.e.f. 9/9/1972,
5. Money and assets brought into India by citizen of India or a person of Indian Origin, who comes to India for permanent residence in India, such exemption is available till period of 7 consecutive years with certain conditions to be fulfilled.
6. One house or a part of house and a plot of land not exceeding 500 sq. mtrs

4. Debts Deducted From Assets

Debts owed by the assessee shall be deductible subject to the following:

1. Debts should be incurred in relation to those assets which are included in the wealth of the assessee

Vol.2, Issue 1, January 2013
ISSN : 2320-0901

2. Such debt should be still outstanding as on Valuation date
3. Debts located in India or outside India, shall be deducted on the basis of nationality and residential status in case of individual

5. Computation of Net Wealth

Section 113(1) provides the method for calculation of net wealth chargeable to wealth tax. The net wealth of a person shall be the amount computed in accordance with the formula noted below:

- Net wealth = ASSETS – DEBTS OWED
- Where Assets is the aggregate of the value on the valuation date, of all the specified assets, wherever located, belonging to the person; and
- Debts are the aggregate of the value on the valuation date, of all the debts, owed by the person, which have been incurred in relation to the specified assets.

6. Tax on Net Wealth

- The wealth tax shall be charged in respect of the net wealth on the valuation date of a financial year at the rate as detailed below:
- Where the net wealth as on the valuation date does not exceed Rs. One crore - NIL;
- Where the net wealth, as on valuation date exceed Rs. One crore - 1% of the amount which the net wealth exceeds one crore rupees.
- The liability to wealth tax shall be discharged by payment of pre-paid taxes in accordance with the provisions of this Code. The wealth tax charged under this section shall be collected after allowing credit for pre-paid taxes, if any, in accordance with the provisions of this code.

The DTC Bill which was introduced in Parliament in 2009 and the revision last year has proposed to levy wealth tax on the specified unproductive assets of all taxpayers, except for non-profit organizations. While, the threshold limit to trigger wealth tax has been raised significantly from R30 lakh to R1 crore, the tax rate continues to be 1%, resulting in savings of R70, 000. The critical point to be noted is the extended coverage of the 'assets' on which wealth tax is payable, could negate this saving.

Similar to the present provisions, assets like land, building, cars, yachts, boats, aircraft, Jewelllery, bullion, furniture, utensils or other articles made of precious metals continue to be considered wealth even under DTC. While the taxable wealth definition under DTC has been extended to specifically cover assets such as archeological collections, drawings, paintings, sculptures, similar works of art, expensive watches (value more than R50,000), helicopters. The most crucial inclusions are deposits in banks located outside India, beneficial interest in foreign trust or other entities outside India and investments in equity or preference shares in a controlled foreign company (essentially foreign companies not engaged in active business activities).

Further, the DTC also continues with concept of "clubbing" and thus, any transfer of assets or gifting to your spouse, minor children, daughter-in-law, revocable trusts and own HUFs; will not help in getting away from wealth-tax.

Given the number of cross-border scams, hawala transactions, disproportionate asset cases, unaccounted income/wealth and others, the above inclusions clearly seem to further government's concerted laudable intent to track down black money parked overseas and bring the culprits to justice. These measures also seem to be an interim result of the study commissioned by the finance ministry on unaccounted income and wealth held within and outside the country, and also is in line with...the five-fold strategy announced by the finance minister in the last Budget speech.

Another important implementation measure undertaken by the government already (ahead of the DTC) is the quick finalization/ signing of various Tax Information Exchange Agreements ('TIEAs') with various countries, and revision of existing tax treaties to specifically include information exchange clauses. It is also learnt that a dedicated cell for exchange of information is being set up in the CBDT to expedite the actual implementation and effective gather of information from other countries.

Therefore, while the stage is set under the DTC regime to trap unreported overseas investments and drill out cases with disproportionate assets vis-à-vis income earned, it remains to be seen how effectively the tax authorities utilize the tools laid down by the finance ministry as a part of combating tax evasion. Thus, the time in your "expensive watch" will speak whether the DTC wealth-tax provisions achieves this...objective.

The Direct Taxes Code proposes to substantially raise the threshold limit for levy of wealth tax to Rs 50 crore from Rs 30 lakh, a suggestion, if accepted, would save many people from paying tax on their wealth. Finance Minister Pranab Mukherjee in the budget for 2009-10 had doubled the threshold limit for levy of wealth tax to Rs 30 lakh.

7. Proposal related to wealth Tax in Direct Tax code

- Provisions in relation to the Wealth Tax are proposed to be applicable to every individual, Hindu Undivided Family and Private Discretionary Trust;
- The Companies are proposed to be taken out of the Wealth Tax net;
- The DTC has proposed to enhance the basic exemption under the wealth tax form Rs. 30 Lakhs to Rs. 50 crores. However, at the same time all the assets (including financial assets, productive assets, business assets, etc.) will be liable to Wealth Tax;
- Rate of Wealth tax is proposed to be reduced from 1% to 0.25%. That means the tax on the net wealth is proposed to be 0.25% of the amount by which the net wealth exceeds Rs. 50 crores;
- The term "assets" for the purpose of Wealth Tax is not separately defined under the DTC. Further, under the generic definition of the term 'assets' provided in DTC, all types of business as well as investment assets are covered. However, at present the wealth tax is not livable on the agricultural land, business assets (such as motor car, yachts, etc.) and productive assets

of the limit for payment of wealth tax under the existing provisions of section 3 of the Wealth-tax Act, wealth tax is charged every year in respect of net wealth, on the valuation date, of every individual, Hindu undivided family and company at the rate of one per cent. of the amount by which the net wealth exceeds Rs.15.00 lakhs. This limit was fixed in 1992.

With a view to providing for inflation-adjustment, it is proposed to raise the threshold limit for payment of wealth tax from Rs.15.00 lakhs to Rs. 30.00 lakhs.

Vol.2, Issue 1, January 2013
ISSN : 2320-0901

The proposed amendment will apply for the valuation of net wealth as on 31st March, 2010 and will, accordingly, apply in relation to assessment year 2012-13 and subsequent years.

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