

59

Wealth-tax Act, 1957

SOLVED EXAM QUESTIONS (SEQ)

Q.No.	SEQ / 59.1	Exam	May 1994	Marks	
-------	------------	------	----------	-------	--

X is the owner of two residential houses in Ahmedabad both meant to be used for residential purposes by him and his family. The first house was purchased in July 1974 for Rs. 2 Lakh. This was occupied by his friend Y free of rent from 01.04.2013 to 15.05.2013. The value of the house as per Schedule III on valuation date 31.03.2014 is Rs. 5 Lakh. Its value on same basis in 1975 was Rs. 1 Lakh. The second house was purchased by him in February, 2013 for Rs. 8 Lakh. Its value as per Schedule III on the valuation date 31.03.2013 is Rs. 2 Lakh and as on 31.03.2014 is Rs. 6 Lakh. What value will you fix in respect of the two properties while preparing Wealth-tax Return of X for AY 2014-15?

Answer :-

Section 7(1) of Wealth-tax Act, 1957 provides that the value of any asset other than cash shall be computed as on valuation date. However, section 7(2) prescribes 'pegging system' (or we may call it 'freezing system') in the case of a residential house occupied by the assessee throughout the previous year. This pegging system gives the assessee an option to adopt value as on the valuation date next following the date on which he became owner of house or 31.03.1971, whichever is later.

In the light of these provisions, we shall now proceed to ascertain values of the two flats owned by the assessee:

- (1) **Valuation of first house:** This house flat is occupied by a friend of assessee during 01.04.2013 to 15.05.2013. That means the assessee has not occupied house throughout the previous year. The pegging system of section 7(2) shall not apply. The taxable value shall be computed u/s 7(1) as on 31.03.2014. This value is Rs. 5 Lakh. It may be noted that the cost of house is Rs. 2 lakh only which is less than Rs. 5 Lakh (i.e. capitalised value). Hence the Substitution Step shall not apply. Finally, the taxable value shall be Rs. 5 Lakh.
- (2) **Valuation of second house:** This house is occupied by assessee throughout the previous year. Hence pegging system of section 7(2) shall apply. The taxable value shall be computed u/s 7(2) at the option of assessee. The value as on 31.03.2014 is Rs. 6 Lakh. Since the assessee purchased house in February, 2013, the value u/s 7(2) is Rs. 2 Lakh (value as on the valuation date next after becoming owner of house i.e. the value as on 31.03.2013). The assessee shall use the option of section 7(2). Hence the value shall be Rs. 2 lakh. It may be noted that the house is self-occupied by the assessee throughout the previous year and the cost is Rs. 8 lakh only which does not exceed Rs. 25 lakh. Hence the Substitution Step shall not apply. Finally, the taxable value remains at Rs. 2 Lakh.

The assessee should claim exemption u/s 5(vi) in respect of first house because the taxable value of that house is more than the value of second house.

Q.No.	SEQ / 59.2	Exam	May 1994	Marks	3
-------	------------	------	----------	-------	---

Under what circumstances can the Assessing Officer make a reference to the valuation officer for the purpose of making an assessment under the Wealth-tax Act?

Answer :-

Section 16A provides that for the purpose of making an assessment, the Assessing Officer may refer the valuation of an asset to the Valuation Officer. Such reference can be made only in following situations --

- (a) Where the value of asset as claimed by assessee is in accordance with the estimate made by a Registered Valuer -- If the Assessing Officer is of the opinion that the value so claimed is **less than FMV**.
- (b). In any other case – If the Assessing Officer is of the opinion that --
- (i) **the FMV exceeds** the value claimed by the assessee, by more than 33-1/3% thereof or Rs. 50,000/- whichever is less; or
 - (ii) having regard to nature of asset, it is necessary so to do.

It may be noted that the reference u/s 16A can be made only for the purpose of making assessment. That means the reference is possible only if the assessment is pending. If there is no pending assessment or the assessment has been completed, section 16A cannot be applied.

Q.No.	SEQ / 59.3	Exam	May 1994	Marks
-------	------------	------	----------	-------

Mr. X, a person of Indian origin, was working in Dubai from 1990. He returned to India for permanent settlement in May 2011 when he remitted money to India. He furnished the following particulars of his wealth as on March 31, 2014. Compute net wealth of assessment year 2014-15:

	Particulars	Rs.
(i)	Residential house in Madras (let out for residence throughout the year) net maintainable rent Rs. 20,000 per annum. Market value Rs. 3,00,000/-	3,00,000
(ii)	Share in building owned by a firm in which Mr. X is a partner – used for business.	2,50,000
(iii)	Motor car purchased in April, 2013, out of money remitted to India from Dubai	1,75,000
(iv)	Value of interest in firm excluding item (ii) above	3,00,000
(v)	Shares in companies (quoted)	1,00,000
(vi)	Jewellery purchased out of amounts remitted from Dubai – (purchased in March 2011)	1,50,000
(vii)	Vacant land 400 Sq. Mts. (purchased in December 2009)	7,50,000
(viii)	Amount standing to the credit of NRE Account	5,00,000
(ix)	Cash in hand (out of sale proceeds of agricultural income)	75,000

Answer :-

Asset/Liability	Treatment with reason	Rs.
Residential house	A residential house let out for minimum 300 days during the previous year is not an asset u/s 2(ea). In this case, the residential house has been let out throughout the previous year. Hence it is not an asset. Therefore not taxable.	Nil
Share in building	It appears from wording of question that the building belongs to the firm and it is used by firm for the purpose of business carried on by firm. Hence it is not an asset u/s 2(ea). Therefore, the net wealth of firm shall be Nil and consequently the interest of partner shall also be Nil. Thus, nothing would be taxable.	Nil
Motor car	The assessee has returned to India in May 2011. The car has been acquired by using funds remitted from Dubai. Hence the assessee is entitled to claim exemption u/s 5(v) for 7 successive assessment years after return to India. In the present case, this exemption is allowable. Hence the car is not taxable.	Nil
Interest in firm	Value of interest in firm (excluding the building owned and used by firm for business purpose) is taxable in the hands of partner u/s 4(1)(b).	3,00,000
Shares	Shares in companies are not asset u/s 2(ea). Hence not taxable.	Nil

Asset/Liability	Treatment with reason	Rs.
Jewellery	Jewellery is an asset u/s 2(ea). However the assessee has returned to India in May 2011 and the jewellery has been acquired by using funds remitted from Dubai in March, 2011. Any asset acquired within 1 year before coming to India is eligible for exemption u/s 5(v). In the present case, the conditions of section 5(v) are satisfied. Hence jewellery is not taxable.	Nil
Vacant land	Assuming that the land is situated in urban area, it is an asset u/s 2(ea). However, the size of land is less than 500 Sq. Mtrs. Hence the assessee can claim exemption u/s 5(vi)	Nil
Balance in NRE A/c	It is not an asset u/s 2(ea). Hence not taxable.	Nil
Cash in hand	Cash in hand is exceeding Rs. 50,000 is an asset u/s 2(ea) in the case of an individual. Hence Rs. 25,000 shall be taxable. The fact that cash balance is out of sale proceeds of agricultural income is not relevant.	25,000
	Aggregate of assets	3,25,000
	Liabilities	Nil
	Net wealth	3,25,000

Q.No.	SEQ / 59.4	Exam	Nov 1994	Marks	2
-------	------------	------	----------	-------	---

Discuss the validity of proposition : Wealth tax is not a debt owed on the valuation date and is therefore not deductible from net wealth?

Answer :-

In **Circular No. 663 dated 28.09.1993**, the CBDT has clarified that the wealth-tax is a statutory liability. This liability is created by law. Wealth-tax liability is not a liability in relation to any asset. Hence it is not allowed in computation of net wealth.

Q.No.	SEQ / 59.5	Exam	Nov 1994	Marks	6
-------	------------	------	----------	-------	---

Discuss the provisions of Wealth-tax Act regarding the inclusion of the wealth of minor child in the assessment of the parent. Enumerate the exceptions to this provision.

Answer :-

Section 4(1)(a)(ii) of Wealth-tax Act, 1957 prescribes that the wealth of a minor child shall be included:

- where the marriage of parents subsists, in the net wealth of mother or father whose net wealth (before such clubbing) is higher.
- where the marriage of parents doesn't subsist, in the net wealth of that parent who maintains the minor child in the previous year.

It is further prescribed that where the assets held by a minor child are once included in the net wealth of either parent, any such assets shall not be included in the net wealth of the other parent unless the Assessing officer is satisfied that it is necessary so to do.

Exceptions: In following situations, this clubbing provision shall not apply:

- Where child is a minor married daughter,
- Where minor child suffers from any disability of the nature specified in section 80U of Income Tax Act, 1961, or
- Where the minor child has acquired assets by utilising his income from physical work, manual work or personal skill.

Q.No.	SEQ / 59.6	Exam	May 1995	Marks	5
--------------	-------------------	-------------	-----------------	--------------	----------

- (a) Under wealth-tax Act, 1957 what is the scope of taxation of an individual who is not residing in India?
(b) How is the assessment made on such a person and what are the provisions for recovery of tax from him?

Answer :-

- (a) Section 6 of Wealth-tax Act, 1957 prescribes the scope of net wealth. According to this section, in the case of an individual not residing in India, the scope of net wealth shall be limited to the assets located in India minus the liabilities incurred in relation to such assets. The assets located outside India and the liabilities incurred in relation to such assets shall not be taken into account in computing net wealth.
- (b) Section 22 of Wealth-tax Act, 1957 prescribes following procedure for the purpose of making assessment on a non-resident and recovery of tax from a non-resident :
- (1) Where the person liable to tax under this Act resides outside India (i.e. non-resident), the tax may be levied upon and recovered from his agent and the agent shall be deemed to be an assessee for all purposes.
 - (2) Following persons may be treated as agent of non-resident:
 - Any person employed by or on behalf of non-resident.
 - Any person through whom the non-resident is in the receipt of any income, profits or gains, or
 - Any person who is in possession or has custody of any asset of non-resident

In all these situations, the AO shall serve a notice of his intention to treat such person as agent of non-resident. It is further prescribed that no person shall be deemed to be the agent of non-resident unless he has been given an opportunity of being heard by the AO.
 - (3) Any agent, who pays any sum under this Act, shall be entitled to recover the sum so paid from non-resident or to retain out of any moneys that may be in his possession or may come to him in his capacity as such agent, an amount equal to the sum so paid.
 - (4) Any agent (or any person who apprehends that he may be assessed as an agent) may retain out of any money payable by him to the non-resident a sum equal to his estimated liability under this section, and in the event of any disagreement between agent and non-resident as to the amount to be so retained, such agent (or person) may secure from the AO a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount.
 - (5) The amount recoverable from such agent (or person) at the time of final settlement shall not exceed the amount specified in such certificate, except to the extent to which such agent (or person) may at such time have in his hands additional assets of the non-resident.
 - (6) Notwithstanding anything contained in this section, any arrears of tax due from a non-resident may also be recovered in accordance with the provisions of this Act from any assets of such non-resident which are or may at any time come within India.

Q.No.	SEQ / 59.7	Exam	May 1995	Marks	
--------------	-------------------	-------------	-----------------	--------------	--

Mr. X furnishes the following particulars for the computation of his wealth-tax return for AY 2014-15:

- (a) Gifts of jewellery made to wife from time to time aggregating Rs. 60,000. Market value of valuation date is Rs. 2,00,000.
- (b) Flat purchased under installment payment scheme in 1972 for Rs. 7,50,000 used for purposes of his residence and Schedule III value as on March 31, 2014 is Rs. 10 Lakh (installment remaining unpaid: Rs. 50,000)
- (c) Urban land transferred to minor handicapped child valued on 31st March, 2014 at Rs. 1,00,000.

Explain how you will deal with these items. Make suitable assumptions, if required.

Answer :-

The question does not require computation of net wealth. It simply requires explanation of different items. Accordingly, the answer shall be as under:

(a) Gift of jewellery made to wife:

Jewellery is an asset u/s 2(ea).

Section 4(1)(a)(i) prescribes that any asset transferred by an individual to his spouse without consideration is includible in the net wealth of transferor. In this case, Mr. X has gifted jewellery to his wife from time to time. This is a transfer without consideration. Hence section 4(1)(a)(i) shall apply and the jewellery shall be taxed in the hands of Mr. X.

Regarding taxable value, although Mr. X transferred jewellery aggregating to Rs. 60,000, the market value of jewellery as on valuation date 31.03.2014 is Rs. 2 Lakh. As per section 7(1), the value of an asset as on valuation date shall be taxable. In view of section 7(1), Rs. 2,00,000 shall be included in the net wealth of Mr. X.

(b) Flat:

The flat is occupied by assessee throughout the previous year. Hence pegging system of section 7(2) shall apply. The taxable value shall be computed u/s 7(2) at the option of assessee. The value as on 31.03.2014 is Rs. 10 Lakh. Since the assessee purchased house in 1972, the value u/s 7(2) shall be Rs. 7.50 Lakh (The valuation date next after becoming owner of house was 31.03.1972. The question does not provide value as on 31.03.1972. It is assumed that the value as on 31.03.1972 was Rs. 7.50 Lakh). Exercising option of section 7(2), the value of house shall be Rs. 7.50 lakh. It may be noted that the house is acquired before 31.03.1974. Hence the Substitution Step shall not apply. Thus, the taxable value shall be Rs. 7.50 lakh. The instalments of house amounting to Rs. 50,000 are deductible. Finally, Rs. 7,00,000 shall be included in the net wealth of assessee.

The assessee can claim exemption u/s 5(vi).

(c) Urban land:

Urban land is an asset u/s 2(ea).

Section 4(1)(a)(ii) prescribes that the assets held by a minor child shall be clubbed in the net wealth of his parents. However, there is an exception. If the child is suffering from disability u/s 80U of Income-tax Act, 1961, the clubbing provision shall not apply. The question states that the minor child is handicapped. It is assumed that the child is suffering from disability of section 80U. Hence the clubbing provision of section 4(1)(a)(ii) not apply. The land shall be taxable in the hands of minor child.

Q.No.	SEQ / 59.8	Exam	May 1995	Marks	2
--------------	-------------------	-------------	-----------------	--------------	----------

In what status will a society registered under the Societies Registration Act be assessed under Wealth-tax Act, 1957?

Answer :-

Under section 3 of Wealth-tax Act, 1957, tax is chargeable from an individual, HUF or a company. Further section 45 specifically prescribes that the Wealth-tax Act, 1957 shall not apply to a co-operative society. In view of this, a co-operative society is not taxable at all. Hence there is no question of having any status.

Q.No.	SEQ / 59.9	Exam	Nov 1995	Marks	
--------------	-------------------	-------------	-----------------	--------------	--

X, a child artist acting in laughter shows, accumulated a wealth of Rs. 26 lakh over a short span of time. The same is put into securities by his mother, who is also the guardian. The securities are sold in 2013-14 resulting in capital gain of Rs. 10 lakh, which is invested in a plot of land in urban area. The Assessing Officer proposes to include the value of the land in computation of net wealth of the mother. Is the proposition of the Assessing Officer justified in law?

Answer :-

Section 4(1)(a)(ii) prescribes that the assets held by a minor child shall be included in the net wealth of his parents. However, there is an exception. Any asset accumulated by a minor child by application of his talent, knowledge, physical work etc. is not includible in the net wealth of parents.

Now, we shall examine whether the value of urban land is eligible for this exception or not? The question clearly states that the investment in urban land has been made by utilising capital gain derived on sale of

securities. Thus, the urban land is not an accumulation of talent, knowledge, physical work etc. Being so, the urban land is not eligible for exception.

Thus, the value of urban land shall be included in the net wealth of mother. Therefore the proposition of Assessing Officer is justified.

Assumption: The question does not specifically mention that Mr. X is a minor child. The above answer is based on the presumption that the child is minor. It is further assumed that the child does not suffer from any of the disability prescribed u/s 80U.

Q.No.	SEQ / 59.10	Exam	Nov 1995	Marks	
--------------	--------------------	-------------	-----------------	--------------	--

Explain the time limits for the issue of a notice under section 17(1) of the Wealth-tax Act, 1957.

Answer :-

Section 17 prescribes for wealth escaping assessment. For this purpose, the AO is required to issue notice u/s 17(1) within the time-limits prescribed in section 17(1A). Section 17(1A) prescribes different time-limits for issuance of notice as under:

- (a) Normally the notice can be issued within 4 years from end of the relevant assessment year.
- (b) If the net wealth which has escaped assessment is or likely to be Rs. 10 Lakh or more – The notice can be issued within 6 years from end of the relevant assessment year.
- (c) If the net wealth in relation to any asset (including financial interest in any entity) located outside India has escaped assessment – The notice can be issued within 16 years from end of the relevant assessment year.

[Guidance Note: Similar provision exists in section 149 of Income-tax Act, 1961].

Q.No.	SEQ / 59.11	Exam	Nov 1995	Marks	
--------------	--------------------	-------------	-----------------	--------------	--

X was assessed to wealth-tax on net wealth of Rs. 50 lakh in respect of assessment year 2010-11. His wealth included jewellery, house property, urban land, etc. On the ground that the jewellery was undervalued in the return, the assessment was re-opened under section 17. In the course of the re-assessment, the Assessing Officer referred the valuation of urban land and jewellery to the Valuation Officer for determination of their correct values and based on his report, enhanced the assessment. Is there any infirmity in the re-assessment order.

Answer :-

Section 16A prescribes that for the purpose of making an “assessment” under Wealth-tax Act, 1957, where the market value of any asset is to be taken into account, the AO may refer valuation to the Valuation Officer. Thus, the reference to Valuation Officer is made for the purpose of making assessment.

Section 2(cb) of Wealth-tax Act, 1957 prescribes the term “assessment”. According to this “assessment” includes “reassessment”.

Section 17 prescribes the scheme of “reassessment”.

Thus, it is clear that section 16A can be invoked during the course of “assessment” proceeding as well as “reassessment” proceedings.

However, it may please be noted that mere suspected undervaluation cannot be a valid basis for initiating the proceeding of reassessment u/s 17. But if the reassessment is done on a legally valid ground, the AO can refer valuation to the Valuation Officer.

Q.No.	SEQ / 59.12	Exam	May 1996	Marks	5
--------------	--------------------	-------------	-----------------	--------------	----------

What are the various circumstances under which an assessee will be deemed to have concealed the particulars of his net wealth or furnished inaccurate particulars thereof?

Answer :-

Section 18(1)(c) of Wealth-tax Act, 1957 provides for imposition of penalty in a case where any person has concealed the particulars of wealth or furnished inaccurate particulars thereof. Explanation 2, 3, 4 and 5 to

this section prescribe the situations in which it shall be deemed that the assessee has concealed the particulars of wealth or furnished inaccurate particulars thereof. These Explanations are discussed below in detail:

Explanation 2 :-

Where, in respect of any facts material to the computation of the net wealth of any person, --

- a. such person fails to offer an explanation or offers an explanation which is found by the Assessing Officer or 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 bona fide and the facts relating to the same and material to the computation of his net wealth have been disclosed by him,

then, the amount added or disallowed in computing the net wealth of such person as a result thereof shall be deemed to represent the value of the assets in respect of which particulars have been concealed.

Explanation 3 :-

Where any person fails (without reasonable cause) to furnish a return within the period specified in section 17A(1), and the Assessing Officer or the Commissioner (Appeals) is satisfied that in respect of such assessment year such person has assessable net wealth, he shall be deemed to have concealed the particulars of his wealth.

Explanation 4 :-

Where the value of assets disclosed by a person is less than 70% of the value of such assets determined in an assessment order u/s 16 or 17, such person shall be deemed to have furnished inaccurate particulars of assets within the meaning of section 18(1)(c) unless he proves that the value of assets as disclosed by him is the correct value.

Explanation 5 :-

Where in the course of a search u/s 37A, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing 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 the net wealth on such date has not 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 the date of the search, he shall be deemed to have concealed the particulars of such asset.

[Guidance Note: Similar provisions are existing in section 271(1)(c) of Income-tax Act, 1961].

Q.No.	SEQ / 59.13	Exam	May 1996	Marks	5
--------------	--------------------	-------------	-----------------	--------------	----------

An assessee has transferred to his son’s wife certain assets, otherwise than for adequate consideration. When will the transferee be liable to pay the wealth-tax of the transferor and to what extent?

Answer :-

Under section 4(1)(a)(v), if a person transfers any asset to his son’s wife, the transferred asset shall be included in the net wealth of the transferor. The situation given in question is directly covered by section 4(1)(a)(v). Hence the transferred asset shall be included in the net wealth of transferor.

Normally, in such a situation, the transferor shall be liable to pay tax in relation to clubbed asset. However, section 33 makes a special provision. According to section 33, where by reason of the provisions contained in section 4, the value of any assets transferred to any of the persons mentioned in that section have to be included in the net wealth of an individual, the person in whose name such assets stand shall, notwithstanding anything contained in any law to the contrary, be liable, on the service of a notice of demand by the Assessing Officer in this behalf, to pay that portion of the tax assessed on the assessee as is attributable to the value of the asset standing in his name.

Thus, on the basis of section 33, we can conclude that the transferee shall be liable to pay tax only if the AO has served a demand-notice upon him. The liability of transferee shall be limited to proportionate amount of tax as is attributable to the value of transferred asset.

[Guidance Note: Similar provision exists in section 65 of Income-tax Act, 1961].

Q.No.	SEQ / 59.14	Exam	May 1996	Marks	3
-------	-------------	------	----------	-------	---

Under what circumstances will urban land be not liable to wealth tax?

Answer :-

Urban land shall not be liable to tax in following situations:

- any land classified as agricultural land in the records of the Government and used for agricultural purposes, or
- any land on which construction of a building is not permissible under any law for the time being in force in the area in which such land is situated, or
- the land occupied by any building which has been constructed with the approval of the appropriate authority, or
- any 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 ten years from the date of its acquisition by him.

Q.No.	SEQ / 59.15	Exam	May 1996	Marks	2
-------	-------------	------	----------	-------	---

Under the circumstances can a Chartered Accountant act as a Registered Valuer?

Answer :-

Rule 8A of Wealth tax Rules, 1957 prescribes qualifications for Registered Valuers. If we analyse this Rule we would find that different types of qualifications have been prescribed for different types of assets. Accordingly, a Chartered Accountant can act as a Registered Valuer for valuation of following assets only:

- Stocks,
- Shares,
- Debentures,
- Securities,
- Share in partnership firms, and
- Business assets (including goodwill)

[Guidance Note: Presently stocks, shares, debentures, securities and goodwill are not taxable assets under Wealth-tax Act. Hence the requirement of valuation by a C.A. shall arise only in case of share in partnership firm or business assets].

Q.No.	SEQ / 59.16	Exam	Nov 1996	Marks	
-------	-------------	------	----------	-------	--

X gifted Rs. 2,00,000 to his wife on April 10, 2013. His wife bought gold jewellery on January 31, 2014 out of the said sum of Rs. 2,00,000. The fair market value of jewellery as on March 31, 2014 was Rs. 2,50,000. X claims that since his wife has not held on March 31, 2014 the sum of Rs. 2,00,000 which he gifted to her, no amount is includible in his net wealth for the assessment year 2014-15. Examine the claim of X.

Answer :-

Section 4(1)(a)(i) prescribes that where an individual transfers his asset to his spouse without consideration or for inadequate consideration, the transferred asset shall be included in the net wealth of transferor. However, a question arises as to what will happen, if the transferee has substituted the original asset (i.e. the transferred asset) by a different asset? In **CWT Vs. Kishan Lal Bubna [1993] 204 ITR 600 (SC)**, it was held that the section 4(1)(a)(i) shall continue to apply. Therefore in the present case, the argument of Mr. X is not tenable. He shall be liable to tax in respect of the value of jewellery.

Now a further question would arise as to how much value shall be taxable in the hands of Mr. X? The answer is that the value of jewellery as computed according to Schedule III to Wealth-tax Act, 1957 shall be taxable. In the present case, this value is Rs. 2,50,000/-. Therefore Mr. X shall be taxable on 2,50,000/-.

Q.No.	SEQ / 59.17	Exam	Nov 1996	Marks	2
--------------	--------------------	-------------	-----------------	--------------	----------

Mr. Z obtained a loan of Rs. 5 lakh from his friend by mortgaging his house property. As on March 31, 2014 the loan was outstanding at Rs. 2 lakhs. The loan was utilized for purchase of shares and securities. Can the amount of unpaid loan of Rs. 2 lakhs be claimed as deduction as debt owed under section 2(m) of the Wealth-tax Act?

Answer :-

Under section 2(m), "net wealth" is aggregate of assets minus aggregate of liabilities in relation to those assets. The term "asset" has been defined in section 2(ea) according to which house property is an asset but shares and securities are not asset. Thus, house property is a taxable asset but shares and securities are not taxable assets.

In the present case, the assessee has used borrowed money for purchase of shares and securities. Hence the liability of loan is incurred in relation to shares and securities and not house property. Since shares and securities are not taxable assets, the liability of outstanding loan is also not deductible. Mere mortgage of house for taking loan cannot entitle the assessee to claim deduction of outstanding loan.

Q.No.	SEQ / 59.18	Exam	Nov 1996	Marks	3
--------------	--------------------	-------------	-----------------	--------------	----------

The Assessing Officer made a reference to the Valuation Officer for valuation of property. He, however, assessed the property to wealth-tax at Rs. 20 lakhs without waiting for the report of the Valuation Officer. On receipt of the valuation report, it was found that the property had been valued by the Valuation Officer at Rs. 40 lakhs. The Commissioner, acting under section 25(2) of the Wealth-tax Act, set aside the assessment and directed the Assessing Officer to redo the same. Discuss whether the action of the commissioner was justified.

Answer :-

Section 25(2) of Wealth-tax Act, 1957 prescribes a mechanism for revision of order prejudicial to the interest of revenue (i.e. revision in favour of revenue). This section empowers the Commissioner to call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by an AO is erroneous in so far as it is prejudicial to the interests of revenue, he may, after giving the assessee an opportunity of being heard, and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling it and directing a fresh assessment.

Thereafter, Explanation to section 25(2) defines the term "record". According to this "record" shall include all records relating to any proceeding under this Act available at the time of examination by the Commissioner.

In the present case, the order passed by the AO is certainly prejudicial to the interest of revenue because the AO has assessed value at Rs. 20 lakh only and the report of Valuation Officer discloses value at Rs. 40 lakh. Further, the AO has not taken pain to wait for report of Valuation Officer despite having made a reference u/s 16A. Hence the Commissioner is justified in acting u/s 25(2), setting aside assessment-order and directing the AO to make assessment *de novo*.

It may be noted that the report of Valuation Officer has although come in the file of AO after making assessment-order, yet it falls within the definition of "record" because it is available at the time of examination by Commissioner.

[Guidance Note: Similar provision exists in section 263 of Income-tax Act, 1961].

Q.No.	SEQ / 59.19	Exam	May 1997	Marks	3
--------------	--------------------	-------------	-----------------	--------------	----------

Mr. A inherited a house plot situated in the Mumbai Corporation limits, from his deceased father who had on outstanding income-tax liability of Rs. 12 lakhs. The property was sold in April 2014 and the above outstanding liability was collected from the sale consideration by the department. Is the said liability of deceased father a deductible debt while considering the net wealth as on March 31, 2014?

Answer :-

We shall examine this question from two angles as under:

- (a) **Whether the income-tax liability of deceased father is allowable as a deduction in ascertaining taxable value of house under Schedule III** – The procedure of valuation prescribed in Schedule III does not permit any such deduction. Hence not allowed.
- (b) **Whether the income-tax liability of deceased father is allowable as a deduction on the ground that such liability is a debt incurred in relation to house** – The income-tax liability is a statutory liability which is merely recovered from the sale consideration of house. It is not incurred for the purpose of house. Hence the assessee cannot claim deduction.

Q.No.	SEQ / 59.20	Exam	May 1997	Marks	7
--------------	--------------------	-------------	-----------------	--------------	----------

Same as Q.No. 59.6.

Q.No.	SEQ / 59.21	Exam	Nov 1997	Marks	
--------------	--------------------	-------------	-----------------	--------------	--

Mr. P owns a farmhouse situated within 23 Kms. from the local limits of Jodhpur Municipal Corporation. The valuation of this house property has been referred to the Valuation Officer u/s 16A of Wealth-tax Act, 1957. The Valuation Officer has valued the property adopting land and building method, contending that he is not bound to value the house as per rules forming part of Part B of Schedule III to Wealth tax Act, 1957. Is the contention of the Valuation Officer correct?

Answer :-

Section 7(1) of the Wealth-tax Act, 1957 prescribes that the value of any asset other than cash **shall** be determined according to the rules prescribed in Schedule III to Wealth-tax Act, 1957. The use of word “shall” indicates that the rules prescribed in Schedule III are mandatory and not optional.

Further, section 16A prescribes that for the purpose of making assessment under Wealth-tax Act, 1957, where under the provisions of section 7 the value of asset is to be determined, the Assessing Officer may refer valuation of asset to a Valuation Officer.

Further, section 2(r) provides that “Valuation Officer” means a person appointed as a Valuation Officer u/s 12A of Wealth-tax Act, 1957. This demonstrates that the Valuation Officer is a creature of Wealth-tax Act, 1957.

In view of above, it can be concluded that the rules prescribed in Schedule III to Wealth-tax Act, 1957 are binding upon the Valuation Officer. This has also been accepted in **Bharat Hari Singhania Vs. CWT [1994] 73 Taxman 3 (SC)**. Hence the contention of Valuation Officer is not correct.

Q.No.	SEQ / 59.22	Exam	Nov 1997	Marks	
--------------	--------------------	-------------	-----------------	--------------	--

Can penalty u/s 18 of Wealth-tax Act, 1957 be levied on the legal representatives of the deceased for the defaults committed by the deceased for which the penalty proceedings have been initiated against the deceased prior to his death?

Answer :-

Section 19 of Wealth-tax Act, 1957 prescribes special provisions applicable to legal representative of a deceased individual. Sub-section (1) of section 19 provides that the legal representative shall be liable to pay the tax or any other sum (i.e. interest or penalty) which has been levied on the deceased. Sub-section (2) and (3) of section 19 provides for filing of return, assessment and reassessment proceedings by or against the legal representatives. It may be noted the penalty provisions are prescribed in section 18 of Wealth-tax Act, 1957 and entire section 19 does not contain any reference of section 18. Hence the department is not empowered to impose or continue penalty proceedings of section 18 against legal representatives. This view has been accepted in **ACIT Vs. F.P. Gaekwad (2009) 313 ITR 192 / CWT Vs. H.S. Chauhan (2000) 245 ITR 704 (Del)**.

In view of this, it is not possible to levy penalty.

[Guidance Note: In a similar situation, the position is different in Income-tax Act, 1961. Section 159 of Income-tax Act, 1961 is more flexible due to which penalty proceedings can be taken up against legal heirs].

Q.No.	SEQ / 59.23	Exam	May 1998	Marks	10
-------	-------------	------	----------	-------	----

Compute the net wealth of Mr. X, a resident individual, as on March 31, 2014 from the following particulars:

- He has a house property at Delhi, valued at Rs. 12,00,000 which is occupied by a firm in which he is a partner for its business purposes. Another house at Mumbai, valued at Rs. 8,00,000 is being used for his own business.
- He owns following vehicles for personal use:

	Market value
Motor car	4,40,000
Motor van	2,20,000
Jeep	2,16,000
- Cash in hand 2,10,000
- Jewellery 8,40,000
- Mr. X has gifted to a trust a commercial property situated at Chennai purchased 5 years back for Rs. 10,00,000 for the benefit of the smaller Hindu undivided family consisting of himself and his wife.
- He had transferred an urban house plot in February, 1999 in favour of his niece which was not revocable during her lifetime. The niece died on March 14, 2014. He could get the title to the plot re-transferred to his name only on April 15, 2014 despite sincere and honest efforts. The market value of the house as on March 31, 2014 is Rs. 9,40,000.
- Mr. X is the holder of an impartible estate in which urban agricultural lands of the value of Rs. 4,30,000 as on March 31, 2014 are comprised.

Answer :-

Asset/Liability	Treatment with reason	Rs.
House at Delhi	House property is an asset u/s 2(ea). However, this house is used in a business carried on by a partnership firm in which the assessee is a partner. In CIT Vs. Rashiklal Balabhai (1979) 119 ITR 303 (Guj) / CIT Vs. K.M. Jagannathan (1989) 180 ITR 1914 (Mad) , it was accepted that the business carried on by a partnership firm in which the assessee is a partner can be accepted as a business carried on by that partner in a proper sense. If this view is adopted, the house at Delhi shall not be an asset u/s 2(ea) and therefore not taxable. <i>(Contrary view: There is another view that the business carried on by a partnership firm in which the assessee is a partner cannot be accepted as a business carried on by partner. Such a view was taken in CIT Vs. K.N. Guruswamy (1984) 146 ITR 34. If this view is adopted, the second house shall be an asset u/s 2(ea) and therefore taxable).</i>	Nil
House at Mumbai	House property is an asset u/s 2(ea). But any house occupied by an assessee for the purpose of carrying on his business is specifically excluded from the definition of "asset". Hence this house is not taxable.	Nil
Motor car	Motor car is an asset u/s 2(ea). Hence taxable.	4,40,000
Motor van	Motor car is an asset u/s 2(ea). Motor van is also a motor car. Hence taxable. <i>[Guidance Note: Delivery van is not a motor car. Hence not an asset u/s 2(ea). Please understand the difference of "motor van" and "delivery van" carefully].</i>	2,20,000
Jeep	Motor car is an asset u/s 2(ea). Jeep is also a motor car. Hence taxable.	2,16,000
Cash in hand	Cash in hand exceeding Rs. 50,000 is an asset u/s 2(ea) in the case of an	1,60,000

Asset/Liability	Treatment with reason	Rs.
	individual. Hence Rs. 1,60,000 shall be taxable.	
Jewellery	Jewellery is an asset u/s 2(ea). Hence taxable.	8,40,000
Commercial property	Any asset transferred by a member to his HUF, directly or indirectly, without consideration is taxable in the hands of transferor u/s 4(1A). Hence the commercial property shall be taxable in the hands of Mr. X. [Guidance Note: If the property is in the nature of commercial establishment or commercial complex, it will not be an asset u/s 2(ea). In that case, the property shall not be taxable].	10,00,000
Urban house plot	Urban house plot is an asset u/s 2(ea). Under section 4(5), the value of any asset transferred under a revocable transfer is liable to be included in the net wealth of transferor. However, if the asset is transferred for life-time benefit of transferee, this provision does not apply. But there is a specific provision that even in case of transfer for life-time benefit, the asset shall be included in the hands of transferor as and when the power to revoke transfer arises. In the present question, the assessee made transfer to his niece for the life-time benefit. But the niece died on 14.03.2014. The assessee's power to revoke arose on 14.03.2014. Hence, for AY 2014-15, the asset shall be taxable in the hands of Mr. X. The actual revocation of power on 15.04.2014 is not relevant.	9,40,000
Urban agricultural land	Urban land is an asset u/s 2(ea). However, any land classified as agricultural land in the records of Govt. and used by assessee for agricultural purpose, is not an asset u/s 2(ea). Assuming that these conditions are satisfied in the present question. Hence the land is not taxable. [Guidance Note: Under section 4(6), impartible estate is included in the net wealth of holder. In this case, Mr. X is the holder of impartible estate. Hence section 4(6) applies and the land is includible in the net wealth of Mr. X. However, section 4(6) is of no use in present question, because the agricultural land itself is not an asset u/s 2(ea) and therefore not taxable].	Nil
	Aggregate of assets	38,16,000
	Less: Exemption u/s 5(vi) – The assessee is an individual. There are two assets qualifying for this exemption, viz. (i) Chennai property valued at Rs. 10,00,000 and Urban house plot (assuming upto 500 Sq. Mtrs.) valued at Rs. 9,40,000. It is beneficial to claim exemption in respect of Chennai property.	10,00,000
	Aggregate of assets	28,16,000
	Aggregate of liabilities	Nil
	Net wealth	28,16,000

Q.No.	SEQ / 59.24	Exam	Nov 1998	Marks	3
-------	-------------	------	----------	-------	---

State the circumstances in which Rule 3 of Schedule III shall not apply for valuation of immovable property.

Or

What are the circumstances in which the Wealth-tax Officer is not required to follow the procedure laid down for valuation of property in Rule 3 of Schedule III to the Wealth-tax Act, 1957?

Answer :-

The Rule 3 of Schedule III shall not apply in following situations --

- (a) Where, having regard to the circumstances of the case, the Assessing Officer (with the previous approval of Joint Commissioner) is of the opinion that it is not practicable to apply the method prescribed in Rule 3.
- (b) Where the excess vacant area (i.e. the difference of actual vacant area and specified vacant area) exceeds 20% of the aggregate area.
- (c) Where the house is built on leasehold land and the unexpired lease period **does not exceed 15 years** and the assessee does not have option of renewal of lease.

In these situations, the value shall be computed according to "Residual Rule" i.e. the value of property shall be the price it would fetch if sold in open market as on valuation date.

Q.No.	SEQ / 59.25	Exam	Nov 1998	Marks	6
--------------	--------------------	-------------	-----------------	--------------	----------

X Ltd. owns the following assets as on March 31, 2014. State whether the assets are chargeable to wealth tax indicating reasons in brief :-

1. Land at Delhi purchased in 2011 on which a residential complex consisting of 12 flats, to be sold on ownership basis, is under construction for last one year.
2. Three office flats at Mumbai purchased in financial year 2006-07 for resale.
3. Shares of group companies, break-up value of which is Rs. 7.50 lakh.
4. Cash at construction site Rs. 2.50 lakh not recorded in the books of account.
5. Residential flat in occupation of company's whole time director drawing a salary of Rs. 9 lakh per annum.

Answer :-**1. Land at Delhi :-**

The assessee has acquired land for construction of flats to be sold on ownership basis. This demonstrates that the land is held as stock-in-trade. Under section 2(ea), land held as stock-in-trade is not an asset u/s 2(ea) for a period of 10 years from the date of acquisition. Since the assessee has acquired land in 2011, the period of 10 years has not expired. Therefore the land is not an asset u/s 2(ea) and therefore not taxable.

There is one more argument in the present question. The Wealth-tax law is a selective law. It imposes tax only on those assets which fall within the definition of "asset" as prescribed in section 2(ea). If we analyse section 2(ea), only six types of assets are covered. Any asset not falling in the list of six assets is not chargeable. In the present question, the asset is a land on which construction is going on. In **Apollo Tyres Ltd. V. CIT [2010] 189 Taxman 225 (Ker.) / Smt. Neena Jain (2011) 330 ITR 157 (P&H)** it was held that once construction activity starts on land, the land loses its character of "land". Further, such land does not acquire the character of "building or land appurtenant to building". In short, the "building under construction" is neither a "land" nor a "building or land appurtenant to building". Hence, the "building under construction" is not an asset u/s 2(ea) and therefore not chargeable to wealth-tax (**Contrary view: In CWT Vs. Giridhar G. Yadlam (2010) 325 ITR 323 (Kar), the Court held that incomplete structure is not a "building or land appurtenant thereto". Hence "incomplete structure" is not an asset u/s 2(ea). But the land on which construction is going on, remains a land. It does not lose the character of land. Being so, the land remains an "asset" u/s 2(ea). The Court also held that even the assessee cannot take advantage of exception prescribed in section 2(ea) which says "any land occupied by a building which has been constructed with the approval of authority". Finally, the Court held that land shall be taxable. This view is in favour of department).**

2. Office flats held for resale :-

Flats are asset u/s 2(ea). However, any building which forms part of stock-in-trade is excluded from asset. The question states that the flats are purchased for resale. This demonstrates that the flats are part of stock-in-trade. Being so, the flats shall not be taxable.

3. Shares :-

Shares are not mentioned in the definition of asset u/s 2(ea). Hence they are not taxable.

4. Cash :-

Under section 2(ea), cash balance is an asset. However, in the case of any person other than an individual or HUF, the cash balance recorded in books of account is not treated as an asset. In the present case, the assessee is a company and the cash balance of Rs. 2.50 lakh is not recorded in the books of account. Being so, the cash balance of Rs. 2.50 lakh shall be fully taxable.

5. Flat :-

Under section 2(ea), building or land appurtenant thereto is an asset. However, any building owned by a company and provided to its whole time director whose gross annual salary is less than Rs. 10 lakh is excluded from asset and therefore not taxable.

In the present case, the assessee is a company, the flat has been provided to full time director and the annual salary of director is also less than Rs. 10 lakh. Hence, the flat shall not be taxable.

Q.No.	SEQ / 59.26	Exam	Nov 1998	Marks	6
--------------	--------------------	-------------	-----------------	--------------	----------

F Ltd. has let out a premise with effect from 01.10.2013 on monthly rent of Rs. 1 lakh. The property is constructed on a leasehold land and the unexpired period of lease is 20 years. The tenant has made a deposit equivalent to 3 months rent of Rs. 3 lakhs. The tenant has undertaken to pay the municipal taxes of the premises amounting to Rs. 1 lakh. What will be the value of the property under Schedule III of the Wealth-tax Act?

Answer :-

COMPUTATION OF VALUE OF HOUSE PROPERTY

Particulars	Working	Rs.
GMR:		
Actual rent for let out period	1,00,000 X 6	6,00,000
Add: Municipal tax borne by tenant	$\frac{1,00,000 \times 6}{12}$	50,000
Add: Interest on advance rent	The advance rent is equivalent to 3 months period only. Hence interest element is not to be added.	Nil
<i>De facto</i> rent for let out period		6,50,000
Annualised Rent	$\frac{6,50,000 \times 12}{6}$	13,00,000
Local authority valuation	Not given in question	--
GMR		13,00,000
Less : Standard deduction	15% of GMR	1,95,000
Less : Municipal tax levied by local authority		1,00,000
NMR		10,05,000
Capitalised value	Since the unexpired lease period is less than 15 years, the multiplier shall be 8. Hence 10,05,000 X 8	80,40,000
Value of house property		80,40,000

Q.No.	SEQ / 59.27	Exam	May 1999	Marks	15
--------------	--------------------	-------------	-----------------	--------------	-----------

R and his wife are partners in a firm R&Co. engaged in manufacture of footwear. Their minor son E has been admitted to the benefits of partnership. The profit-sharing ratio is:

	Profit	Loss
R	40%	50%
Mrs. R	30%	50%
E	30%	Nil

The Balance-Sheet of the firm as on 31.03.2014 is :-

Capital & Liabilities	Amount (Rs.)	Assets	Amount (Rs.)
Capital:			
R	15,00,000	Urban house plot	19,60,000
Mrs. R	10,00,000	Jewellery	3,80,000
E	10,00,000	Housing complex	34,30,000
Bank loan	4,58,000	Cash in hand	40,000
Income-tax payable	44,000	Cash in bank	4,30,000
Loan creditors	18,00,000	Stock-in-trade	1,68,000
Trade creditors	5,96,000		
Total	63,98,000	Total	63,98,000

As regards the above Balance Sheet, the following further information is available:

- (1) The area of urban house plot is 490 Sq. meters. The bank loan is in respect of this plot. The market value as on 31.03.2014 is Rs. 10,000 per Sq. meter.
- (2) The Housing complex consists of 3 houses of identical area in Delhi, constructed 2 years back on leasehold lands, the lease to expire on 20.01.2047

The firm carries on business in one of the above units. The other two residential Units have been let out. The pertinent details are:

Particulars	Unit 1	Unit 2
Let out during the year ended 31.03.2014	10 months	9 months
Rent per month	18,000	18,000
Repair expenses borne by tenant	28,000	18,000
Deposits received from tenants (Interest paid thereon @ 9% p.a.)	6,00,000	6,00,000

The tenant in Unit 2 was running a taxi hire concern and the firm had entered into an agreement with the tenant that he shall provide 2,000 Kms. of free taxi travel to the firm for its business use. The normal taxi fare charged is around Rs. 4 per km. The firm has utilized the 2,000 Kms.

The municipal taxes levied for the whole complex is Rs. 12,000 per annum.

- (3) Loan creditors of Rs. 18,00,000 relate to the above complex.
- (4) The market value of jewellery is Rs. 6,20,000.

Compute the interest of the adult partners and E in the firm R&Co. as on 31.03.2014 for the purpose of computation of net wealth in their respective individual hands. In whose hands will the net wealth of E assessed?

Answer :-

COMPUTATION OF NET WEALTH OF PARTERSHIP FIRM

Assets/Liabilities	Treatment and Reason	Rs.
	ASSETS:	
Urban house plot	Urban house plot is an asset u/s 2(ea). Hence taxable.	49,00,000
Jewellery	Jewellery is an asset u/s 2(ea). Hence taxable.	6,20,000
Housing complex – Unit used for business	This unit of housing complex is occupied by firm for the purpose of carrying on business. Hence it is not an asset u/s 2(ea). Therefore not taxable.	Nil
Housing complex – Unit 1	This unit is let out for minimum 300 days during the year. Hence it is not an asset u/s 2(ea). Therefore not taxable.	Nil
Housing complex – Unit 2	This unit is an asset u/s 2(ea). Hence taxable. Refer Working Note No. 2 for computation of taxable value.	18,99,200

Assets/Liabilities	Treatment and Reason	Rs.
Cash	The assessee is a person other than an individual or HUF. Hence the cash in hand recorded in cash book is not an asset u/s 2(ea).	Nil
Bank balance	Bank balance is not an asset u/s 2(ea). Hence not taxable.	Nil
Stock in trade	Stock in trade is not an asset u/s 2(ea). Hence not taxable.	Nil
	Aggregate of assets	74,19,200
	LIABILITIES:	
Bank loan	It is deductible because it is taken for urban house plot and urban house plot is a taxable asset.	4,58,000
Income-tax payable	Income-tax payable is not a liability incurred in relation to any taxable asset. Hence it is not deductible.	Nil
Loan creditors	Total loan amount is Rs. 18,00,000. It is used for housing complex consisting of 3 units out of which only one unit is taxable. Hence 1/3 rd of loan is deductible.	6,00,000
Trade creditors	Trade creditors are not a liability incurred in relation to any taxable asset. Hence it is not deductible.	Nil
	Aggregate of liabilities	10,58,000
	Net wealth	63,61,200

COMPUTATION OF INTEREST OF PARTNERS IN FIRM

Particulars	Mr. R	Mrs. R	E (minor)
Direct allocation to partners to the extent of capital investment made by partners in firm	15,00,000	10,00,000	10,00,000
Balance net wealth of firm (i.e. Rs. 28,61,200) to be allocated in profit sharing ratio. Loss sharing ratio is not relevant.	11,44,480	8,58,360	8,58,360
Value of interest of partners in the net wealth of firm	26,44,480	18,58,360	18,58,360

Working Notes :-

(1) Computation of taxable value of Unit 2 of Housing Complex :-

Particulars	Working	Rs.
<i>De facto rent:</i>		
Actual rent payable by the tenant [The house is let out for 9 months only. Hence actual rent is for 9 months]	18,000 X 9	1,62,000
Add : 1/9 th of actual rent because the cost of repair is borne by tenant [actual cost of repair incurred by tenant is not relevant]	1/9 th of 1,62,000	18,000
Add : Interest on security deposit – Interest is considered @15% per annum (-) Interest @ 9% paid by the assessee to the tenant. The interest shall be included for 9 months.	6% of 6,00,000 for 9 months	27,000
Add : Any other benefit taken by assessee from tenant – The tenant has agreed to provide 2000 Kms. of taxi. The benefit shall be computed @ 4 per Km for 9 months.	$\frac{2,000 \times 4 \times 9}{12}$	6,000
<i>De facto Rent for 9 months</i>		2,13,000
Annualised <i>de facto</i> rent	$\frac{2,13,000 \times 12}{9}$	2,84,000
Computation of GMR (Gross maintainable rent):		
<i>De facto</i> rent as computed above		2,84,000

Particulars	Working	Rs.
Value assessed by local authority	Not given in question	--
Gross maintainable rent		2,84,000
Computation of NMR (Net maintainable rent):		
Gross maintainable rent		2,84,000
Less: Standard deduction	15% of Rs. 2,84,000	42,600
Less: Municipal tax levied by local authority in a year	1/3 rd of 12,000	4,000
Net maintainable rent		<u>2,37,400</u>
Capitalized value:		
NMR x 8 (because the property is constructed over leasehold land and the unexpired lease period is less than 50 years)	2,37,400 X 8	18,99,200
Substitution Step:		
The housing complex is constructed 2 years back only. Hence it is acquired after 31.03.1974. The Substitution Step shall apply. The total cost of complex as per Balance-Sheet is Rs. 34,30,000. 1/3 rd of 34,30,000 shall be Rs. 11,43,333. Capitalised value is Rs. 18,99,200. Since cost does not exceed capitalized value, there is no use of Substitution Step.		18,99,200
Value of house		18,99,200

(2) Valuation of business assets :-

Rule 14 of Schedule III prescribes that in the case of assets of a business disclosed in the Balance-Sheet, the Global Value of asset shall be computed. Thereafter, if the Specific Value of the asset, as computed according to the specific rules applicable to that asset, exceeds 120% of Global Value, Specific Value shall be taken as taxable value; otherwise Global Value shall be taken as taxable value. In this question, all taxable assets (i.e. urban house plot, jewellery and unit 2 of housing complex) are business assets. Hence Rule 14 is applicable. Hence the taxable values of these assets are calculated as follows :-

Assets	Global value	120% of Global Value	Specific Value	Taxable Value
Urban house plot	19,60,000	23,52,000	49,00,000	49,00,000
Jewellery	3,80,000	4,56,000	6,20,000	6,20,000
Unit 2	11,43,333	13,71,999	18,99,200	18,99,200

(3) In **CWT Vs. T.S. Sundaram (2000) 108 Taxman 178 (SC)**, it was held that where the net wealth of firm includes any asset eligible for exemption u/s 5(vi) in the hands of partners, the partners can claim exemption u/s 5(vi) in respect of their proportionate share in such asset.

In this question, the net wealth of firm includes 490 Sq. metered urban house plot at Rs. 49,00,000 (-) 4,58,000 = 44,42,000 and Unit 3 of housing complex at Rs. 18,99,200 (-) 6,00,000 = 12,99,200. Since the value of urban house plot is more than the value of Unit 3 of housing complex, the partners should claim exemption u/s 5(vi) in respect of urban house plot.

(4) The net wealth of minor child E shall be included in the net wealth of Mr. R and Mrs. R whose net wealth shall be higher.

Q.No.	SEQ / 59.28	Exam	Nov 1999	Marks	15
--------------	--------------------	-------------	-----------------	--------------	-----------

X owns a house property at Pune, Which is let out at Rs. 90,000 per annum. The annual value of the property as per municipal record is Rs. 90,000. Municipal taxes are partly borne by the owner (Rs. 3,000) and partly by the tenant (Rs. 4,000). Repair expenses are borne by the tenant (Rs. 3,000). The difference between the unbuilt area and specified area does not exceed 5%. The property was acquired on May 10, 1993 for Rs. 12,50,000. Determine the value of the property as on March 31, 2014 in the following situations:

- The house is built on a freehold land;
- It is built on a leasehold land the unexpired period of lease of the land is more than 50 years;
- The area of the plot on which the house is built is 800 sq meters. FSI permissible is 1.4 and FSI utilized is 1088 sq. meters.(136 meters x 8 stories);
- The tenant had made interest free deposit of Rs. 50,000 with the landlord.

Answer :-

Particulars	Working	Rs.
<i>De facto rent:</i>		
Actual rent		90,000
Add : Municipal tax borne by tenant		4,000
Add : 1/9 th of actual rent because the cost of repair is borne by tenant. Actual expenditure on repair is not relevant.	1/9 th of 90,000	10,000
Add : Interest @15% p.a. of security deposit	15% of 50,000	7,500
<i>De facto Rent</i>		<u>1,11,500</u>
Computation of GMR (Gross maintainable rent):		
De facto rent as computed above	(a)	1,11,500
Value assessed by local authority	(b)	90,000
Gross maintainable rent	Higher of (a) or (b)	1,11,500
Computation of NMR (Net maintainable rent):		
Gross maintainable rent		1,11,500
Less: Standard deduction	15% of Rs. 1,11,500	16,725
Less: Municipal tax levied by local authority in a year	4,000 + 3,000	7,000
Net maintainable rent		<u>87,775</u>
Capitalized value:		
NMR x Multiplier	If the property is built over freehold land, the multiplier shall be 12.50. Hence 87,775 X 12.50	10,97,188
NMR x Multiplier	If the property is built over leasehold land and unexpired lease period is more than 50 years, the multiplier shall be 10. Hence 87,775 X 10	8,77,750
Substitution Step:		
Cost of acquisition		12,50,000
Capitalized value or cost of acquisition, whichever is higher	If the property is constructed over leasehold land, higher of 10,97,188 or 12,50,000 shall be taken	12,50,000

Particulars	Working	Rs.
Capitalized value or cost of acquisition, whichever is higher	If the property is constructed over freehold land, higher of 8,77,750 or 12,50,000 shall be taken	12,50,000
Premium Step:		
Aggregate area of land	800 Sq. Meters	
Built-up area <i>Note: Floor space index (FSI) permissible and utilized are not relevant for our calculations.</i>	136 Sq. Meters	
Actual vacant area	664 Sq. Meters	
Actual vacant area (%)	$664 / 800 * 100 = 83\%$	
Specified vacant area for Pune	65%	
Excess vacant area	18%	
Premium for excess vacant area (%)	40%	
Premium for excess vacant area (amount)	40% of 12,50,000	5,00,000
Value of house for wealth tax purpose		17,50,000

Note:- It is assumed that the information provided in question relating to excess vacant area and interest-free deposit made by tenant are relevant in all situations i.e. whether the building is constructed over freehold land or leasehold land.

Q.No.	SEQ / 59.29	Exam	May 2000	Marks	5
-------	-------------	------	----------	-------	---

The net wealth of a firm consisting of two partners X and Y having 3:1 share and a capital contribution of Rs. 7,50,000 and Rs. 2,50,000 respectively is as under :-

- (i) Value of assets located outside India: Rs. 15 lakh.
- (ii) Value of assets located in India: Rs 40 lakh.
- (iii) Debts incurred in relation to assets in India: Rs 5 lakh.

Determine the value of interest of the partners in the firm.

Answer :-

Rule 16 of Schedule III prescribes that the net wealth of the firm shall be first determined as if the firm were an assessee. Thereafter, the interest of partners in such net wealth shall be computed in following manner:

- (a) Direct allocation shall be made to respective partners to the extent of investment made by them in partnership firm.
- (b) Remaining wealth of firm shall be allocated in dissolution ratio (i.e. the ratio agreed upon by partners in partnership deed for distribution of assets in the event of dissolution of firm). If the partners have not agreed upon dissolution ratio, the remaining wealth of firm shall be allocated in the profit sharing ratio of partners.

In the light of these provisions, the required computations shall be made as under :

COMPUTATION OF NET WEALTH OF FIRM

Value of assets located outside India	15,00,000
Value of assets located in India	40,00,000
Total	55,00,000
Less : Debt incurred in relation to assets in India	5,00,000
Net wealth of the firm	50,00,000

COMPUTATION OF INTEREST OF PARTNERS IN FIRM

Particulars	Mr. X	Mr. Y
Direct allocation to partners to the extent of capital investment made by partners in firm	7,50,000	2,50,000
Balance net wealth of firm (i.e. Rs. 40,00,000) to be allocated in profit sharing ratio	30,00,000	10,00,000
Value of interest of partners in the net wealth of firm	37,50,000	12,50,000

Q.No.	SEQ / 59.30	Exam	May 2000	Marks	6
-------	-------------	------	----------	-------	---

Mr. X is assessed to wealth-tax. He furnishes the following particulars as on valuation date March 31, 2014:

- (a) His father Y, who had both immovable and movable assets and assessed to wealth-tax executed a will during his life time appointing executors, related to Y as uncle(s). Y died on September 30, 2013.
- (b) The executor(s) of the will pointed out that late Y did not file his return of wealth for the valuation date March 31, 2012 and March 31, 2013.
- (c) The executor(s) had completed partial distribution of estate on March 31, 2014 and as a consequence he was in receipt of immovable and movable assets valued at Rs. 20 lakh.

On these facts, you are consulted as to :-

- (i) How Mr. X should proceed for filing his return of wealth as on March 31, 2014;
- (ii) What is his liability in respect of his late father's wealth-tax assessment;
- (iii) In the above facts, what would be the position under the wealth-tax Act, if Y has not executed any will?

Answer :-

In this question, Mr. Y is deceased, uncle(s) of Mr. Y are Executor(s) and Mr. X is legal heir. Mr. Y has deceased on 30.09.2013.

Now pointwise answers are given below:

- (i) **Liability of Mr. X for AY 2014-15:** Section 19A prescribes that any asset distributed by Executor(s) to the legatee shall be taxable in the assessment of legatee. In this case, Mr. X is legatee and he has received immovable and movable assets valued at Rs. 20 lakh on partial distribution made by the Executor(s) on 31.03.2014. Hence Mr. X shall be taxable in respect of those immovable and movable assets for AY 2014-15 [provided those assets fall within the meaning of asset u/s 2(ea)]. Mr. X should avail benefit of exemption u/s 5 available to him, if any.

[Guidance Note: Section 19A prescribes that (i) any asset distributed by Executor(s) to the legatee shall be taxable in the assessment of legatee, and (ii) the asset not distributed by Executor(s) shall be taxable in the hands of Executor(s) as individual].

[Guidance Note: Similar provision exists in section 168 of Income-tax Act, 1961].

- (ii) **Liability of AY 2012-13 and 2013-14:** Section 19 shall apply. The Executor(s) shall be treated as Legal Representative of Mr. Y. The Executor(s) shall be under an obligation to submit returns of Mr. Y for AY 2012-13 (valuation date 31.03.2012) and AY 2013-14 (valuation date 31.03.2013) in their capacity as Legal Representative. Their liability shall be limited to the extent to which the estate of deceased remains with them. The liability of Mr. X shall be limited to the extent of Rs. 20 Lakh (i.e. to the extent he has received assets).

[Guidance Note: Similar provision exists in section 159 of Income-tax Act, 1961].

- (iii) **Intestate death of Mr. Y:** If Mr. Y has not executed any will (i.e. there is an intestate death of Mr. Y), there would be no executor(s). Immediately after death of Mr. Y, the ownership of assets shall pass onto the legal heir(s) of Mr. Y according to their rights prescribed in Succession Act. Thereafter, the legal heir(s) shall include their respective assets / rights in assets in computing their own net wealth of AY 2014-15. As far as the liability of Mr. Y for AY 2012-13 and 2013-14 is concerned, the legal heir(s) shall be liable to submit return of the deceased. [However, sometimes the court appoints executor(s) for administration of the assets of deceased even in case of intestate death. For example – If some

disputes arises between the legal heirs regarding the bequeathed property. If that happens, the situation shall be governed by section 19A of Wealth-tax Act, 1957].

[Guidance Note: Similar provision exists in section 159 of Income-tax Act, 1961].

Q.No.	SEQ / 59.31	Exam	May 2000	Marks	4
--------------	--------------------	-------------	-----------------	--------------	----------

A private trust was created by Ramu in the month of September, 2008 settling an immovable asset from which rental income is derived. According to the trust, Ramu's only major son Raghu is entitled to receive rental income upto 31.03.2014 and thereafter the income shall be received by Raghu's children. Ramu died in 2012. The capitalised value of the property as at 31.03.2014 is Rs. 15 lakh. The property is rented at an income of Rs. 75,000 per year. In the financial year 2013-14, there was unrealised rent of Rs. 50,000/-. Discuss the treatment for AY 2014-15.

Answer :-

The question has typical facts. It raises an interesting question – whether the asset shall be taxable in the hands of Ramu, Trust, Raghu or Raghu's children? We shall analyse as under:

- Ramu has already died in 2012. He is not existing as on 31.03.2014. Hence nothing is taxable in the hands of Ramu.
- Trust is owning immovable asset as on 31.03.2014. The trust is a private trust. A private trust is considered as an individual. Hence the immovable property shall be taxable in the hands of trust **[assuming that the immovable property falls within the definition of asset u/s 2(ea)]**.
- Raghu cannot be taxed because he is not owning immovable asset as on 31.03.2014. He has a limited right only i.e. the right to receive rental income. Even this right was created in September, 2008 and it is valid upto 31.03.2014. This demonstrates that the right is revocable within 6 years. Being so it cannot be taxed in the hands of Raghu. Finally nothing is taxable in the hands of Raghu.
- Raghu's children do not own immovable asset or right to receive rental income as on 31.03.2014. Hence they are not taxable.

In view of above, it can be concluded that the immovable asset shall be taxable in the hands of trust only. Regarding taxable value, the question provides that the capitalised value of property is Rs. 15 lakh. It is assumed that the capitalised value of Rs. 15 lakh is computed according to Schedule III to Wealth-tax Act, 1961. Therefore, a sum of Rs. 15 lakh shall be included in the net wealth of trust.

The rental income of Rs. 75,000 is already considered in computing capitalised value of Rs. 15 lakh. The unrealised rent of 50,000/- is nothing to do with either taxability of immovable asset or valuation of immovable asset.

Q.No.	SEQ / 59.32	Exam	Nov 2000	Marks	3
--------------	--------------------	-------------	-----------------	--------------	----------

Same as Q.No. 59.2.

Q.No.	SEQ / 59.33	Exam	Nov 2000	Marks	8
--------------	--------------------	-------------	-----------------	--------------	----------

Y Ltd. is engaged in the construction of residential flats. For the valuation date march 31, 2014, it furnishes the following data and requests you to compute the taxable wealth :-

Particulars	Rs. in lakhs
Land in urban area (Construction is not permitted as per municipal laws in force)	20
Motor cars(in the use of company)	5
Jewellery (investment)	10

Particulars	Rs. in lakhs
Cash balance (as per books)	2
Bank Balance (as per books)	3
Guest house (situated in rural area)	4
Residential flat occupied by managing director (annual remuneration of whom is ₹ 11 lakhs excluding perquisites)	8
Residential house let out for 100 days in the financial year.	7
Loans obtained:	
– For purchase of motor-car	2
– For purchase of Jewellery	2

The reason for inclusion or exclusion should be stated in the computation.

Answer :-

COMPUTATION OF NET WEALTH

Assets/Liabilities	Treatment and Reason	Rs. in lakh
	ASSETS:	
Land	Land in urban area on which construction is not permitted is not an asset u/s 2(ea). Hence not taxable.	Nil
Motor cars	Motors cars are asset u/s 2(ea). Hence taxable.	5
Jewellery	Jewellery held as investment is an asset u/s 2(ea). Hence taxable.	10
Cash	The assessee is a company. Hence the cash in hand recorded in cash book is not an asset u/s 2(ea).	Nil
Bank balance	Bank balance is not an asset u/s 2(ea). Hence not taxable.	Nil
Guest house	Guest house is an asset u/s 2(ea) even if located in a rural area. Hence taxable.	4
Residential flat provided to managing director	Residential house provided by a company to its full time director is not an asset u/s 2(ea) provided the gross annual salary of director is less than Rs. 10 lakh. In this case, the gross annual salary of director exceeds Rs. 10 lakh. Hence, the flat is an asset u/s 2(ea) and therefore taxable.	8
Residential house	Residential house let out for minimum 300 days during the year is not an asset u/s 2(ea). In this case, the house is let out for 100 days only. Hence it is an asset. Therefore taxable.	7
	Aggregate of assets	34
	LIABILITIES:	
Loan for car	It is deductible because motor car is a taxable asset.	2
Loan for jewellery	It is deductible because jewellery is a taxable asset.	2
	Aggregate of liabilities	4
	Net wealth	30

Q.No.	SEQ / 59.34	Exam	Nov 2000	Marks	2
-------	-------------	------	----------	-------	---

Mrs. W, wife of a coparcener, unilaterally executed a release deed stating that she relinquished her status as a member of HUF but she still maintained her marital status. It was claimed by the HUF that in view of this unilateral declaration by Mrs. W, her share in the assets of HUF should not be included in the net wealth of the HUF. Discuss the validity of claim of HUF.

Answer :-

First of all it should be noted that Mrs. W cannot relinquish her status as a member of HUF. In **CIT Vs. M.A.R. Rajkumar (1997) 226 ITR 804 (AP)** the court held that the membership in HUF cannot be terminated by a unilateral declaration of member unless there is a partition between the members of HUF. There is no provision in Hindu law by which a female member can relinquish her status of a member of HUF while maintaining her marital relation. Thus, the action of Mrs. W itself is invalid in law. Being so, the HUF cannot claim that the share of Mrs. W in the assets of HUF shall not be taxable in the net wealth of HUF.

Q.No.	SEQ / 59.35	Exam	Nov 2000	Marks	2
--------------	--------------------	-------------	-----------------	--------------	----------

The assessee is a trust, whose objects are wide-ranging including imparting education, running free library, to raise the status of humanity and also advancement of general public utility. The trust also conducts chits and collects deposits from public but this is not the predominant or primary object. Is the trust exempt from wealth-tax?

Answer :-

Under section 5(i) of Wealth-tax Act, 1957, the property held under trust or other legal obligation for any public purpose of charitable or religious nature is exempt. It may be noted that the language of section 5(i) does not use the word “wholly”. Thus, for claiming exemption u/s 5(i), it is not necessary that the trust should be wholly for charitable or religious purpose. It is sufficient if the trust is primarily or predominantly for charitable or religious nature. This has been accepted in **Trustees of K.B.H.M. Bhiwandiwalla Trust Vs. CWT (1977) 106 ITR 709 (Bom)**. Hence, in the present question, the trust is eligible for exemption. However the trust should take care to ensure that section 21A is not attracted.

[Guidance Note: There is material difference in the provisions of Income-tax Act, 1961 and Wealth-tax Act, 1957 governing the exemption available to charitable / religious trusts. While section 11(1)(a) of Income-tax Act, 1961 deal with the trusts existing “wholly” for charitable / religious purposes, section 11(1)(b) deal with the trusts existing “partly” for charitable / religious purposes. But, section 5 of Wealth-tax Act, 1957 does not make any such distinction. In fact, section 5 does not use the words “wholly” or “partly”. What can be the logic behind such differences in Income-tax Act, 1961 and Wealth-tax Act, 1957? The Hon’ble High Court of Bombay in Bhiwandiwalla Trust case supra has analysed this difference and concluded that it is possible to have income “wholly” for charitable / religious purpose or “partly” for religious / charitable purpose. But it is difficult to have an asset “wholly” for charitable / religious purpose or “partly” for charitable or religious purpose. Hence, in wealth-tax Act, 1957, the Parliament has not used the words “wholly” or “partly”].

Q.No.	SEQ / 59.36	Exam	May 2001	Marks	5
--------------	--------------------	-------------	-----------------	--------------	----------

‘A’ is legal heir of ‘B’. B had delayed filing of return of wealth for AY 2009-10 to 2011-12. Penalty proceedings u/s 18(1)(a) were initiated against ‘B’ when he was alive. After his death, the AO continued proceeding against ‘A’. Finally, AO imposed penalty on ‘A’. ‘A’ contends that the penalty imposed on him is wrong. Discuss.

Answer :-

In this case, Mr. B has delayed filing of return. This attracts penalty u/s 18(1)(a). Hence the AO initiated penalty proceeding of section 18(1)(a) against Mr. B. Subsequently, Mr. B died and the AO continued penalty proceedings against his legal heir, Mr. A. Finally the AO imposed penalty on Mr. A. Thus the main question is whether the proceeding initiated u/s 18 against the deceased person during his lifetime can be continued against legal heirs after his death or not.

Section 19 of Wealth-tax Act, 1957 prescribes special provisions applicable to legal representative of a deceased individual. Sub-section (1) of section 19 provides that the legal representative shall be liable to pay the tax or any other sum (i.e. interest or penalty) which has been levied on the deceased. Sub-section (2) and (3) of section 19 provides for filing of return, assessment and reassessment proceedings by or against the legal representatives. It may be noted the penalty provisions are prescribed in section 18 of Wealth-tax Act, 1957 and entire section 19 does not contain any reference of section 18. Hence the department is not empowered to impose or continue penalty proceedings of section 18 against legal representatives. This view has been accepted in **ACIT Vs. F.P. Gaekwad (2009) 313 ITR 192 / CWT Vs. H.S. Chauhan (2000) 245 ITR 704 (Del)**.

[Guidance Note: In a similar situation, the position is different in Income-tax Act, 1961. Section 159 of Income-tax Act, 1961 is more flexible due to which penalty proceedings can be taken up against legal heirs].

Q.No.	SEQ / 59.37	Exam	May 2001	Marks	10
--------------	--------------------	-------------	-----------------	--------------	-----------

Bhaskar, a person of Indian origin was working in Kenya from 1995. He returned to India for permanent settlement in May, 2012, when he remitted money into India . For the valuation date 31st March 2014, the following particulars were furnished. You are required to compute the taxable wealth. The reason for inclusion or exclusion should be stated :-

		₹
(i)	Building owned and let out for 270 days for residence. Net maintainable rent (40,000) and the market value ₹10,00,000 (Excess of unbuilt area over specified area is 20% of the aggregate area)	
(ii)	Jewellery purchased in March 2011 out of money remitted to India from Kenya	15,00,000
	Jewellery purchased in August, 2012 out of sale proceeds of motor car brought from abroad and sold	4,00,000
(iii)	Bonds held in companies	5,00,000
(iv)	Motor car used for own business	22,50,000
(v)	Vacant house plot of 400 Sq. Mts. (purchased in December 2007) market value	9,00,000
(vi)	Cash in hand	80,000
(vii)	Urban land purchased in the year 2012 out of withdrawals from NRE account	10,00,000

Answer :-

Asset / Liability	Treatment with reason	Rs.									
Building	<p>Residential building let out for minimum 300 days is not an asset u/s 2(ea). However, in this case, the building has been let out for 270 days only. Hence it is an asset u/s 2(ea) and taxable. Since the building is taxable, its value shall be computed as under:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Net maintainable rent</td> <td style="width: 20%; text-align: center;">....</td> <td style="width: 20%; text-align: right;">40,000</td> </tr> <tr> <td>Capitalised value shall be 40,000 X 12.50</td> <td style="text-align: center;">....</td> <td style="text-align: right;">5,00,000</td> </tr> </table> <p>(Assuming that the building is located over freehold land).</p> <p>Premium for excess vacant area shall be 40% of 5,00,000 because the excess vacant area is 20% of aggregate area ... 2,00,000</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Taxable value</td> <td style="width: 20%; text-align: center;">.....</td> <td style="width: 20%; text-align: right;">7,00,000</td> </tr> </table> <p>Notes:</p> <p>(i) Market value of building is Rs. 10,00,000 but it is not relevant because we are not determining value of building as per Residual Rule.</p> <p>(ii) Refer a detailed note on exemption u/s 5(vi) given later in relation to vacant house plot.</p>	Net maintainable rent	40,000	Capitalised value shall be 40,000 X 12.50	5,00,000	Taxable value	7,00,000	7,00,000
Net maintainable rent	40,000									
Capitalised value shall be 40,000 X 12.50	5,00,000									
Taxable value	7,00,000									
Jewellery	Jewellery is an asset u/s 2(ea). However, any asset purchased by an Indian repatriate within one year before returning to India is exempted u/s 5(v) for 7 assessment years. In this case, the jewellery has been acquired in March, 2011. The assessee has returned to India in May, 2012. Thus, the jewellery is acquired before 1 year. Hence the jewellery is not exempted u/s 5(v). Therefore taxable.	15,00,000									

Asset / Liability	Treatment with reason	Rs.
Jewellery	Jewellery is an asset u/s 2(ea). However, the assessee has originally brought motor car from foreign country, sold such motor car (i.e. converted motor car into money) and thereafter purchased jewellery by utilising sale proceed of motor car, the jewellery shall be eligible for exemption u/s 5(v) as held in CWT Vs. K.O. Mathews (2003) 133 Taxman 418 (Ker) . Hence not taxable.	Nil
Bonds	Bonds held in companies are not asset u/s 2(ea). Hence not taxable.	Nil
Motor car	Motor car is an asset u/s 2(ea) even if it used for own business. Hence taxable.	22,50,000
Vacant house plot	Vacant house plot of 400 Sq. Mts. purchased in December 2007 is an asset u/s 2(ea). Exemption u/s 5(vi): The assessee is an Individual. Hence one house or a plot of land upto 500 Sq. Mts. is exempted u/s 5(vi). In this case, the assessee is having one building valued at Rs. 7,00,000 and one plot of land valued at Rs. 9,00,000. Hence it would be beneficial for the assessee to claim exemption 5(vi) in respect of plot. Therefore, the plot would not be taxable.	Nil
Cash in hand	In the case of an individual, cash balance upto Rs. 50,000 is not an asset. Only excess cash balance is an asset u/s 2(ea). Hence in this case, excess cash balance of Rs. 30,000 shall be taxable.	30,000
Urban land	Urban land purchased in the year 2012 out of withdrawals from NRE account is exempted u/s 5(v) for a period of 7 assessment years. Hence, it is not taxable.	Nil
	Net wealth	44,80,000

Q.No.	SEQ / 59.38	Exam	Nov 2001	Marks	6
-------	-------------	------	----------	-------	---

Star Housing Society Ltd owns a building in Mumbai, which stands on freehold land. There is no unbuilt area. It has 10 members, each of whom has contributed RS. 10 lakh towards the shares in the society. The building was completed and occupied exclusively for residential purposes by its members before 31.03.2014. It was financed partly by the shares contributed by members and partly by bank finance. The annual value fixed by the municipality for the building is Rs. 20 lakh, the taxes amount to Rs. 1 lakh.

Mr. X is a member of society owning one of the flats. The cost of the flat to Mr. X has been fixed by the society at Rs. 20 lakh and the amount outstanding by way of instalment payable to the society by

Mr. X is Rs. 2 lakh. You are required to determine the net wealth of Mr. X as on 31.03.2014.

Answer :-

COMPUTATION OF VALUE OF BUILDING

Particulars	Working	Rs.
GMR	The building is self-occupied. Hence the local authority valuation shall be GMR	20,00,000
Less: Standard deduction	15% of 20,00,000	3,00,000
Less: Municipal tax		1,00,000
NMR		16,00,000
Capitalised value of house	16,00,000 x 12.50	2,00,00,000
Capitalised value of one flat	2,00,00,000 / 10	20,00,000

Particulars	Working	Rs.
Substitution of cost	The capitalized value of flat is Rs. 20 lakh and the cost of flat is also Rs. 20 lakh. Even otherwise, the flat is occupied by the assessee throughout the previous year for his residence. Hence Substitution Step shall not apply.	Not applicable
Value of flat		20,00,000

COMPUTATION OF NET WEALTH OF Mr. X

Value of flat		20,00,000
Less: Liability	Outstanding installments payable by Mr. X to society	2,00,000
Net wealth		18,00,000

Notes :-

- (1) Under section 45, a co-operative society is exempted from levy of wealth-tax. However, section 4(7) provides that where the assessee is a member of a co-operative society, company or other AOP and a property is allotted by society etc. to him, the assessee shall be taxable in respect of such property. Hence, in this case, Mr. X shall be taxable in respect of one flat allotted to him. Therefore, we have computed value of one flat includible in the net wealth of Mr. X.
- (2) The question does not specifically mention that there are 10 flats in the building. However, there are 10 members in the society. Accordingly, we have assumed that there are 10 identical flats in the building and each member has been allotted one flat.

Q.No.	SEQ / 59.39	Exam	Nov 2001	Marks	3
-------	-------------	------	----------	-------	---

How is the value of the interest of a person in a firm of which he is a partner determined under the Wealth-tax Act, 1957.

Answer :-

Rule 16 of Schedule III of Wealth-tax Act, 1957 prescribes the methodology for determination of interest of a partner in a firm. According to this Rule, the net wealth of the firm shall be first determined as if the firm were an assessee. Thereafter, the interest of partners in such net wealth shall be computed in following manner:

- (a) Direct allocation shall be made to respective partners to the extent of investment made by them in partnership firm.
- (b) Remaining wealth of firm shall be allocated in dissolution ratio (i.e. the ratio agreed upon by partners in partnership deed for distribution of assets in the event of dissolution of firm). If the partners have not agreed upon dissolution ratio, the remaining wealth of firm shall be allocated in the profit sharing ratio of partners.

Q.No.	SEQ / 59.40	Exam	Nov 2001	Marks	3
-------	-------------	------	----------	-------	---

The concept of partial partition of HUF is alien to Wealth-tax Act, 1957. Discuss.

Answer :-

Section 20A of Wealth-tax Act, 1957 prescribes that where a partial partition of HUF has taken place after 31.12.1978, such partition shall not be recorded by Assessing Officer. It is further provided that in such a situation, the original HUF shall be deemed to continue and shall be assessed as if there had been no partition. Thus, the partial partition of HUF is derecognised under Wealth-tax Act, 1957.

[Guidance Note: Similar provision exists in section 171(9) of Income-tax Act, 1961].

Q.No.	SEQ / 59.41	Exam	Nov 2001	Marks	3
--------------	--------------------	-------------	-----------------	--------------	----------

X is aged 45 years. His father settled a property in trust giving whole life interest therein to X. the income from the property for the year 2010-11 to 2013-14 was ₹ 60,000, ₹ 64,000, ₹ 70,000 and ₹ 76,000 respectively. The expenses incurred each year were ₹ 2,000, ₹ 4,000, ₹ 5,000 and ₹ 6,000 respectively. Calculate the value of life interest of X in the property so settled on the valuation date March 31, 2014 with the help of the factor of 9.267.

Answer :-

Particulars	Year 2011-12	Year 2012-13	Year 2013-14	Total	Average
Income	64,000	70,000	76,000	2,10,000	70,000
Collection expenses	4,000	5,000	6,000	15,000	5,000
Max. limit of collection expenses – Average collection expenses cannot exceed 5% of average income i.e. 5% of 70,000 = 3,500					3,500
Future maintainable income					66,500

Therefore, value of life interest = 66,500 X Multiplier = 66,500 X 9.267 = 6,16,256.

Working Notes:

The average income and average collection charges are required to be computed on the basis of figures of three years ending on valuation date. Hence, in this case, the computation has been made on the basis of figures of year 2011-12, 2012-13 and 2013-14. The figures of year 2010-11 given in question are not relevant at all.

Q.No.	SEQ / 59.42	Exam	May 2002	Marks	5
--------------	--------------------	-------------	-----------------	--------------	----------

Same as Q.No. 59.6.

Q.No.	SEQ / 59.43	Exam	May 2002	Marks	10
--------------	--------------------	-------------	-----------------	--------------	-----------

A Ltd. Is a company engaged in the construction and sale of buildings. It has the following assets as on 31.03.2014. You are required to compute net wealth of company:

Particulars	Rs. in lakh
Flats – residential ready for sale	200
Commercial properties ready for sale	500
Guest house situated 30 Kms. away from Delhi	25
2 residential houses occupied by:	
(a) An officer having annual salary of 7 lakh	10
(b) An officer having annual salary of 11 lakh	15
Cars used for company's business	20
Urban land held from 31.01.2002 on which no building could be built due to dispute of title	50
Cash in hand	5

Answer :-

Asset/Liability	Treatment with reason	Rs. in lakh
Flats	Flats are held for sale. That means they are part of stock-in-trade. Hence they are not asset u/s 2(ea). Hence not taxable.	Nil
Commercial properties	These properties are held for sale. That means they are part of stock-in-trade. Hence they are not asset u/s 2(ea). Hence not taxable.	Nil
Guest house	Guest house is an asset u/s 2(ea) even if situated 30 Kms. away from Delhi. Hence taxable.	25

Asset/Liability	Treatment with reason	Rs. in lakh
Residential house	Residential house occupied by an officer having annual salary of 7 lakh is not an asset u/s 2(ea). Hence not taxable.	Nil
Residential house	Residential house occupied by an officer having annual salary of 11 lakh is an asset u/s 2(ea). Hence taxable.	15
Cars	Cars are used for company's business. They are neither stock-in-trade nor held for hiring. Hence they are asset u/s 2(ea). Hence taxable.	20
Urban land	The assessee is engaged in real estate business. This demonstrates that the urban land is a part of stock-in-trade. However, the land has been purchased on 31.01.2002 and the period of 10 years has already expired. Hence, it is an asset u/s 2(ea). Regarding, non-construction of building, the assessee has not been able to construct building because of title-dispute. It is not a case where construction is not permitted under any law. Hence the exception prescribed in section 2(ea) is not available. In the ultimate, the land is taxable.	50
Cash in hand	Assuming that cash balance is recorded in the books of company, it is not an asset u/s 2(ea). Hence not taxable.	Nil
	Net Wealth	110

Q.No.	SEQ / 59.44	Exam	Nov 2002	Marks
-------	-------------	------	----------	-------

Same as Q.No. 59.12.

Q.No.	SEQ / 59.45	Exam	Nov 2002	Marks
-------	-------------	------	----------	-------

Same as Q.No. 59.24.

Q.No.	SEQ / 59.46	Exam	Nov 2002	Marks
-------	-------------	------	----------	-------

Enumerate the entities to which the provisions of the Wealth-tax Act do not apply.

Answer :-

Section 45 of Wealth-tax act, 1957 prescribes that the provisions of this Act shall not apply to the following entities:

- Any company registered u/s 25 of the Companies Act, 1956.
- Any co-operative society.
- Any social club.
- Any political party.
- Any mutual fund covered u/s 10(23D) of Income-tax Act, 1961
- Reserve Bank of India.

Q.No.	SEQ / 59.47	Exam	Nov 2002 (New)	Marks	2
-------	-------------	------	----------------	-------	---

Explain the procedure for adoption of the value of the jewellery for the valuation date as at March 31, 2014 and subsequent 3 years assuming the value of the jewellery has been determined by Valuation Officer as at March 31, 2013.

Answer:-

Rule 18 and 19 of Schedule III to Wealth-tax Act, 1957 prescribe that where the value of jewellery has been determined by Valuation Officer, such value shall be used in subsequent 4 successive assessment years, subject to following adjustments:

- (a) **Price adjustment** - If the jewellery includes gold, silver or alloy, the value of such gold, silver or alloy as on the valuation date relevant to the assessment year shall be substituted in place of the value as on the valuation date on which the Valuation Officer determined the value.
- (b) **Quantity adjustment** - If any jewellery is sold / acquired, its value should be reduced / increased from the original valuation.

Thus, if the value of jewellery has been determined by the Valuation Officer for AY 2013-14 (valuation date 31.03.2013), such value can be used for 4 assessment years (i.e. the AY 2014-15 and subsequent 3 years) after making above stated price and quantity adjustments.

Q.No.	SEQ / 59.48	Exam	Nov 2002 (New)	Marks	8
--------------	--------------------	-------------	-----------------------	--------------	----------

Mr. Kamat, a not ordinarily resident in India, seeks your advice with regard to the furnishing of his wealth-tax return. The value of assets held on 31.03.2014 is indicated below. You are requested to compute the taxable wealth of Mr. Kamat giving justification for the inclusion or exclusion of each item:

	Particulars	
(i)	Motor cars of foreign make held as fixed assets	19,50,000
(ii)	8% Bonds issue by Reserve bank of India	15,00,000
(iii)	Residential house property at Pune let out with effect from 05 th June, 2014	11,00,000
(iv)	Jewellery held	9,00,000
(v)	Lands purchased for industrial purpose:	
	on 1 st January, 2011	5,50,000
	on 25 th March, 2014	7,50,000
(vi)	Loan against the purchase of lands:	
	On 01 st January, 2011	2,75,000
	On 25 th March, 2014	3,50,000
(vii)	Wealth-tax liability	9,000
(viii)	Cash in hand	75,000
(ix)	Cash in Bank	1,25,000
(x)	Fixed assets located in USA	50,00,000
(xi)	Value of assets held by Mrs. Kamat acquired out of the gifts received from her husband:	
	Share and securities	2,00,000
	Residential house property at Mumbai	9,00,000

Answer :-

Assets/Liabilities	Treatment with reason	₹
	ASSETS:	
Motor car	Motor cars of foreign make held as fixed assets are asset u/s 2(ea). Hence taxable.	19,50,000
Bonds	8% Bonds issue by Reserve Bank of India are not asset u/s 2(ea). Hence not taxable.	Nil
House at Pune	Residential let out during the previous year for minimum 300 days is not asset u/s 2(ea). In this case, the house has been let out for 300 days. Hence it is not an asset. Therefore not taxable.	Nil
Jewellery	Jewellery is an asset u/s 2(ea). Hence taxable.	9,00,000
Land for industrial use	Land purchased for industrial purpose is not an asset u/s 2(ea) for a period of 2 years. In the case of land purchased on 01.01.2011, the period of 2 years has already expired on valuation date 31.03.2014. Hence this land is an asset u/s 2(ea) and taxable.	5,50,000

Assets/Liabilities	Treatment with reason	₹
Land for industrial use	Land purchased for industrial purpose is not an asset u/s 2(ea) for a period of 2 years. In the case of land purchased on 25.03.2014, the period of 2 years has not expired on valuation date 31.03.2014. Hence this land is not an asset u/s 2(ea) and not taxable.	Nil
Cash in hand	In the case of an individual, cash balance upto Rs. 50,000 is not an asset. Only excess cash balance is an asset u/s 2(ea). Hence in this case, excess cash balance of Rs. 25000 shall be taxable.	25,000
Cast at Bank	Cash in Bank is not an asset u/s 2(ea). Hence not taxable.	Nil
Fixed asset	Fixed assets are located in USA and not in India. The assessee is not ordinary resident. Under section 6, in the case of a not ordinary resident, only assets located in India are taxable. Assets located outside India are not taxable. On this basis, the fixed assets located in USA are not taxable.	Nil
Shares and securities held by Mrs. Kamat	Shares and securities have been acquired by Mrs. Kamat out of gifts received from Mr. Kamat. Hence, the value of such shares and securities is includible in the net wealth of Mr. Kamat u/s 4(1)(a). However, the shares and securities are not asset u/s 2(ea). Therefore not taxable.	Nil
Residential house property held by Mrs. Kamat	Residential house is an asset u/s 2(ea). This house has been acquired by Mrs. Kamat out of gifts received from Mr. Kamat. Hence, the value of such house is includible in the net wealth of Mr. Kamat u/s 4(1)(a). However, Mr. Kamat can claim exemption u/s 5(vi) in respect of one house-property. In the ultimate, nothing would be taxable.	Nil
	Aggregate of assets	34,25,000
	LIABILITIES:	
Loan	Loan against the land purchased on 01.04.2011 is deductible because this land is taxable.	2,75,000
Loan	Loan against the land purchased on 25.03.2014 is not deductible because this land is not taxable.	Nil
Wealth-tax	Wealth-tax liability is not a debt incurred in relation to any of the taxable asset. Hence not allowed.	Nil
	Aggregate of liabilities	2,75,000
	Net wealth	31,50,000

Q.No.	SEQ / 59.49	Exam	May 2003	Marks	3
-------	-------------	------	----------	-------	---

Same as Q.No. 59.22.

Q.No.	SEQ / 59.50	Exam	May 2003	Marks	2
-------	-------------	------	----------	-------	---

Mr. X enters into an agreement with Mr. Y on 12.03.2014 to sell his house property for Rs. 50 lakhs and received an advance of Rs. 10 lakh. He further received a sum of Rs. 15 lakh on 25.03.2014. The sale deed was executed on 21.04.2014. Discuss whether the house constitutes his asset on valuation date 31.03.2014.

Answer :-

In this case, the sale-deed was executed on 21.04.2014. Apparently the transfer of property took place in the financial year 2014-15. In other words, as on 31.03.2014, Mr. X was owner of property. Hence, the property shall be taxable in the hands of Mr. X.

However, it may be noted that if the conditions of section 53A of Transfer of Property Act, 1882 are satisfied before 31.03.2014, the property shall be included in the net wealth of Mr. Y due to section 4(8).

Q.No.	SEQ / 59.51	Exam	May 2003	Marks	5
--------------	--------------------	-------------	-----------------	--------------	----------

Mr. Raj executed a will during his life time. His uncle Mr. Amitabh was appointed as executor under the 'will'. Mr. Raj died on 13.06.2013. The executor could complete the distribution of assets after the valuation date 31.03.2014.

The wealth tax records of Mr. Raj reveal that (a) the return of wealth for the valuation date 31.03.2014 was not filed; (b) wealth tax demands for the assessment year 2011-12 and 2012-13 are payable. On these facts, Mr. Amitabh approached you to advise him on his obligation under wealth tax Act, 1957.

Answer :-

In this question, Mr. Raj is deceased and Mr. Amitabh is Executor as well Legal Representative.

Liability of Mr. Amitabh for AY 2014-15 in the capacity of Executor :-

Section 19A shall apply to Mr. Amitabh in the capacity of Executor. The Executor(s) have not made any distribution of asset upto 31.03.2014. Hence the assets of deceased shall be taxable in the hands of executor(s). For this purpose, the executor(s) shall be deemed to be an individual. The residential status and citizenship of the executor(s) shall be as that of the deceased person on the valuation date immediately preceding the death. The assessment on executor(s) shall be made separately and independently from their personal assessments of their own assets.

[Guidance Note: Similar provision exists in section 168 of Income-tax Act, 1961].

Liability of Mr. Amitabh for AY 2011-12 and 2012-13 in the capacity of Legal Representative :-

Section 19 shall apply to Mr. Amitabh in the capacity of Legal Representative. The Legal Representative shall be liable to pay the old demand of Mr. Raj. The liability of Legal Representative shall be limited to the extent to which the estate of deceased is capable to meet the demand.

[Guidance Note: Similar provision exists in section 159 of Income-tax Act, 1961].

Q.No.	SEQ / 59.52	Exam	Nov 2003	Marks	2
--------------	--------------------	-------------	-----------------	--------------	----------

State, with reasons, whether the Jewellery transferred to a minor handicapped daughter on December 31, 2013 constitutes "asset" chargeable under Wealth-tax Act, 1957 in the hands of X, father?

Answer :-

Jewellery is an asset u/s 2(ea). However, it does not belong to assessee because it is owned by his minor handicapped daughter. Therefore it is directly not taxable in the hands of assessee.

However, section 4(1)(a)(ii) prescribes that any asset owned by a minor child shall be deemed to be an asset of parent and hence includible in net wealth of parents. But there is an exception. If the minor child suffers from any disability covered u/s 80U of Income-tax Act, 1961, section 4(1)(a)(ii) does not apply. In the present case, the assessee gets benefit of this exception. Thus, the jewellery shall not be includible in the hands of parents.

Q.No.	SEQ / 59.53	Exam	Nov 2003	Marks	2
--------------	--------------------	-------------	-----------------	--------------	----------

Same as Q.No. 59.32.

Q.No.	SEQ / 59.54	Exam	Nov 2003	Marks	2
--------------	--------------------	-------------	-----------------	--------------	----------

State, with reasons, whether 50% of palace (occupied by him and declared by Government as his official residence) is rented out throughout the previous year ending March 31, 2014, constitutes "asset" chargeable under Wealth-tax Act, 1957 in the hands of X, a former ruler?

Answer :-

The asset involved in question is a palace which has two parts, viz. (i) 50% portion is occupied by Ex-ruler, and (ii) 50% portion is let out.

Treatment of 50% self-occupied portion:

Under section 2(ea), any building is an asset and therefore taxable. However, under section 5(iii) read with **Mohd. Ali Khan Vs. CWT (1997) 224 ITR 672 (SC)**, the official residence in possession of Ex-Ruler is exempted. Hence 50% self-occupied portion shall not be taxable by virtue of section 5(iii).

Treatment of 50% let out portion:

Under section 2(ea), any building is an asset and therefore taxable. But there is one exception. Any residential house let out for minimum 300 days is not an asset. In this case, the 50% portion is let out throughout the previous year. Hence, this portion is not an “asset” and not taxable.

Q.No.	SEQ / 59.55	Exam	Nov 2003	Marks	4
--------------	--------------------	-------------	-----------------	--------------	----------

Return of net wealth declaring wealth of Rs. 55.50 Lacs for assessment year 2013-14 was filed by Ravi on 13.11.2013. The Assessing Officer issued notice under section 16(2), which was served upon the assessee on 28.10.2014. The assessment was completed by the assessing officer on 13-03-2016 on the wealth of Rs. 85 Lacs. Ravi wants to know :

- (i) Whether the order passed by the assessing officer is a valid order under the Act.
- (ii) Will his case be fit for levy of penalty, if assessed wealth is not disputed?

Answer :-

- (i) In this case, the assessee has submitted return on 13.11.2013. Hence the return is a belated return u/s 15. Section 16(2) requires that the AO shall serve the notice of scrutiny upon assessee within 12 months from end of the month in which return is submitted. In this case, this period expires on 30.11.2014 (i.e. 30.11.2013 + 12 months). Hence the notice served by AO upon the assessee on 28.10.2014 is within the prescribed time. Section 17A prescribes that the order of assessment must be passed within 2 years from end of the relevant assessment year. In this case, the relevant AY is 2013-14. Hence the time limit allowed for passing of order shall be 31.03.2016 (31.03.2014 + 2 years). The AO has passed order on 13.03.2016. Thus, the order of assessment is a valid order under the Act.

Guidance note: A summary of equivalent sections of Income-tax, 1961 and Wealth-tax Act, 1957 is given below for your quick reference:

Section in IT Act, 1961	Section In WT Act, 1957	Provision
139(1)	14(1)	Compulsory filing of return upto due date
139(4)	15	Belated return
139(5)	15	Revised return
140	15A	Signature on return
140A	15B	Self-assessment
143(1)	16(1)	Summary assessment
143(2) / 143(3)	16(2) / 16(3)	Scrutiny assessment
144	16(5)	Best judgement assessment
147 to 152	17	Income escaping assessment
153	17A	Time limits for completion of assessment

- (ii) Explanation 4 to section 18(1)(c) prescribes that where the value of assets disclosed by a person is less than 70% of the value of such assets determined in an assessment order u/s 16 or 17, such person shall be deemed to have furnished inaccurate particulars of assets unless he proves that the value of assets as disclosed by him is the correct value.

In the present case, the value determined by Wealth-tax Officer is Rs. 85 lakh. 70% of Rs. 85 lakh amounts to Rs. 59,50,000 but the disclosure of assessee is only Rs. 55,50,000. Thus, the value disclosed by assessee is less than 70%. Hence, this is a fit case for imposition of penalty unless the assessee proves that the value disclosed by him is correct.

Q.No.	SEQ / 59.56	Exam	May 2004	Marks	2
-------	-------------	------	----------	-------	---

A company incorporated outside India is not liable to wealth-tax in India. Discuss.

Answer :-

Section 3 of Wealth-tax Act, 1957 is the charging section. It prescribes that the net wealth of an individual, HUF or company is chargeable to tax under Wealth-tax Act, 1957. Section 2(h) defines the term "Company". According to section 2(h) "company" shall have the same meaning as in section 2(17) of Income-tax Act, 1961. Section 2(17) of Income-tax Act, 1961 prescribes that "company" includes a company incorporated under the laws of a foreign country.

In view of above provisions, a company incorporated outside India is a taxable entity under the provisions of Wealth-tax Act, 1957. Therefore, it is wrong to say that a company incorporated outside India is not liable to wealth-tax.

[Guidance Note: Many authors have given answer of this question on the basis of "scope of net wealth" as prescribed in section 6 of Wealth-tax Act, 1957. This is not correct because the question is asking whether a company incorporated outside India is liable (or not liable to wealth-tax) in India. The question is not asking which assets are taxable in India (or not taxable in India) in the case of a company incorporated outside India. The answer given in practice manual of ICAI is correct].

Q.No.	SEQ / 59.57	Exam	May 2004	Marks	8
-------	-------------	------	----------	-------	---

A co-operative society formed for the purpose of construction of residential flats for its members acquired a large area of urban land for Rs. 3 crore. The society had membership, all having equal share. The Assessing Officer proposes to tax urban land in the hands of the society.

1. What is meant by urban land?
2. Is the action of the Assessing Officer correct ?
3. Can the members of the society be assessed on their share in the value of the urban land ?

Answer :-

1. The term "urban land" is defined in section 2(ea) of Wealth-tax Act, 1957. According to this section "urban land" means, any land situated--

- (i) in any area which is comprised within the 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 10,000; or
- (ii) in any area within the distance, measured aially --
 - (a) not being more than 2 kilometers, from the local limits of any municipality or cantonment board referred to in sub-clause (i) and which has a population of more than 10,000 but not exceeding 1,00,000; or
 - (b) not being more than 6 kilometers, from the local limits of any municipality or cantonment board referred to in sub-clause (i) and which has a population of more than 1,00,000 but not exceeding 10,00,000; or
 - (c) not being more than 8 kilometers, from the local limits of any municipality or cantonment board referred to in sub-clause (i) and which has a population of more than 10,00,000,

but does not include following lands:

- (a) any land classified as agricultural land in the records of the Government and used for agricultural purposes, or
- (b) any land on which construction of a building is not permissible under any law for the time being in force in the area in which such land is situated, or
- (c) the land occupied by any building which has been constructed with the approval of the appropriate authority, or
- (d) any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him, or

(e) any land held by the assessee as stock-in-trade for a period of ten years from the date of its acquisition by him.

- Section 45 of Wealth-tax Act, 1957 prescribes that no wealth-tax is chargeable in respect of net wealth of a co-operative society. Hence, the action of Assessing Officer is not justified.
- Section 4(7) of Wealth-tax Act, 1957 provides that where the assessee is a member of a co-operative society, company or other AOP and a property is allotted by society etc. to him, the assessee shall be taxable in respect of such property. It may be noted that section 4(7) is applicable only *post-allotment* of building. However, prior to such allotment, this section does not apply.

In the present case, the society has not allotted property to its members. Hence section 4(7) does not apply. Being so, the Assessing Officer cannot tax members.

Q.No.	SEQ / 59.58	Exam	Nov 2004	Marks	6
--------------	--------------------	-------------	-----------------	--------------	----------

X Ltd. is engaged in the construction of residential flats. For the valuation date March 31, 2014, it furnishes the following data and requests you to compute the taxable wealth:

Particulars	Rs.
Land in urban area (construction is not permitted as per municipal laws in force)	35,00,000
Motor-cars (used for running on hire by the company) :	7,00,000
Jewellery (investment)	15,00,000
Loan taken for purchasing the jewellery.	10,00,000
Cash balance (as per books)	1,75,000
Bank balance	2,50,000
Guest house situated in a place which is 30 km. away from the local limits of the municipality	6,00,000
Residential flat occupied by the managing director. The managing director is in whole time appointment and also drawing remuneration of Rs. 2,00,000 per month.	10,00,000
Residential house let out on hire for 200 days	8,00,000

The computation should be supported with proper reasoning for inclusion or exclusion.

Answer :-

COMPUTATION OF NET WEALTH OF X Ltd

Assets/Liabilities	Treatment and reason	Rs.
Land	Land in urban area is not an asset u/s 2(ea) because construction is not permitted as per municipal laws in force. Hence not taxable.	Nil
Motor cars	Motor-cars used for running on hire is not an asset u/s 2(ea). Hence not taxable.	Nil
Jewellery	Jewellery held as investment is an asset u/s 2(ea). Hence taxable.	15,00,000
Cash	Cash balance recorded in the books of account of a company is not an asset u/s 2(ea). Hence not taxable.	Nil
Bank balance	Bank balance is not an asset u/s 2(ea). Hence not taxable.	Nil
Guest house	Guest house is an asset u/s 2(ea) even if it is situated in a place which is 30 km. away from the local limits of the municipality.	6,00,000
Flats	The assessee is a company. The residential flat has been provided to its managing director who is in full time employment. But the gross annual salary of director is Rs. 24 lakh which is not less than Rs. 10 lakh. Hence the flat is an asset u/s 2(ea). Hence taxable.	10,00,000
Residential House	Residential house let out on hire for 200 days is an asset u/s 2(ea) because the letting out period is less than 300 days. Hence taxable.	8,00,000
	Aggregate of assets	39,00,000

Assets/Liabilities	Treatment and reason	Rs.
	LIABILITIES:	
Loan taken for jewellery	This loan is a liability incurred in relation to jewellery which is included in assets. Hence deductible.	10,00,000
	Aggregate of liabilities	10,00,000
	Net wealth	29,00,000

Q.No.	SEQ / 59.59	Exam	Nov 2004	Marks	4
-------	-------------	------	----------	-------	---

Same as Q.No. 59.12.

Q.No.	SEQ / 59.60	Exam	May 2005	Marks	10
-------	-------------	------	----------	-------	----

X, Y and Z are partners in a firm engaged in the business of running a manufacturing unit in the municipal town of Siliguri having a population of more than 10,000 located in the State of West Bengal. Given below is the Balance Sheet of the firm as on March 31, 2014 :

(Rs. In lakhs)

Liabilities	Rs.	Assets	Rs.
Partners' Capital:		Urban land	300
X	300	Urban land (construction not allowed)	700
Y	400	Factory land	200
Z	300	Residential house	300
Cash credit from bank (Secured by stock and debtors)	100	Plant (WDV)	120
Term loan from bank (Secured by charge on gold and silver)	700	Factory shed	400
Creditors	1,500	Lorry (WDV)	100
Other liabilities	600	Stocks	300
		Gold and silver	800
		Sundry debtors	180
		Advance tax	200
		Cash at Bank	300
Total	3,900	Total	3,900

Extra points :-

- Two urban lands are valued by independent valuers at Rs. 550 and Rs. 50 lakh respectively.
- The market value of gold and silver as on the Balance Sheet was Rs. 1,100 lakh.
- The value of residential house as per rule 3 of Schedule III is Rs. 350 lakh.
- Term loan was taken for purchase of: (a) plant and machinery Rs. 300 lakh; (b) urban lands the plots are of equal size Rs. 700 lakh.
- The residential house is occupied by partner X, who looks after the production activity of the firm.
- Partner Y is a non-resident for income-tax purposes.
- The partners share the profits in the ratio of 2 : 2 : 1.
- Details of personal assets of the partners as on March 31, 2014 are as follows :

(Rs. in lakhs)

Particulars	X	Y	Z
Shares of companies	40	Nil	Nil
Cash in hand (in India)	Nil	0.75	Nil
Fixed deposit and other deposits with banks	35	32	40
Loan taken for making investment in the firm	30	Nil	Nil
Residential house in Nairobi, Kenya	Nil	400	Nil

You are required to determine the assessable wealth of each partner as at March 31, 2014 stating clearly the reason for inclusion or exclusion of each item.

Answer :-

Under Wealth-tax Act, 1957, a partnership firm is not an assessee. However the net wealth of firm is computed, interest of partners is determined in such net wealth and thereafter the interest so computed is included in the hands of respective partners u/s 4(1)(b). All these calculations are made as under:

COMPUTATION OF NET WEALTH of PARTNERSHIP FIRM

Assets / Liabilities	Treatment with reason	Rs. in lakh
	ASSETS:	
Urban land	This is an asset u/s 2(ea). Hence taxable.	550
Urban land	Urban land on which construction is not allowed is not an asset u/s 2(ea). Hence not taxable.	Nil
Factory land	It appears that the factory land is used for constructing factory shed. Thus, factory land is a part of building or land appurtenant thereto. Since the building or land appurtenant thereto is used for the purpose of carrying on business, it is not an asset u/s 2(ea). Hence not taxable.	Nil
Residential house	A residential house provided by a company to its employee/director whose gross annual salary is less than Rs. 10 lakh, is not an asset u/s 2(ea). In the present case, the assessee is a partnership firm and the house is occupied by a partner. Hence the benefit of this provision is not available. There is another provision in the definition of asset u/s 2(ea) according to which a building occupied by an assessee for the purpose of carrying on own business is not an asset u/s 2(ea). The benefit of this provision will also not be available because the house is occupied by the partner and not by firm itself. Hence, the house shall be taxable.	300
Plant	Plant is not an asset u/s 2(ea). Hence not taxable.	Nil
Factory shed	Factory shed is a building. It appears that the factory shed is used for the purpose of carrying on business. Hence it is not an asset u/s 2(ea). Therefore not taxable.	Nil
Lorry	Lorry is not an asset u/s 2(ea). Hence not taxable.	Nil
Stock	Stock is not an asset u/s 2(ea). Hence not taxable.	Nil
Gold and silver	Gold and silver is an asset u/s 2(ea). Hence taxable.	1,100
Sundry debtors	Sundry debtors are not an asset u/s 2(ea). Hence not taxable.	Nil
Advance-tax	Advance-tax is not an asset u/s 2(ea). Hence not taxable.	Nil
Cash at Bank	Cash at Bank is not an asset u/s 2(ea). Hence not taxable.	Nil
	Aggregate of assets	1,950
Cash Credit	It appears that cash credit is used for working capital. Hence it is not deductible but any asset forming part of working capital is not taxable.	Nil
Term loan from bank	Term loan is used for two urban lands, which are equal sized. Hence 50% of loan is used for one urban land which is not taxable and 50% of loan is used for another urban land which is taxable. Hence 50% of loan (50% of 700 lakh) which is used for taxable urban land is deductible.	350
Creditors	These are not deductible because they are not incurred for any taxable asset.	Nil
Other liabilities	These are not deductible because they are not incurred for any taxable asset.	Nil

Assets / Liabilities	Treatment with reason	Rs. in lakh
	Aggregate of liabilities	350
	Net wealth of firm	1,600

Note :- Rule 14 of Schedule III prescribes that in the case of assets of a business disclosed in the Balance-Sheet, the Global Value of asset shall be computed. Thereafter, if the Specific Value of the asset, as computed according to the specific rules applicable to that asset, exceeds 120% of Global Value, Specific Value shall be taken as taxable value, otherwise Global Value shall be taken as taxable value. In this question, all taxable assets (i.e. urban land, residential house and gold/silver) are business assets. Hence Rule 14 is applicable. Hence the taxable values of these assets are calculated as follows:

Assets	Global value	120% of Global Value	Specific Value	Taxable Value
Urban land	300	360	550	550
Residential house	300	360	350	300
Gold and silver	800	960	1100	1100

COMPUTATION OF INTEREST OF PARTNERS IN NEW WEALTH OF FIRM

(Rs. in lakh)

Particulars	X	Y	Z
Direct allocation to the extent of capital of partners	300	400	300
Remaining net wealth (i.e. 600 lakh) in profit sharing ratio i.e. 2:2:1	240	240	120
Share of partners in the net wealth of firm	540	640	420
In CWT Vs. T.S. Sundaram (2000) 108 Taxman 178 (SC) , it was held that where the net wealth of firm includes any asset eligible for exemption u/s 5(vi) in the hands of partners, the partners can claim exemption u/s 5(vi) in respect of their proportionate share in such asset. In this question, the net wealth of firm includes residential house at Rs. 300 and urban land at Rs. 200 (Value of urban land is 550 minus loan for land is 350. Hence effectively it is 200). Since the value of house is more than the value of land, the partners shall be claiming exemption u/s 5(vi) in respect of their share in house. Hence, proportionate share of partners in the residential house of firm is computed as under: Share of X = $\frac{540 \times 300}{1600}$, Share of Y = $\frac{640 \times 300}{1600}$ Share of Z = $\frac{420 \times 300}{1600}$	101.25	120	78.75

COMPUTATION OF NET WEALTH OF X, Y AND Z

(Rs. in lakh)

Particulars	X	Y	Z
Interest in net wealth of firm	540	640	420
Shares of companies are not an asset u/s 2(ea). Hence not taxable.	Nil	Nil	Nil
Cash in hand is not an asset upto Rs. 50,000. Only excess is an asset and taxable.	Nil	0.25	Nil
Fixed deposits and other deposits are not an asset u/s 2(ea). Hence not taxable.	Nil	Nil	Nil
Residential house in Nerobi, Kenya is an asset located outside India. Since Mr. Y is a non-resident for income-tax purpose, he shall be treated as non-resident for wealth-tax also. Therefore the residential house located outside India is not taxable u/s 6.	Nil	Nil	Nil
Total	540	640.25	420
Less: Share in residential house of firm exempted u/s 5(vi) due to CWT Vs. T.S. Sundaram (2000) 108 Taxman 178 (SC) .	101.25	120	78.75

Particulars	X	Y	Z
Aggregate of assets	438.75	520.25	341.25
Less: Loan taken for making investment in firm is deductible because interest in firm is taxable.	30	Nil	Nil
Net wealth	408.75	520.25	341.25

Q.No.	SEQ / 59.61	Exam	Nov 2005	Marks	10
-------	-------------	------	----------	-------	----

New Era Ltd. furnishes the following particulars of its wealth for the valuation date of 31st March, 2014. The company is engaged in real estate business and also in jewellery trade. Compute its net wealth on valuation date 31.03.2014 and the wealth tax payable:

Particulars	Rs.
Land in rural area (within 5 kms of Aligarh – purchased in 1992, construction on which is permissible but not held as stock in trade)	90,00,000
Land in urban area (for construction of Mall-not held as stock in trade)	20,00,000
Land in urban area (held as stock-in-trade since 2001)	50,00,000
Motor car (including one imported car worth Rs. 6 Lacs)	11,00,000
Jewellery (held as stock-in-trade)	18,00,000
Bank Balance	5,00,000
Cash in hand as per cash book	2,70,000
Guest house and land appurtenant thereto in rural area	8,00,000
Residential flats of identical size provided to six employees for their use near factory in rural areas (salaries of two such employees exceed Rs. 10,00,000 p.a.)	15,00,000
Residential provided to managing director (salary exceeds Rs. 10,00,000 p.a.)	10,00,000
Flats constructed remaining unsold (not held as stock in trade)	30,00,000
Residential house of provided to whole time director (salary Rs. 15,000 p.m.)	17,00,000
The company has taken the following loans :	
(a) for purchase of jewellery	6,00,000
(b) for flats constructed remaining unsold	2,00,000
(c) for residence provided to whole time director	90,000

Answer :-

COMPUTATION OF NET WEALTH

Asset / Liability	Treatment with reason	Rs.
	ASSETS:	
Land in Aligarh	Land in rural area is situated within 5 kms. of Aligarh. It is assumed that the population of Aligarh and distance within which the land is situated put the land in the definition of “urban land”. The land is not held as stock-in-trade. Further, construction is permissible. Considering all these aspects, land is an asset u/s 2(ea). Hence taxable.	90,00,000
Urban land	Urban land is an asset. It is not held as stock-in-trade. Hence it is an asset u/s 2(ea). The purpose of land is to construct a Mall but there is no such exception in Wealth-tax Act. Hence, the land is taxable.	20,00,000
Urban land	Urban land held as stock-in-trade is not an asset for a period of 10 years from the date of acquisition. In this case, the land is acquired in 2001. Hence the period of 10 years has already expired before valuation date 31.03.2014. Thus, the land is taxable.	50,00,000

Asset / Liability	Treatment with reason	Rs.
Motor car	Motor car is an asset u/s 2(ea) irrespective of whether imported or made in India. Hence it is taxable.	11,00,000
Jewellery	Jewellery held as stock-in-trade is not an asset u/s 2(ea). Hence not taxable.	Nil
Bank balance	Bank balance is not an asset u/s 2(ea). Hence not taxable.	Nil
Cash in hand	The assessee is a company. Hence cash balance recorded in the books of account is not asset u/s 2(ea). Therefore not taxable.	Nil
Guest house	Guest house and land appurtenant thereto falls within "building and land appurtenant thereto". It is an asset u/s 2(ea) even if located in a rural area. Hence taxable.	8,00,000
Residential flats provided to employees	Residential house provided by a company to its employees is not an asset u/s 2(ea) provided the gross annual salary of employee is less than Rs. 10 lakh. In this case, the assessee is having 6 flats and provided those flats to employees. The salary of 2 employees exceed Rs. 10 lakh and the salary of 4 employees is less than Rs. 10 lakh. Hence, out of 6 flats, 2 flats shall be treated as asset u/s 2(ea) and therefore taxable. Since all flats are of identical size, the value of 2 flats shall be $15,00,000 / 6 * 2$	5,00,000
Residential flat provided to managing director	Residential house provided by a company to its full time director is not an asset u/s 2(ea) provided the gross annual salary of director is less than Rs. 10 lakh. In this case, the gross annual salary of director exceeds Rs. 10 lakh. Hence, the flat is an asset u/s 2(ea) and therefore taxable.	10,00,000
Unsold flats	Flats constructed remaining unsold are asset u/s 2(ea) because they are not held as stock in trade. It is further assumed that the flats are not used for the purpose of business carried on by the assessee. Hence they are taxable.	30,00,000
Residential house provided to whole time director	Residential house provided by a company to its full time director is not an asset u/s 2(ea) provided the gross annual salary of director is less than Rs. 10 lakh. In this case, the salary of director is Rs. 15,000 per month. That means the gross annual salary is Rs. 1.80 lakh which is less than Rs. 10 lakh. Hence, the house is not an asset u/s 2(ea) and therefore not taxable.	Nil
	Aggregate of assets	2,24,00,000
	LIABILITIES:	
Loan	Loan for purchase of jewellery is not deductible because jewellery is not taxable.	Nil
Loan	Loan for flats constructed remaining unsold is deductible because flats are taxable.	2,00,000
Loan	Loan for residential house provided to whole time director is not deductible because the house is not taxable.	Nil
	Aggregate of liabilities	2,00,000
	Net wealth	2,22,00,000

COMPUTATION OF TAX

Net wealth as computed above	2,22,00,000
Tax on first 30,00,000	Nil
Tax on balance of Rs. 1,92,00,000 @ 1%	1,92,000
Total tax	1,92,000

Q.No.	SEQ / 59.62	Exam	May 2006	Marks	10
--------------	--------------------	-------------	-----------------	--------------	-----------

X, an individual furnishes the following particulars of his assets and liabilities as on March 31, 2014:

Particulars	Rs. in lakh
Assets:	
Residential house at New Delhi	25
Residential house at Agra	15
Plot of land comprising an area of 450 square meter at Mumbai	60
House at New Delhi exclusively used for carrying on his business	15
Commercial complex at Agra	20
Residential house at Chennai let out for 335 days during the relevant previous year	10
Motor cars used in business of running them on hire	20
Shares in private limited companies	25
Cash in hand	3
Gold jewellery	12
Liabilities:	
Loan borrowed for purchase of land at Mumbai	20
Loan borrowed for purchase of shares in private limited companies	10
Loan borrowed for purchase of gold jewellery	6

Amounts stated against assets, except cash in hand are the values determined as per section 7 of the Wealth-tax Act, read with Schedule III thereto. Compute the net wealth of X for the AY 2014-15. State the reason for inclusion or exclusion of the various items.

Answer :-

COMPUTATION OF NET WEALTH

Assets / Liabilities	Treatment with reason	Rs. in lakh
	ASSETS:	
Residential house at New Delhi	It is an asset u/s 2(ea). Hence taxable.	25
Residential house at Agra	It is an asset u/s 2(ea). Hence taxable.	15
Plot of land comprising an area of 450 square meter at Mumbai	It is urban land and therefore an asset u/s 2(ea). Hence taxable. However, under section 5(vi), in the case of an individual, one house or land upto 500 square meter is exempted. In this case, the assessee is having three asset with following values eligible for exemption u/s 5(vi): (i) House at Delhi -- 25 Lakh (ii) House at Agra -- 15 Lakh (iii) Plot at Mumbai -- 40 lakh (60 lakh minus 20 Lakh, being loan) Hence the assessee should claim plot at Mumbai for exemption u/s 5(vi) because that would be more beneficial for him.	Nil
House at New Delhi exclusively used for carrying on his business	The house is occupied by assessee for the purpose of business carried on by him. It is not an asset u/s 2(ea). Hence not taxable.	Nil

Assets / Liabilities	Treatment with reason	Rs. in lakh
Commercial complex at Agra	Commercial complex is not an asset u/s 2(ea). Hence not taxable.	Nil
Residential house at Chennai let out for 335 days during the relevant previous year	A residential house let for minimum 300 days is not an asset u/s 2(ea). Since the assessee has let out house for 335 days, it is not an asset. Hence not taxable.	Nil
Motor cars used in business of running them on hire	Motors cars used in a business of running them on hire are not an asset u/s 2(ea). Hence not taxable.	Nil
Shares in private limited companies	Shares are not an asset u/s 2(ea). Hence not taxable.	Nil
Cash in hand	The assessee is an individual. The cash balance upto Rs. 50,000 is not an asset. Hence out of cash balance of Rs. 3 lakh, only 2,50,000 shall be asset and taxable.	2.50
Gold jewellery	It is an asset u/s 2(ea). Hence taxable.	12
	Aggregate of assets	54.50
	LIABILITIES:	
Loan borrowed for purchase of land at Mumbai	This loan has been used for purchase of land for which the assessee is claiming exemption u/s 5(vi). Hence this loan is not allowed.	Nil
Loan borrowed for purchase of shares in private limited companies	This is not allowed because shares are not taxable.	Nil
Loan borrowed for purchase of gold jewellery	This is allowed because gold jewellery is taxable.	6
	Aggregate of liabilities	6
	Net wealth	48.50

Q.No.	SEQ / 59.63	Exam	Nov 2006	Marks	10
-------	-------------	------	----------	-------	----

Mr. Dinesh, an individual, has the following assets and liabilities as on 31.03.2014:

Assets	Rs. in Lacs
Plot of land at Bhopal comprising an area of 1,200 square metres on which building has been constructed without the approval of the appropriate authority	25
Building constructed on land at Bhopal without the approval of the appropriate authority and used for his business purposes.	10
Motor cars held as stock-in-trade	60
Gold jewellery brought into India from Singapore, where he was residing, on his return to India on 1.11.2009 for permanently residing in India.	6
Jewellery made of Platinum.	9
Interest in the coparcenary property of the Hindu undivided family of which he is a member	15
Cash in hand recorded in the books of account	5
Fixed deposits in a co-operative Bank	10
Liabilities	
Loan borrowed for marriage of daughter	6
Loan borrowed for construction of building at Bhopal	5

The minor married daughter of Dinesh holds a plot of land at Indore valued at Rs. 20 Lacs.

The amounts stated against the assets, except cash in hand, are the values determined as per section 7 of the Wealth-tax Act, 1957 read with Schedule III.

Compute the net wealth of Dinesh as on valuation date 31.03.2014. State the reasons for inclusion or exclusion of the various items.

Answer :-

Asset/Liability	Treatment with reason	Rs. in Lacs
	ASSETS:	
Plot at Bhopal and building constructed thereon.	The latest judicial view [Apollo Tyres Ltd. V. CIT [2010] 189 Taxman 225 (Ker.) / Smt. Neena Jain (2011) 330 ITR 157 (P&H)] is that once a building has been constructed over the plot of land, the nature of asset ceases to remain land. Now it has become "building and land appurtenant thereto". Since the "building and land appurtenant thereto" is occupied by the assessee for the purpose of business carried on by him, it is not an asset u/s 2(ea). Hence not taxable.	Nil
	As discussed above building constructed on land is also not an asset u/s 2(ea) because it is occupied by the assessee for the purpose of business carried on by it. Hence not taxable.	Nil
Motor car	Motor cars held as stock-in-trade is not asset u/s 2(ea). Hence not taxable.	Nil
Gold Jewellery	Although "gold jewellery" is an asset u/s 2(ea), yet it is brought by the assessee into India from Singapore on his return to India on 01.11.2009 for permanently residing in India. This asset shall be exempt for 7 assessment years u/s 5(v). Hence not taxable.	Nil
Platinum Jewellery	Jewellery made of Platinum is an asset u/s 2(ea). Hence taxable.	9
Interest in HUF	Interest in the coparcenary property of the HUF is exempted u/s 5(ii). Hence not taxable.	Nil
Cash	In the case of an individual, cash balance upto Rs. 50,000 is not an asset. Only excess balance is an asset u/s 2(ea) irrespective of whether recorded in the books of account or not. In the present question, the cash balance is Rs. 5 lakh. Hence, cash balance of Rs. 4,50,000 shall be asset u/s 2(ea) and taxable.	4.50
Fixed deposit	Fixed deposits in a co-operative Bank is not an asset u/s 2(ea). Hence not taxable.	Nil
Plot of minor	Since the minor daughter is married, clubbing provision of section 4(1)(a)(ii) does not apply. Hence the plot of minor married daughter shall not be taxable in the net wealth of assesses.	Nil
	Aggregate of assets	13.50
	LIABILITIES:	
Loan	Loan borrowed for marriage of daughter is not deductible because it is not incurred in relation to any of the taxable assets.	Nil
Loan	Loan borrowed for construction of building at Bhopal is not deductible because the building is not taxable.	Nil
	Aggregate of liabilities	Nil
	Net Wealth	13.50

Q.No.	SEQ / 59.64	Exam	May 2007	Marks	3
--------------	--------------------	-------------	-----------------	--------------	----------

Same as Q.No. 59.16.

Q.No.	SEQ / 59.65	Exam	May 2007	Marks	2
--------------	--------------------	-------------	-----------------	--------------	----------

Wealth tax is not payable by an assessee in respect of any property held under trust or other legal obligation for any public purpose of a charitable or religious nature in India. Do you agree with the statement?

Answer :-

The statement is partly correct.

Reason: Section 5(i) of Wealth-tax Act, 1957 grants exemption to any property held by a person under trust or other legal obligation for a public charitable or religious purpose in India. However, this exemption is not allowed in respect of following assets / situations:

- Any property forming part of a business is not exempted unless the business is of a nature referred to in 11(4A) or 10(23B) or 10(23C) of Income-tax Act, 1961, or
- If the exemption is forfeited u/s 21A of Wealth-tax Act, 1957.

Q.No.	SEQ / 59.66	Exam	May 2007	Marks	5
--------------	--------------------	-------------	-----------------	--------------	----------

Compute the net wealth of X Ltd. (carrying on the business of running cars on hire and also dealing in jewellery) which furnishes the following particulars of its assets and liabilities as on March 31, 2014:

Assets	Book value Rs. (in crore)	If valued as per Schedule III Rs. (in crore)
Fixed assets:		
Plant and machinery	10	15
Factory building	25	10
Urban land (450 sq. meters)	40	100
Motor cars	5	10
Investments:		
Jewellery	15	30
Plot of land in Mumbai (480 sq. meters)	10	50
Equity shares in subsidiary companies	20	25
Current assets:		
Inventories (jewellery)	150	150
Sundry debtors	10	10
Cash and bank balances (includes cash balance of Rs. 1,00,000)	5	5
Liabilities:		
Current liabilities	40	40
Loans secured on fixed assets (urban land)	30	30

Answer:-

COMPUTATION OF NET WEALTH OF X Ltd.

Assets/Liabilities	Treatment and reason	Rs. (in crore)
	ASSETS:	
Plant and machinery	It is not an asset under section 2(ea). Hence not taxable.	Nil
Factory building	It is occupied by assessee for the purpose of business. Alternatively it is a commercial establishment. Hence it is not an asset u/s 2(ea). Hence not taxable.	Nil

Assets/Liabilities	Treatment and reason	Rs. (in crore)
Urban land	It is an asset under section 2(ea). The exemption u/s 5(vi) in respect of a plot of land not exceeding 500 sq. meters is available only to an individual or HUF. The assessee is a company. Hence the exemption is not available.	100 (Refer Note)
Motor car	Since the assessee is engaged in the business of running cars on hire, it is assumed that the cars given in question are used in such hiring business. Hence they are not asset u/s 2(ea). Therefore, not taxable.	Nil
Jewellery held as investment	It is an asset u/s 2(ea) because the it is not held as stock-in-trade. Hence taxable.	30 (Refer Note)
Plot of land in Mumbai	It is an urban land and therefore falls within asset u/s 2(ea). Hence taxable.	50 (Refer Note)
Shares	Equity shares in subsidiary companies are not an asset under section 2(ea). Hence not taxable.	Nil
Inventory (jewellery)	Jewellery is held as stock-in-trade. Hence it is not an asset u/s 2(ea). Therefore not taxable.	Nil
Sundry debtors	It is not an asset u/s 2(ea). Hence not taxable.	Nil
Cash balance	Cash balance of Rs. 1,00,000 recorded in the books of account is not an asset u/s 2(ea) in the case of a company. Hence not taxable.	Nil
Bank balance	It is not an asset u/s 2(ea). Hence not taxable.	Nil
	Aggregate of assets	180
	LIABILITIES:	
Current liabilities	These are not incurred in relation to any taxable asset. Hence not allowed.	Nil
Loans	Loans taken for purchase of urban land shall be allowed as deduction because the urban land is taxable.	30
	Aggregate of liabilities	30
Net wealth		150

Note : - Rule 14 of Schedule III prescribes that in the case of assets of a business disclosed in the Balance-Sheet, the Global Value of asset shall be computed. Thereafter, if the Specific Value of the asset, as computed according to the specific rules applicable to that asset, exceeds 120% of Global Value, Specific Value shall be taken as taxable value, otherwise Global Value shall be taken as taxable value. In this question, all taxable assets (i.e. urban land, jewellery and plot of land in Mumbai) are business assets. Hence Rule 14 is applicable. Hence the taxable values of these assets are calculated as follows:

Assets	Global value	120% of Global Value	Specific Value	Taxable Value
Urban land	40	48	100	100
Jewellery	15	18	30	30
Plot of land in Mumbai	10	12	50	50

Q.No.	SEQ / 59.67	Exam	Nov 2007	Marks	5
-------	-------------	------	----------	-------	---

X gives the particulars of various assets held by him on March 31, 2014 and requests you to compute his net wealth by explaining in brief that why the same was dealt with like that:

- Jewellery gifted to wife from time to time in total of Rs. 1 lakh and was available with her on the valuation date having market value of Rs. 5 lakh.
- A flat in Mumbai purchased under installment scheme in 1986 for Rs. 6 lakh and used for own residence since then. The market value of it was Rs. 20 lakh on March 31, 2014 and installment of Rs. 1 lakh was also outstanding.

- iii. He is a qualified engineer and was in possession of instruments used for his professional activity. The value of all such instruments was Rs. 1 lakh.
- iv. Urban land purchased for Rs. 2 lakh in August 2010 located at Jaipur, in the name of his son who is suffering from a disability specified under section 80U. The age of his son on March 31, 2014 was 10 years and value of land was Rs. 5 lakh.
- v. House located in NOIDA shown in wealth tax return for assessment year 2013-14 at Rs. 40 lakh was sold on March 20, 2014 for Rs. 45 lakh, but the sale deed thereof was executed on April 3, 2014.

Answer :-

The question requires computation of net wealth of Mr. X. Hence the net wealth shall be computed as under:

Assets/Liabilities	Treatment and reason	Rs.
	ASSETS:	
Jewellery	“Jewellery” is an asset u/s 2(ea). Further section 4(1)(a)(i) prescribes that any asset transferred by a person to his spouse without consideration or for inadequate consideration shall be deemed to be an asset in the hands of transferor. Further section 7(1) prescribes that the value of any asset as on valuation date computed according to Schedule III shall be taken in computation of net wealth. In view of these provisions, Mr. X shall be taxable in respect of 5,00,000.	5,00,000
Flat	Flat is an “asset” u/s 2(ea). However, in the case of an individual, one house is exempted u/s 5(vi). Thus, the flat becomes exempted u/s 5(vi).	Nil
Instruments	Instruments are not “asset” u/s 2(ea). Hence not taxable.	Nil
Urban land	Urban land is an asset u/s 2(ea). However, it does not belong to assessee because it is owned by his minor son. Therefore it is not taxable in the hands of assessee. Section 4(1)(a)(ii) prescribes that any asset owned by a minor child shall be deemed to be an asset of parent and hence includible in net wealth of parents. But there is one exception. If the minor child suffers from any disability, section 4(1)(a)(ii) does not apply. In the present case, the assessee gets benefit of this exception. Thus, land shall not be includible in the hands of parents.	Nil
House	House is an asset u/s 2(ea). Further section 4(8) prescribes that if the conditions of section 53A of Transfer of Property Act, 1882 are satisfied, the asset shall be taxable in the hands of buyer (and not in the hands of seller) even if the sale-deed is not executed or not registered. In the present case, the property is sold on 20.03.2014 but sale-deed is executed on 03.04.2014. Now, we assume that all conditions of section 53A are satisfied on 20.03.2014. Hence the house shall not be taxable in the hands of Mr. X	Nil
	Aggregate of assets	5,00,000
	LIABILITIES:	
Installments of flat	Although outstanding liability of intallments of flat are deductible but in this case the assessee has claimed exemption u/s 5(vi) in respect of flat. Hence, the outstanding liability related to exempted asset cannot be deducted.	Nil
	Aggregate of liabilities	Nil
	Net wealth	5,00,000

Q.No.	SEQ / 59.68	Exam	Nov 2007	Marks	5
--------------	--------------------	-------------	-----------------	--------------	----------

Examine the correctness of the statement that “All types of land held by an assessee on the valuation date are treated as ‘Urban land’ under the Wealth-tax Act”.

Answer:

The statement is not correct.

Reason: The term “urban land” is defined in section 2(ea) of Wealth-tax Act, 1957. According to this section “urban land” means, any land situated--

- (i) in any area which is comprised within the 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 10,000; or
- (ii) in any area within the distance, measured aerially --
 - (a) not being more than 2 kilometres, from the local limits of any municipality or cantonment board referred to in sub-clause (i) and which has a population of more than 10,000 but not exceeding 1,00,000; or
 - (b) not being more than 6 kilometres, from the local limits of any municipality or cantonment board referred to in sub-clause (i) and which has a population of more than 1,00,000 but not exceeding 10,00,000; or
 - (c) not being more than 8 kilometres, from the local limits of any municipality or cantonment board referred to in sub-clause (i) and which has a population of more than 10,00,000,

but does not include following lands:

- (a) any land classified as agricultural land in the records of the Government and used for agricultural purposes, or
- (b) any land on which construction of a building is not permissible under any law for the time being in force in the area in which such land is situated, or
- (c) the land occupied by any building which has been constructed with the approval of the appropriate authority, or
- (d) any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him, or
- (e) any land held by the assessee as stock-in-trade for a period of ten years from the date of its acquisition by him.

Hence it cannot be said that all types of land held by an assessee on the valuation date are treated as ‘Urban land’ under the Wealth-tax Act.

Q.No.	SEQ / 59.69	Exam	May 2008	Marks	5
--------------	--------------------	-------------	-----------------	--------------	----------

State with reasons whether the following constitute assets chargeable to wealth-tax on the valuation date March 31, 2014.

- i. Agricultural farm house situated 26 Kms. outside the municipal limits of Jaipur, but within 22 kms. of Niwai Municipal Corporation.
- ii. Factory building and godown leased out on rent.
- iii. Silver and gold in the jeweller’s shop.
- iv. Aircraft held by a shipping company having turnover of Rs. 800 crore for exclusive use of its managing director.
- v. A cash balance of Rs. 1,50,000.

Answer :-

The answer shall be as follows:-

- (i) Farm house – The farm house situated outside 25 Kms. from municipal limit is not an asset u/s 2(ea). But, in the present case, although the farm house is 26 Kms. from Jaipur, yet it is 22 Kms. from Niwai Municipal Corporation. Hence it is an asset u/s 2(ea). Therefore taxable.
- (ii) Factory building and godowns – These are in the nature of commercial establishments. Hence these are not asset u/s 2(ea). Therefore not taxable.
- (iii) Silver and gold in jeweller’s shop -- Under section 2(ea), any “jewellery, bullion etc.” is an asset. However, jewellery / bullion etc. held as stock-in-trade, is not an “asset”. In the present case, the silver and gold is held in jeweller’s shop. Hence, it is assumed that the silver / gold is held as a part of stock-in-trade. Therefore it is not an “asset” and consequently not taxable.
- (iv) Aircraft – Under section 2(ea), “aircraft” is an “asset”. However, there is one exception i.e. the aircraft held for “commercial use” is not an asset. The expression “commercial use” is not defined in Wealth-Tax Act. However, it has been held in **Amalgamated Electricity Co. Ltd Vs. State of Rajasthan AIR 1983 (Raj) 154 / Garware Wall Ropes Ltd. Vs. CIT (2004) 89 ITD 221 (Mum)** that the aircraft held for own business use falls within “commercial use”. On this basis, the aircraft held by a shipping company for use of its managing director is not an asset u/s 2(ea) assuming that the director is using it for company’s business. .
- (v) Cash balance – If the assessee is an individual / HUF, cash in hand upto Rs. 50,000 is not an asset u/s 2(ea). Only excess cash balance is an asset and chargeable to wealth-tax. However, if the assessee is any person other than an individual or HUF, the cash balance recorded in the books of account is not an asset u/s 2(ea). Only unrecorded cash balance is an asset and chargeable to tax.

Q.No.	SEQ / 59.70	Exam	May 2008	Marks	3
--------------	--------------------	-------------	-----------------	--------------	----------

X, a married coparcener having no son but two minor daughters gets a commercial property on disruption of the HUF on March 17, 2014. He, therefore seeks your advice to know in whose hands the value of this property shall be subject to Wealth-tax on valuation date March 31, 2014.

Answer :-

Mr. X is a married person. His family consists of Mr. X himself, his wife and two daughters. However, he does not have any son. He receives asset on disruption of HUF. This situation is directly covered by the judgement of Hon’ble Supreme Court in the case of **N.V. Narendra Nath Vs. CWT (1969) 74 ITR 190 (SC)** wherein it was held that if the property is received by a family consisting of husband and wife on partition of a pre-existing HUF, the property shall constitute HUF property. The Hon’ble Court held that there is no need to have two coparceners in such a situation.

It may also be noted that the Hindu Law is substantially amended w.e.f. 09.09.2005 as a result of which the position is further relaxed. Now, the daughters are also coparceners. In the present case, Mr. X has two daughters. Hence, after this amendment, the position is quite clear that the property shall constitute HUF property.

It should be noted that commercial property is in the nature of commercial establishment. Hence it would be excluded from asset u/s 2(ea). Therefore the property shall not be taxable.

Q.No.	SEQ / 59.71	Exam	May 2008	Marks	2
--------------	--------------------	-------------	-----------------	--------------	----------

How can the arrear demand of Wealth-tax be recovered by the department where the assessee dies prior to making payment thereof?

Answer :-

The answer lies in section 19 and section 34C. Section 19 provides that where a person dies prior to making the payment of demand of tax, the same shall be recovered out of the estate of the deceased from his Legal Representatives to the extent the estate of deceased is capable to meet the liability. Further section 34C empowers the Assessing Officer to order provisional attachment of property belonging to the deceased for the purpose of recovery of demand.

[Guidance Note: Similar provision exists in section 159 of Income-tax Act, 1961].

Q.No.	SEQ / 59.72	Exam	Nov 2008 (Old)	Marks	8
--------------	--------------------	-------------	-----------------------	--------------	----------

X Constructions Ltd. furnishes following particulars of its wealth for the valuation date as on March 31, 2014:

Particulars	Rs. in lakh
Assets:	
Land in urban area (held as stock in trade since 1997)	81
Motor cars (including one imported car worth Rs. 18 lakh used for hiring)	38
Agricultural land (250 acre) acquired at Greater Noida Township on August 27, 2013 for construction of residential flats/commercial complex. However Greater Noida Authority has reserved 25 acre land as green belt	250
Residential flats of 1500 sq. feet each provided to 3 employee (salary of one employee exceeded Rs. 10 lakh per annum)	36
Farm house of 5 acre at a remote village	9
Cash in hand as per cash book	3
Liabilities:	
Loan for purchase of land at Urban area	30
Loan for purchase of land at Greater Noida	120
Wealth-tax liability for assessment year 2013-14	12
Loan for construction of residential flats	9

Compute the net wealth of the company for the assessment year 2014-15.

Answer :-

COMPUTATION OF NET WEALTH

Assets/Liabilities	Treatment and Reason	Rs. in lakh
	ASSETS:	
Land	Land in urban area is an asset u/s 2(ea). Any urban land held as stock in trade is excluded from asset for a period of 10 years from the date of acquisition. However, the assessee does not get benefit of this exclusion because the time-limit of 10 years has expired. Hence taxable.	81
Cars	One car of Rs. 18 lakh used for hiring is not asset u/s 2(ea). Hence not taxable.	Nil
Cars	Other cars are asset u/s 2(ea). Hence taxable.	20
Land at Noida	25 acres of land is reserved for green belt. That means construction is not permitted on that portion. It is not an asset u/s 2(ea). Hence not taxable.	Nil
Land at Noida	Remaining 225 acres of land is held for construction of residential flats/commercial complex. The assessee is engaged in real estate business. Hence it appears that the land is a part of stock-in-trade. Since the period of 10 years has not expired, the land held as stock-in-trade is not an asset u/s 2(ea). Hence not taxable.	Nil
Flats	Flat provided to one employee whose salary exceeded Rs. 10 lakh is an asset u/s 2(ea).	12
Flats	Flats provided by a company to employees whose salary did not exceed Rs. 10 lakh are not asset u/s 2(ea). Hence not taxable.	Nil
Farm house	Farm house of 5 acre at a remote village is not an asset u/s 2(ea) assuming that it is outside 25 Kms. from municipal limit. Hence not taxable.	Nil
Cash	The assessee is a company. Hence the cash in hand recorded in cash book is not an asset u/s 2(ea).	Nil

	Aggregate of assets	113
	LIABILITIES:	
Loan for land	Loan for purchase of land at urban area is allowed	30
Loan for land	Loan for purchase of land at Greater Noida is not allowed because the asset is not taxable	Nil
Wealth-tax	Wealth-tax liability for assessment year 2013-14 is not a debt incurred in relation to assets as per CBDT Circular No. 663 dated 28.09.1993 . Hence not allowed.	Nil
Loan for flat	Loan for construction of residential flats shall be allowed to the extent of 9/3 = 3 Lakh only because only flat is taxable.	3
	Aggregate of liabilities	33
	Net wealth	80

Q.No.	SEQ / 59.73	Exam	Nov 2008 (Old)	Marks	2
--------------	--------------------	-------------	-----------------------	--------------	----------

Mr. X, a member of co-operative housing society, was allotted a plot as per the bye laws of the society. He constructed a house on plot and substituted the name of his wife in the records of the society in his place. The society executed the registered sale deed in respect of said plot in favour of his wife. The Assessing Officer included value of said property in the hands of Mr. X. Examine the validity of the action of the Assessing Officer.

Answer :-

Section 4(7) prescribes that where the assessee is a member of a co-operative society, company or other AOP and a property is allotted by society etc. to him, the assessee shall be taxable in respect of such property. It may be noted that section 4(7) is applicable *qua* member only. In the present case, Mr. X is not a member of society because he has substituted the name of his wife in the records of society. Hence, section 4(7) is not applicable in relation to Mr. X. This view has also been accepted in **Ram Saran Das Tandon v. CWT[2007] 292 ITR 546 (All)**. Therefore, by invoking section 4(7) the Assessing Officer cannot tax the value of asset in the hands of Mr. X.

However, we should also examine applicability of section 4(1)(a)(i) according to which if a person transfers his asset to his spouse without consideration or for inadequate consideration, the asset shall be taxable in the hands of transferor. The question is not clear as to whether Mr. X made transfer to his wife for adequate consideration or not. Hence, if we assume that Mr. X made transfer for adequate consideration, section 4(1)(a)(i) shall not apply and the asset shall be taxable in the hands of his wife. But if Mr. X has made transfer without consideration or for inadequate consideration, section 4(1)(a)(i) shall apply and consequently, the asset shall be taxable in the hands of Mr. X.

Q.No.	SEQ / 59.74	Exam	Nov 2008 (New)	Marks	10
--------------	--------------------	-------------	-----------------------	--------------	-----------

Mr. A, a Chartered Accountant and citizen of India serving 16 years in U.K. returned back on 12.04.2013 for permanent settlement in India. He started professional practice. He furnishes following details as on 31.03.2014 and requests you to compute his net wealth on valuation date 31.03.2014:

Particulars	Rs. in lakh
Car used for professional work	25
Car used for personal purposes	15
Laptop used for personal purposes	1
Desktop/Scanner/Printer used in office	2
Bank term deposits	10
Shares of companies	5
Loan against car used for professional work	5
Urban land purchased in the name of handicapped son (minor)	3
Jewellery valuing now Rs. 5 lakh purchased out of money from NRE A/c on 01.12.2012	

Particulars	Rs. in lakh
House property valuing now Rs. 40 lakh purchased on 11.10.2009 from the funds in NRE A/c was given on rent to a corporate house on 01.07.2013	
Amount of Rs. 2,00,000 was withdrawn from bank on 27.03.2014 for a deal of a house which could not be materialized and therefore the cash was deposited back in bank on 02.04.2014.	
Jewellery worth Rs. 2 lakh was gifted on 22.03.2014 to wife on the occasion of 25 th marriage anniversary.	

Answer :-

COMPUTATION OF NET WEALTH

Assets/Liabilities	Treatment and reason	Rs.
	ASSETS:	
Car	Car used for professional work is an asset u/s 2(ea). Hence taxable.	25,00,000
Car	Car used for personal purposes is an asset u/s 2(ea). Hence taxable.	15,00,000
Laptop	Laptop used for personal purposes is not an asset u/s 2(ea). Hence not taxable.	Nil
Desktop etc.	Desktop/Scanner/Printer used in office is not an asset u/s 2(ea). Hence not taxable.	Nil
Bank deposit	A bank term deposit is not an asset u/s 2(ea). Hence not taxable.	Nil
Shares	Shares of companies are not an asset u/s 2(ea). Hence not taxable.	Nil
Urban land	Urban land is an asset u/s 2(ea). However, it does not belong to assessee because it is owned by his minor son. Therefore it is not taxable in the hands of assessee. Section 4(1)(a)(ii) prescribes that any asset owned by a minor child shall be deemed to be an asset of parent and hence includible in net wealth of parents. But there is one exception. If the minor child suffers from any disability, section 4(1)(a)(ii) does not apply. In the present case, the assessee gets benefit of this exception. Thus, land shall not be includible in the hands of parents.	Nil
Jewellery	Jewellery is an asset u/s 2(ea). But it is exempted u/s 5(v) because the assessee is an Indian repatriate (he has returned to India on 12.04.2013 on permanent basis) and purchased jewellery on 01.12.2012 (i.e. within one year before coming to India) by utilizing money from NRE A/c.	Nil
House property	House property is let out on 01.07.2013. That means the property is let out for 274 days which is less than 300 days. Hence, the property is an asset u/s 2(ea). The exemption u/s 5(v) is not available because although the assessee is an Indian repatriate, the property has been purchased on 11.10.2009 which is not within 1 year before coming to India. However, the assessee is an individual. Therefore, one house is exempted u/s 5(vi). The assessee can therefore claim exemption u/s 5(vi). Hence the property is not taxable.	Nil
Cash balance	The assessee has withdrawn cash of Rs. 2,00,000 from bank. This was re-deposited in bank on 02.04.2014. Till then it remained unutilized. This demonstrates that the assessee had cash balance of Rs. 2,00,000 on valuation date 31.03.2014. Assuming there was no other cash balance with assessee, he had cash balance of Rs. 2,00,000 out of which 50,000 is not an asset u/s 2(ea). Remaining cash balance of Rs. 1,50,000 is an asset u/s 2(ea) and taxable.	1,50,000

Assets/Liabilities	Treatment and reason	Rs.
Jewellery	Jewellery is an asset u/s 2(ea). The assessee has transferred this jewellery by way of gift to his wife on 22.03.2014. As per section 4(1)(a)(i), any asset transferred by an individual to his spouse without consideration or for inadequate consideration is includible in the net wealth of transferor. Hence the jewellery of Rs. 2 lakh is taxable in the net wealth of assessee.	2,00,000
	Aggregate of assets	43,50,000
	LIABILITIES:	
Loan against car	Loan against the car used for professional work is deductible because car is taxable.	5,00,000
	Aggregate of liabilities	5,00,000
	Net wealth	38,50,000

Q.No.	SEQ / 59.75	Exam	Nov 2008 (New)	Marks	4
-------	-------------	------	----------------	-------	---

The recognition of the heirloom jewellery granted to a former ruler by the Central Govt. in March, 1957 was withdrawn by the Board on 11.08.2013 with retrospective effect from 01.04.1971. The fair market value of his jewellery on 11.08.2013 was Rs. 100 lakh and on 31.03.2013 was Rs. 110 lakh. Explain the implications of it on the wealth tax liability of the former ruler.

Answer :-

Section 5(iv) exempts heirloom jewellery of an Ex-Ruler from levy of wealth-tax, subject to fulfilment of certain conditions. However, the exemption can be withdrawn by CBDT if any of the prescribed conditions is not satisfied. In such a case the withdrawal of recognition shall be effective from 09.09.1972 and the tax liability shall arise from AY 1973-74.

Since, in the present case, the CBDT has withdrawn recognition, the Ex-Ruler shall become taxable as under:

Arrear liability upto AY 1972-73:

The liability shall arise from AY 1973-74 as discussed above. Hence there shall be no liability upto AY 1972-73.

Arrear liability for AY 1973-74 to AY 2013-14:

The jewellery shall be taxable for all those assessment years. For calculation purpose, the taxable value shall be taken to be Rs. 100 lakh on each valuation date. The aggregate tax liability shall not exceed Rs. 55 lakh (i.e. 50% of Rs. 110 lakh).

Regular liability for AY 2014-15:

The Ex-Ruler shall be liable to tax on the value of jewellery computed according to Schedule III as on valuation date 31.03.2014.

Q.No.	SEQ / 59.76	Exam	Nov 2008 (New)	Marks	2
-------	-------------	------	----------------	-------	---

What meaning has been assigned to "Net Wealth" under the Wealth-tax Act, 1957?

Answer :-

Section 2(m) defines the term "net wealth". According to this, "net wealth" means the amount by which the aggregate value computed in accordance with the provisions of this Act of all the assets belonging to the assessee on the valuation date, including assets required to be included in his net wealth as on that date under this Act, is in excess of the aggregate value of all the debts owed by the assessee on the valuation date which have been incurred in relation to the said assets.

Q.No.	SEQ / 59.77	Exam	May 2009	Marks	7
--------------	--------------------	-------------	-----------------	--------------	----------

X has a house property in Delhi, which was lying vacant for last 3 years. He constructed the property in 1990 at a cost of Rs. 40 lakh. He has let out the same at a monthly rent of Rs. 30,000 for a period of 3 years with effect from January 1, 2014. The quarterly corporation tax is Rs. 30,000. He took a premium of Rs. 1,20,000 from the tenant and also security deposit of Rs. 1,00,000. The house was constructed on a land measuring 4,000 square feet. It has three floors each measuring 960 square feet. Compute the value of the house property for wealth tax purpose as at valuation date March 31, 2014.

Answer :-

COMPUTATION OF VALUE OF HOUSE PROPERTY

Particulars	Working	Rs.
<i>De facto rent:</i>		
Rent payable by the tenant for let out period during the year	30,000 X 3	90,000
Add : Interest @15% p.a. of security deposit for 3 months	1,00,000 X 0.15 X 3 ÷ 12	3,750
Add : Non-refundable premium for 3 months	1,20,000 X 3 ÷ 36	<u>10,000</u>
<i>De facto Rent</i> for 3 months		<u>1,03,750</u>
<i>Annualised de facto rent</i>	1,03,750 X 12 ÷ 3	<u>4,15,000</u>
Computation of GMR (Gross maintainable rent):		
Annualised de facto rent as computed above	(a)	4,15,000
Value assessed by local authority (not given in question)	(b)	--
Gross maintainable rent	Higher of (a) or (b)	4,15,000
Computation of NMR (Net maintainable rent):		
Gross maintainable rent		4,15,000
Less: Standard deduction	15% of Rs. 4,15,000	62,250
Less: Municipal tax levied by local authority in a year	30,000 X 4	1,20,000
Net maintainable rent		<u>2,32,750</u>
Capitalized value:		
NMR x 12.50 [It is assumed that the house is built over freehold land]	2,32,750 X 12.5	29,09,375
Substitution Step:		
Cost of acquisition		40,00,000
Capitalized value or cost of acquisition, whichever is higher		40,00,000
Premium Step:		
Aggregate area of land	4,000 Sq. Feet	
Built-up area	960 Sq. Feet	
Actual vacant area	3,040 Sq. Feet	
Actual vacant area (%)	3,040 / 4,000 * 100 = 76%	
Specified vacant area for Delhi	60%	
Excess vacant area	16%	
Premium for excess vacant area (%)	40%	
Premium for excess vacant area (amount)	40% of 40,00,000	16,00,000
Value of house for wealth tax purpose		56,00,000

Q.No.	SEQ / 59.78	Exam	May 2009	Marks	3
--------------	--------------------	-------------	-----------------	--------------	----------

An association of persons (AOP), consisting two members Y and Z, owns an urban land valued at Rs. 60 lakh on the valuation date March 31, 2014. Examine the tax implications under the Wealth-tax Act.

Answer :-

First of all it should be understood that under charging section 3 of Wealth Act, 1957, an Individual, HUF and company are liable to tax. Thus, AOP is not a taxable entity as per section 3. However, we have to examine section 4(1)(b) and section 21AA.

In order to apply section 4(1)(b) or section 21AA, we have to see whether the individual shares of members in AOP are determinate or not. The question is silent on this issue. Hence, the question is answered in two parts.

- (a) **If the individual shares of members are determinate or known:** Section 4(1)(b) shall apply. Accordingly, the interest of member in the net wealth of AOP shall be computed according to the rules prescribed in Schedule III to Wealth-tax Act, 1957. Thereafter such interest shall be included in the net wealth of respective members u/s 4.
- (b) **If the individual shares of members in the net wealth of AOP are not determinate or not known:** Section 21AA shall apply. Accordingly, the net wealth of AOP shall be computed. Thereafter such net wealth shall be assessed as if the AOP were an individual citizen of India and ordinary resident in India.

Q.No.	SEQ / 59.79	Exam	May 2009 (New)	Marks	3
--------------	--------------------	-------------	-----------------------	--------------	----------

An assessee, being aggrieved by the order of AO, filed an appeal by taking for the first time a ground "that notice to complete the assessment was not served upon him but he had co-operated in completion of proceedings". Are you in agreement with the view taken by the assessee?

Answer :-

The answer lies in section 42. This section provides that where an assessee has appeared in any proceeding or cooperated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

- (a) not served upon him; or
 (b) not served upon him in time; or
 (c) served upon him in an improper manner:

However, this section does not apply if the assessee has raised such objection before the completion of such assessment or reassessment.

In the present case, the assessee has raised objection for the first time at the appellate level, which is after completion of assessment. Hence the claim of assessee is not tenable.

[Guidance Note: Similar provision exists in section 292BB of Income-tax Act, 1961].

Q.No.	SEQ / 59.80	Exam	May 2009 (New)	Marks	3
--------------	--------------------	-------------	-----------------------	--------------	----------

Mr. A transferred his house property to Mrs. A on 01.04.2014 under an agreement to live apart. Discuss in whose hands the property shall be taxable for AY 2014-15.

Answer :-

Section 4(1)(a)(i) provides that where an asset is transferred by an individual to his spouse without consideration or for inadequate consideration, the asset shall be taxable in the hands of transferor. However, this provision shall not apply if the transfer has been made under an agreement to live apart.

In the present question, Mr. A has transferred to Mrs. A under an agreement to live apart. Therefore the clubbing provision shall not apply. The asset shall be taxable in the hands of Mrs. A. But if we read the question carefully, the property has been transferred on 01.04.2014 and the question is raised for AY 2014-15. Please note that the valuation date for AY 2014-15 is 31.03.2014 and on that date Mr. A has not transferred property to Mrs. A. Hence, Mr. A shall be taxable for AY 2014-15.

Q.No.	SEQ / 59.81	Exam	May 2009 (New)	Marks	4
--------------	--------------------	-------------	-----------------------	--------------	----------

Mr. Neeraj provides the following particulars and asks you to work out the amount of net wealth to be declared by him in the wealth tax return for Assessment year 2014-15.

- (i) Value of Motor Car ₹ 5,00,000.
- (ii) Value of Motor Cycle ₹ 50,000.
- (iii) A house of which ground floor is used by him for business purpose and first floor for self residence having value on 31.03.2014 of ₹ 50,00,000.
- (iv) Jewellery worth ₹ 12 lakh purchased on 30-03-2014 by his wife out of fund given by him of ₹ 5 lakh and his son of ₹ 5 lakh.
- (v) Share of various companies worth ₹ 2,00,000 purchased by him in the name of his daughter-in-law.

Answer :-

Asset / Liability	Treatment with reason	Rs.
Motor car	Motor car is an asset u/s 2(ea). Hence taxable.	5,00,000
Motor cycle	Motor cycle is not an asset u/s 2(ea). Hence not taxable.	Nil
House	Any building occupied by the assessee for the purpose of carrying on business is not an asset u/s 2(ea). In this case, the ground floor is used for business purpose. Hence ground floor is not an asset u/s 2(ea) and not taxable. However, first floor is an asset u/s 2(ea) and taxable. But the assessee can claim exemption u/s 5(vi). Finally first floor is also not taxable.	Nil
Jewellery	Jewellery is an asset u/s 2(ea). Section 4(1)(a)(i) prescribes that any asset transferred by an individual to his spouse without consideration is includible in the net wealth of transferor. In this case, wife of assessee has acquired jewellery costing Rs. 10 lakh by utilising funds given by assessee Rs. 5 Lakh and by her son Rs. 5 lakh. The value of jewellery is Rs. 12 lakh. Since 50% investment in jewellery has been made by wife out of the funds provided by assessee, Rs. 6 lakh (50% of 12 lakh) shall be includible in the net wealth of assessee.	6,00,000
Shares / Securities	Shares / securities are not "asset" u/s 2(ea). Hence not taxable.	Nil
	Aggregate of assets	11,00,000
	LIABILITIES:	
	Aggregate of liabilities	Nil
	Net Wealth	11,00,000

Q.No.	SEQ / 59.82	Exam	Nov 2009 (Old)	Marks	6
--------------	--------------------	-------------	-----------------------	--------------	----------

X owns a house property located in New Delhi. It is given on rent. Find out the taxable value on March 31, 2014 with the help of following information:

1. The annual value of property assessed by Delhi Development Authority is Rs. 10 lakh.
2. The rent fixed is Rs. 80,000 per month out of which Rs. 5,000 is for the furniture.
3. DDA has levied taxes @ 5 per cent of rent of property which are being paid by tenant.
4. The cost of repairing in the house is also borne by the tenant.
5. The tenant has given a refundable deposit of Rs. 5 lakh on which he is entitled to receive a simple interest @ 10 per cent annum.
6. The tenant is also required to make payment of yearly lease rent of Rs. 10,000 to the society.
7. The unexpired period of lease on the valuation date is 35 years.

Answer :-

COMPUTATION OF VALUE OF HOUSE PROPERTY

Particulars	Working	Rs.
<i>De facto rent:</i>		
Actual rent payable by the tenant [The rent of House is Rs. 80,000 which includes rent of furniture Rs. 5,000. Hence, effectively the rent of house is Rs. 75,000 per month only]	75,000 X 12	9,00,000
Add : 1/9 th of actual rent because the cost of repair is borne by tenant	1/9 th of 9,00,000	1,00,000
Add : Municipal tax paid by tenant [Guidance Note: Normally the local authority is charging municipal tax as % of its own valuation. On that basis, the municipal tax should be 5% of 10 Lakh. However, in this question, it is specifically mentioned that the DDA is levying tax @ 5% of the rent of property paid by tenant. Hence the amount of municipal tax is taken at 5% of rent of building i.e. 5% of 9,00,000].	5% of 9,00,000	45,000
Add : Interest @15% per annum. on security deposit of Rs. 5,00,000 (-) Interest @ 10% paid by assessee to tenant	75,000 (-) 50,000	25,000
Add : Any other benefit taken by assessee from tenant – The tenant is payable lease rent of assessee to the society		10,000
<i>De facto Rent</i>		<u>10,80,000</u>
Computation of GMR (Gross maintainable rent):		
De facto rent as computed above	(a)	10,80,000
Value assessed by local authority	(b)	10,00,000
Gross maintainable rent	Higher of (a) or (b)	10,80,000
Computation of NMR (Net maintainable rent):		
Gross maintainable rent		10,80,000
Less: Standard deduction	15% of Rs. 10,80,000	1,62,000
Less: Municipal tax levied by local authority in a year		45,000
Net maintainable rent		<u>8,73,000</u>
Capitalized value:		
NMR x 8 (because the property is constructed over leasehold land and the unexpired lease period is less than 50 years)	8,73,000 X 8	69,84,000
Value of house for wealth tax purpose		69,84,000

Q.No.	SEQ / 59.83	Exam	Nov 2009 (Old)	Marks	4
--------------	--------------------	-------------	-----------------------	--------------	----------

Examine the correctness of the following keeping into consideration the provisions of Wealth-tax Act, 1957:

- The Commissioner of Wealth-tax is not empowered to reduce or waive penalty unless it is approved by the Chief Commissioner or Director General.
- Penalty for concealment of wealth can be imposed where the value of assets disclosed by the assessee is Rs. 4,00,000 but determined by the Wealth-tax Officer at Rs. 6,00,000.

Answer:-

1. Section 18B of Wealth-tax Act, 1957 empowers the Commissioner of Wealth-tax to reduce or waive penalty if a few conditions are satisfied. However, the CWT cannot exercise this power without the previous approval of Chief Commissioner or Director General if the concealed net wealth in respect of which the penalty is imposed or impossible for any relevant assessment year exceeds Rs. 5,00,000/-.

[Guidance Note: Similar provision exists in section 273A of Income-tax Act, 1961].

2. Explanation 4 to section 18(1)(c) prescribes that where the value of assets disclosed by a person is less than 70% of the value of such assets determined in an assessment order u/s 16 or 17, such person shall be deemed to have furnished inaccurate particulars of assets unless he proves that the value of assets as disclosed by him is the correct value.

In the present case, the value determined by Wealth-tax Officer is Rs. 6 lakh. 70% of Rs. 6,00,000/- amounts to Rs. 4,20,000/- but the disclosure of assessee is only Rs. 4,00,000/-. Thus, the value disclosed by assessee is less than 70%. Hence, it is possible to levy penalty u/s 18(1)(c). However, the assessee can prove that the value disclosed by him is correct but the burden is upon the assessee.

[Guidance Note: The question is not asking the quantum of penalty. However, for your knowledge, please note that in Wealth-tax, the quantum of concealment penalty is minimum equal to the amount of tax sought to be evaded (100% of TSE) and maximum 500% of the amount of tax sought to be evaded (500% of TSE). But in income-tax, concealment penalty u/s 271(1)(c) is minimum equal to the amount of tax sought to be evaded (100% of TSE) and maximum 300% of the amount of tax sought to be evaded (300% of TSE)].

Q.No.	SEQ / 59.84	Exam	Nov 2009 (New)	Marks	3
--------------	--------------------	-------------	-----------------------	--------------	----------

Same as Q.No. 59.32.

Q.No.	SEQ / 59.85	Exam	Nov 2009 (New)	Marks	7
--------------	--------------------	-------------	-----------------------	--------------	----------

Mrs. X furnishes the following particulars for the computation of her wealth tax liability for the assessment year 2014-15 :-

1. Gifts of jewellery and gold ornaments received from her mother on the occasion of her marriage aggregating to Rs. 5,00,000. However, the said Jewellery was forcibly taken away from her by her mother-in-law after marriage.
2. She owns two residential house properties each valuing Rs. 10,00,000.
3. She is one of the partners in the business with her husband. The value of her interest in the assets of the firm as at March 31, 2014 is Rs. 12,75,500. The said business is conducted in the one of the house properties owned by Mrs. X.
4. She has two motor cars of Rs. 12,50,000 one of which is imported by her for Rs. 7,50,000.
5. She has invested Rs. 10,00,000 in the bank deposit for the five years to meet the future expense of children on their education.
6. Mrs. X has signed an "agreement to sell" for purchase of new residential house property of Rs. 20,00,000 and has made advance payment of Rs. 5,00,000 on March 1, 2014 and has taken possession. However the sale deed has not been executed till March 31, 2014. She has taken loan of Rs. 15,00,000 from bank for purchase of said property.
7. She has cash balance available of Rs. 75,000.

Compute the wealth-tax payable by Mrs. X for assessment year 2014-15.

Answer :-

COMPUTATION OF NEW WEALTH

Assets/Liabilities	Treatment and reason	Rs.
	ASSETS:	
Jewellery	<p>Jewellery belonging to the assessee has been forcibly taken away by her mother-in-law. Since the jewellery is not in the possession of assessee, it is not taxable.</p> <p>[Guidance Note: There are two views on this point. First view is that the jewellery is not taxable. This view has been expressed by some of the authors as well as ICAI in its Practical Manual. The second view is that such jewellery is taxable because even if the jewellery has been taken away forcibly by mother-in-law, the ownership and belongingness continues with the assessee. Mere possession of jewellery in the hands of mother-in-law is not relevant. This view has been taken in the book authored by T.N. Manoharan and the notes of Vinod Gupta. Although second view is more correct, the present solution has been given on the basis of first view because that view has been adopted in the Practical Manual of ICAI].</p>	Nil
First House	The house falls within the meaning of asset u/s 2(ea). However, since the assessee is an individual, one house is exempt u/s 5(vi). Hence not taxable.	Nil
Second House	<p>The house falls within the meaning of asset u/s 2(ea). However, this house is used in a business carried on by a partnership firm in which the assessee is a partner. In CIT Vs. Rashiklal Balabhai (1979) 119 ITR 303 (Guj) / CIT Vs. K.M. Jagannathan (1989) 180 ITR 1914 (Mad), it was accepted that the business carried on by a partnership firm in which the assessee is a partner can be accepted as a business carried on by partner in a proper sense. If this view is adopted, the second house shall not be an asset u/s 2(ea) and therefore not taxable.</p> <p>(Contrary view: There is another view that the business carried on by a partnership firm in which the assessee is a partner cannot be accepted as a business carried on by partner. Such a view was taken in CIT Vs. K.N. Guruswamy (1984) 146 ITR 34. If this view is adopted, the second house shall be an asset u/s 2(ea) and therefore taxable).</p>	Nil
Interest in firm	Interest in the assets of partnership firm is taxable in the hands of assessee due to section 4(1)(b). [It is assumed that the assets of firm are comprising of assets defined in section 2(ea)].	12,75,500
Motor car	Motor cars are assets u/s 2(ea) and therefore taxable. It does not make any difference whether the car is Indian or imported.	12,50,000
Deposit	Investment in bank deposit is not an asset u/s 2(ea). Hence not taxable.	Nil
House	All conditions of section 53A of Transfer of Property Act, 1882 are satisfied, viz. (i) the assessee has signed an agreement in writing, (ii) the possession has already been taken, and (iii) the assessee has paid consideration (or is ready to pay consideration). Thus, section 4(8) becomes applicable. The house shall be taxable in the hands of assessee. As far as exemption u/s 5(vi) is concerned, the assessee has already claimed exemption in respect of one property. Hence, this house is taxable.	20,00,000

Assets/Liabilities	Treatment and reason	Rs.
Cash	The assessee is an individual. Hence cash balance in excess of Rs. 50,000 is an asset u/s 2(ea). Accordingly, Rs. 25,000 is taxable.	25,000
	Aggregate of assets	45,50,500
	LIABILITIES:	
Loan from bank	Money borrowed by assessee from bank for purchasing house is deductible as a debt owned because the house is taxable.	15,00,000
	Aggregate of liabilities	15,00,000
Net wealth		30,50,500

COMPUTATION OF TAX LIABILITY

Particulars	Rs.
Net wealth	30,50,500
Tax on first 30,00,000	Nil
Tax on balance 50,500 @1%	505
Total	505

Q.No.	SEQ / 59.86	Exam	May 2010 (Old)	Marks	10
-------	-------------	------	----------------	-------	----

Examine the correctness of the following statements as per provisions contained in Wealth-tax Act :-

- The building and land appurtenant thereto held on valuation date always do not form part of net wealth.
- Every officer of the company shall be treated as “principal officer” in respect of proceedings under the Wealth-tax Act, 1957.
- X (P.) Ltd. has a farm house situated at 30 kilometres from the local limits of Jaipur Municipal Corporation. It also has a guest house at a distance of 40 kilometres from the limits of Bangalore Municipal Corporation. Decide whether farm house and guest house are chargeable to wealth-tax.
- Y pledges his jewellery with a financier and borrows Rs. 50 lakh. He acquires shares in limited companies out of the borrowed amount. The value of assets as on March 31, 2014 is given below :

Market value of jewellery pledged with the financier : Rs. 80,00,000

The market price of shares on the valuation date : Rs. 28,00,000

The loan outstanding on the valuation date is Rs. 48 lakh. Compute the net wealth of Y as on March 31, 2014.

Answer :-

- The statement is not correct.**

Reason: “Building or land appurtenant thereto” is an asset u/s 2(ea) of Wealth-tax Act, 1957. Therefore, it forms part of net wealth.

It is true that there are some exceptions in section 2(ea) due to which “building and land appurtenant thereto” is not treated as an “asset” [For example – a building held as stock in trade is not an asset]. Similarly section 5 contains some exemptions in relation to “building and land appurtenant thereto” [For example - under section 5(vi), one house owned by an individual or HUF is exempted]. But please note that such exceptions and exemptions are very limited. Based on such limited number of exceptions in section 2(ea) and exemptions u/s 5(vi), we cannot draw a blind conclusion that the “building and land appurtenant thereto” held on valuation date always do not form part of net wealth.

- The statement is not correct.**

Reason: The term “Principal Officer” has been defined in section 2(o). According to this, “principal officer” used with reference to a company, means the secretary, managing agent or managing director of the company, and includes any person connected with the management of the affairs of the company upon whom the Assessing Officer has served a notice of his intention of treating him as the principal officer thereof.

Thus, only those officers who fall within the framework of section 2(o) can be treated as “Principal Officer”. In other words, every officer of a company cannot be treated as “Principal Officer”.

3. **Under section 2(ea)**, “building or land appurtenant thereto” is an “asset”.

However, there is one exception. A farm house situated outside 25 kilometres from local municipal limit, is not an asset and hence not taxable.

In the light of these provisions, our answer shall be as under:

- (a) The farm house situated at 30 Kms. from local limit of Jaipur is not an asset *[it is further assumed that this farm house does not fall within 25 Kms. from any other municipal limit]*. Hence it is not taxable.
- (b) The guest house situated at 40 Kms. from local limit of Bangalore is an asset regardless of distance. Hence it is taxable.

4. **Computation of Net Wealth :-**

Assets/Liabilities	Treatment and reason	Rs.
	ASSETS:	
Jewellery	“Jewellery” is an asset u/s 2(ea). Further it belongs to the assessee even if it is pledged with the financier. Hence taxable.	80,00,000
Shares	This is not an asset u/s 2(ea)	Nil
	Aggregate of assets	80,00,000
	LIABILITIES:	
Loan from financier	Less: Loan taken from financier is not deductible because the loan has been used for investment in shares. The shares are not taxable. (The loan cannot be said to be a liability in relation to “jewellery” because the loan has not been used for investment in jewellery. Mere pledging of jewellery is not sufficient).	Nil
	Aggregate of liabilities	Nil
Net wealth		80,00,000

Q.No.	SEQ / 59.87	Exam	May 2010 (New)	Marks	7
-------	-------------	------	----------------	-------	---

X Ltd., engaged in industrial activity, has furnished the following particulars of its assets as on the valuation date March 31, 2014. Compute the net wealth tax and wealth-tax liability of the company for the assessment year 2014-15 :-

- One hectare of vacant land was allotted to the company at Ahmedabad by the State Government for industrial purpose in May 2010 on permanent lease basis on payment of a non-refundable premium of Rs. 4 lakh. The terms of allotment includes that if the lessee transfers the lease, 50 per cent of the unearned increase in the value should be made over to the lessor. The construction work for the proposed factory has not been started. The value of the land as on March 31, 2014 is Rs. 50 lakh.
- The company is a partner of a firm with 30 per cent share whose net assets as on March 31, 2014 is Rs. 150 lakh. Its capital as on that date is Rs. 20 lakh out of total capital of Rs. 70 lakh.
- It has let out a building with effect from October 1, 2013 at a monthly rent of Rs. 1 lakh for a period of 10 years. The tenant has made a deposit of Rs. 3 lakh. Annual corporation tax of Rs. 1 lakh is borne by the tenant. The building is on a freehold land. The written down value of the building is Rs. 80 lakh.

Answer :-

COMPUTATION OF NET WEALTH

Particulars	Working Note No.	Rs.
Vacant land	1	27,00,000
Interest in partnership firm	2	44,00,000
Building	3	1,30,40,625
Net wealth		2,01,40,625
R/O u/s 44C [in the multiple of Rs. 100]		2,01,40,600

COMPUTATION OF TAX LIABILITY

Particulars	Rs.
Net wealth	2,01,40,600
Tax on first 30,00,000	Nil
Tax on balance net wealth of 1,71,40,600 @ 1%	1,71,406
Wealth tax liability	1,71,406

Working Notes :-

- (1) The vacant land is situated in Ahmedabad. It is an urban land. The land was allotted in May, 2010 and the assessee has not yet started industrial activity. The period of 2 years has already expired. Hence it is an asset u/s 2(ea) and therefore taxable.

The taxable value of land shall be computed according to "residual rule" as under:

Market value of land	50,00,000
Less: Unearned increase in value payable to the lessor [50% of (50,00,000 – 4,00,000)]	<u>23,00,000</u>
Taxable value	<u>27,00,000</u>

- (2) Section 4(1)(b) prescribes that the interest of a partner in the net wealth of a firm shall be included in computing net wealth of partner. Hence we shall compute interest of X Ltd. in the firm as under:

Net wealth of firm	1,50,00,000
Direct allocation to the extent of capital of X Ltd.	20,00,000
Share of X Ltd in remaining wealth of firm in the profit sharing ratio since the question does not specify dissolution ratio. Hence 30% of (1,50,00,000 minus 20,00,000)	<u>24,00,000</u>
Interest of X Ltd. in firm	<u>44,00,000</u>

- (3) Computation of value of house property :

Particulars	Working	Rs.
<i>De facto rent:</i>		
Rent payable by the tenant for let out period during the year	1,00,000 X 6	6,00,000
Add : Interest @15% p.a. on deposit for 6 months	3,00,000 X 0.15 X 6 ÷ 12	22,500
Add : Municipal tax borne by tenant for 6 months	1,00,000 / 2	<u>50,000</u>
<i>De facto Rent</i> for 6 months		<u>6,72,500</u>
Annualised <i>de facto rent</i>	6,72,500 X 12 ÷ 6	<u>13,45,000</u>
Computation of GMR (Gross maintainable rent):		
Annualised de facto rent as computed above	(a)	13,45,000
Value assessed by local authority (not given in question)	(b)	--
Gross maintainable rent	Higher of (a) or (b)	13,45,000
Computation of NMR (Net maintainable rent):		
Gross maintainable rent		13,45,000
Less: Standard deduction	15% of Rs. 13,45,000	2,01,750
Less: Municipal tax levied by local authority in a year		1,00,000
Net maintainable rent		<u>10,43,250</u>
Capitalized value:		
NMR x 12.50	10,43,250 X 12.5	1,30,40,625
Value as per specific rule as applicable to house		1,30,40,625

The question specifies that WDV of the house is Rs. 80,00,000. Hence it is assumed that the house is included in the Balance-Sheet of X Ltd. and it is a business asset. Since the house is a business asset, the taxable value shall be computed as under:

Global value of house i.e. WDV of house	80,00,000
120% of Global value	96,00,000
Specific value of house as computed above	1,30,40,625

Thus, the specific value exceeds 120% of Global value, the taxable value shall be Rs. 1,30,40,625.

Q.No.	SEQ / 59.88	Exam	May 2010 (New)	Marks	3
--------------	--------------------	-------------	-----------------------	--------------	----------

X filed his return of net wealth for the assessment year 2010-11. Penalty proceeding u/s 18 for concealing particulars of net wealth was initiated by the Assessing Officer in 2012. X died in January 2013. The estate of X devolved on his wife, Mrs. X, who also died on October 2013. Thereafter, the estate devolved on their daughter Y. The Assessing Officer passed penalty order on February 28, 2014 and served notice of demand for penalty on Y. Is the action of the Assessing Officer valid in law?

Answer :-

In this case, Mr. X had concealed particulars of his net wealth. This attracts penalty u/s 18(1)(c). Hence the AO initiated penalty proceeding of section 18(1)(c) against Mr. X. Subsequently, Mr. X died and the AO continued penalty proceedings against his legal heirs. Finally the AO imposed penalty on legal heirs. Thus, the main question is whether the penalty proceeding initiated u/s 18 against the deceased person during his lifetime can be continued against legal heirs after his death or not.

Section 19 of Wealth-tax Act, 1957 prescribes special provisions applicable to legal representative of a deceased individual. Sub-section (1) of section 19 provides that the legal representative shall be liable to pay the tax or any other sum (i.e. interest or penalty) which has been levied on the deceased. Sub-section (2) and (3) of section 19 provides for filing of return, assessment and reassessment proceedings by or against the legal representatives. It may be noted the penalty provisions are prescribed in section 18 of Wealth-tax Act, 1957 and entire section 19 does not contain any reference of section 18. Hence the department is not empowered to impose or continue penalty proceedings of section 18 against legal representatives. This view has been accepted in **ACIT Vs. F.P. Gaekwad (2009) 313 ITR 192 / CWT Vs. H.S. Chauhan (2000) 245 ITR 704 (Del)**.

In view of this, the action of AO is not valid.

[Guidance Note: In a similar situation, the position is different in Income-tax Act, 1961. Section 159 of Income-tax Act, 1961 is more flexible due to which penalty proceedings can be taken up against legal heirs].

Q.No.	SEQ / 59.89	Exam	Nov 2010 (Old)	Marks	5
--------------	--------------------	-------------	-----------------------	--------------	----------

Examine the taxability of following assets held on valuation date on March 31, 2014 :-

1. A house property owned by X was transferred without consideration to Miss Y on January 11, 2013. Subsequently, Miss Y got married to his son on April 18, 2013. The value of house on March 31, 2014 is Rs. 75 lakh.
2. Right to live in a house for life.
3. The cash in hand on March 31, 2014 with the cashier of ABC Pvt. Ltd. was Rs. 2,00,000. The balance as per cash book on that day was Rs. 1,50,000.

Answer :-

1. Under section 4(1)(a)(v), any asset transferred by an individual to his son's wife without consideration or for inadequate consideration is deemed to be an asset of the transferor and hence includible in the net wealth of transferor. But this provision applies only if at the time of transfer, there exists the relationship of son's wife.

In the present, case Mr. X transferred property to Miss Y on January 11, 2013 and the marriage with X's son took place on April 18, 2013. Thus, Miss Y is not "son's wife" for Mr. X at the time of transfer. This is a case of transfer before marriage. Being so, the provision of section 4(1)(a)(v) does not apply. Hence, the house-property shall be taxable in hands of Mrs. Y only and not in the hands of Mr. X.

2. The Wealth-tax law is a selective law. It imposes tax only on those assets which fall within the definition of “asset” as prescribed in section 2(ea). If we analyse section 2(ea), only six types of assets are covered. Any asset not falling in the list of six assets is not chargeable.

“Right to live in a house for life” does not fall in the list of six assets as prescribed in section 2(ea). Hence, it is not taxable.

[Guidance Note: Some students may confuse “right to live in a house for life” with “life interest in a property”. It may be noted that “right to live in a house for life” and “life interest in a property” are not same. There is a substantial difference. The “right to live in a house for life” is not an “asset” as discussed above and hence not taxable. The treatment of “life interest in a property” is explained in a separate question].

3. Under section 2(ea), the cash balance is an “asset”. However, there are certain exceptions. One such exception is that if the assessee is any person other than an individual or HUF, the cash balance recorded in the books of account is not an “asset” and therefore not taxable. In the present case, the assessee is a company and the recorded cash balance is Rs. 1,50,000/-. Hence, the cash balance not recorded in the books of account is Rs. 50,000/-. Consequently, 50,000/- shall be taxable.

Q.No.	SEQ / 59.90	Exam	Nov 2010 (Old)	Marks	4
--------------	--------------------	-------------	-----------------------	--------------	----------

There is a private specific trust in which the shares of the beneficiaries are certain. X and Y are the trustees. The beneficiaries are all minors and there are several items of assets as envisaged by section 2(ea). B, the father of the minor children also has taxable net wealth. What is the best possible manner in which the Assessing Officer should complete the assessment of the trust, so as to maximize tax collection?

Answer :-

There are two manners to charge tax in this case:-

- (1) First manner -- Under section 3 of Wealth-tax Act, 1957 tax is leviable from an individual, HUF or company. As per General Clauses Act, “individual” includes “Individuals”. The Hon’ble Supreme Court has accepted in the case of **Trustees of Gordhan Das Govind Ram Family Charitable Trust Vs. CWT (1972) 88 ITR 47 (SC)** that in the case of a private trust, the trustee shall represent the trust as an Individual. Hence the assets of a private trust shall be taxable as an individual. It is further held that if there are more than one trustees of a private trust, all those trustees shall be treated as a single unit and taxed as individual. Hence in the present case, the trustees of trust i.e. Mr. X and Mr. Y shall be assessed as an individual.

[Guidance Note: Please do not develop a misunderstanding that the assets of a private trust shall be taxable in the personal assessment of trustee / trustees. In fact, the trustee / trustees shall represent the private trust and there shall be a separate assessment of the net wealth of private trust as an individual].

- (2) Second manner – The Assessing Officer can tax the shares of beneficiaries directly in the hands of the beneficiaries. In that case, the interest of the beneficiaries in the properties of trust shall be computed. Thereafter such interest shall be clubbed in the hands of parents of respective beneficiaries u/s 4 (because the beneficiaries are minor). The tax liability shall be computed in the hands of parents of beneficiaries.

It is little difficult to say which manner shall be more beneficial to the department. Depending upon situation, either the first manner or second manner shall be beneficial.

Q.No.	SEQ / 59.91	Exam	Nov 2010 (New)	Marks	5
--------------	--------------------	-------------	-----------------------	--------------	----------

X owns two residential flats, one in Mumbai and another is Chennai. Both the flats are meant to be used for residential purposes by X and his family. The particulars of the flats are as follows :-

- 1 . The flat at Mumbai was purchased by him in January, 1980 for Rs. 10 lakh. The flat was occupied by his friend, Y, without rent for three months from April 1, 2013 to June 30, 2013. The value of flat as per Schedule III as on March 31, 2014 is Rs. 30 lakh. Its value on the same basis as on March, 31, 1980 was Rs. 12 lakh.

2. The flat at Chennai was purchased in March, 2010 for Rs. 6 lakh. The value of the flat as per Schedule III on March 31, 2010 and March 31, 2014 is Rs. 3 lakh and Rs. 5 lakh respectively.

You are required to fix the value of each flat for the purpose of computation of net wealth of X for assessment year 2014-15.

Answer :-

Section 7(1) of Wealth-tax Act, 1957 provides that the value of any asset other than cash shall be computed as on valuation date. However, section 7(2) prescribes 'pegging system' (or we may call it 'freezing system') in the case of a residential house occupied by the assessee throughout the previous year. This pegging system gives the assessee an option to adopt value as on the valuation date next following the date on which he became owner of house or 31.03.1971, whichever is later.

In the light of these provisions, we shall now proceed to ascertain values of the two flats owned by the assessee :-

- (1) Valuation of Mumbai flat: The flat is occupied by a friend of assessee for 3 months. That means the assessee has not occupied flat throughout the previous year. The pegging system of section 7(2) shall not apply. The taxable value shall be computed u/s 7(1). Hence, the taxable value shall be Rs. 30 lakh (i.e. the value of flat as on 31.03.2014 - Rs. 30 lakh or cost of flat - Rs. 10 lakh, whichever is higher).
- (2) Valuation of Chennai flat: The flat is occupied by assessee throughout the previous year. Hence pegging system of section 7(2) shall apply. The taxable value shall be computed u/s 7(2). Hence the taxable value shall be Rs. 3 lakh (being the value as on 31.03.2010). The cost of flat shall not be relevant because the flat is situated in Chennai and cost does not exceed Rs. 50 lakh.

The assessee should claim exemption u/s 5(vi) in respect of Mumbai flat because the taxable value of Mumbai flat is more than the value of Chennai flat.

Q.No.	SEQ / 59.92	Exam	Nov 2010 (New)	Marks	5
--------------	--------------------	-------------	-----------------------	--------------	----------

Mr. X, a resident individual, follows cash basis of accounting. He has following assets as on March 31, 2014. Compute his net wealth for the assessment year 2014-15.

Particulars	Rs. in lakh
Self-occupied residential house	60
A guest house, which is situated at a distance of 26 Kms. from the local limits of municipality	30
Property used for his business	50
One residential complex consisting of 10 dwelling units. Mr. X intends to sell 5 units which are kept vacant for the whole year for want of prospective buyers, 2 units are vacant from January 5, 2014 and 3 units are let out fully for the whole year.	500

Answer :-

COMPUTATION OF NET WEALTH

Assets/Liabilities	Treatment and reason	Rs. in lakh
Residential house	In the case of an individual, one house is exempted u/s 5(vi). In this case, this residential house is valued at Rs. 60 Lakh. The assessee is having guest house valued at Rs. 30 lakh (discussed below). Hence, it is more beneficial to claim exemption in respect of residential house u/s 5(vi). Therefore residential house is not taxable.	Nil
Guest House	A guest house is an asset u/s 2(ea) even if it is situated at a distance of 26 Kms. from the local limits of municipality	30
House	House property used for his business is not an asset u/s 2(ea)	Nil

Assets/Liabilities	Treatment and reason	Rs. in lakh
5 units of complex	5 units of residential complex kept vacant for whole year are asset u/s 2(ea). [Guidance note – Please note that the assessee intends to sell these units but still these units are not held as a part of stock-in-trade].	250
2 units of complex	2 Units of residential complex are vacant from 05.01.2014. That means they have been let out for 279 days. The let out period is less than 300 days. Hence they are asset u/s 2(ea).	100
3 units of complex	3 units of residential complex are let out throughout the year. That means they are let out for minimum 300 days. Hence they are not asset u/s 2(ea).	Nil
	Net wealth	380

Q.No.	SEQ / 59.93	Exam	May 2011	Marks	3
-------	-------------	------	----------	-------	---

“How shall the assets retained pursuant to an order passed as per section 37A(5A) of the wealth tax act, 1957 be dealt with?”

Answer :-

Section 37C of Wealth-tax Act, 1957 prescribes that the assets seized u/s 37A(5A) shall be dealt with in following manner:

- (i) The amount of existing liability and the amount of liability determined on completion of assessments including any amount in respect of which the assessee is in default or is deemed to be in default, may be recovered out of the seized assets.
- (ii) Where the assets consist of money, such money will be utilized to discharge the aforesaid liability.
- (iii) If the liability is not discharged fully out of money seized by department, the non-monetary assets may be applied for discharge of remaining liability.
- (iv) Surplus assets or money remaining after discharge of liability shall be released to the assessee.

[Guidance Note: Similar provision exists in section 132B of Income-tax Act, 1961].

Q.No.	SEQ / 59.94	Exam	May 2011	Marks	3
-------	-------------	------	----------	-------	---

Can summons enforcing attendance and to take evidence on oath be issued by a Valuation Officer to the seller of the building for which a reference under section 16A has been made by Wealth-tax Officer?

Answer :-

Section 38A empowers the Valuation Officer to enter into any land, building or other place belonging to or occupied by any person in connection with whose assessment a reference has been made to him u/s 16A or inspect any asset in respect of which a reference u/s 16A has been made to him, and require any person in charge of or in occupation of or in possession of such land, building, place, asset etc. to afford him necessary facility to survey or inspect such land, building, place or asset or estimate the value of such land, building, place or asset or inspect any books of account or document which may be relevant for valuation of such land, building, place or asset. It is further prescribed that if the person who is required to afford necessary facility to the Valuation Officer, refuses or evades to afford such facility, the Valuation Officer can exercise powers prescribed in section 37(1).

Under section 37(1), the Valuation Officer is having all powers as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit. These powers are in respect of the following matters:

- (a) discovery and inspection;
- (b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;
- (c) compelling the production of books of account and other documents; and
- (d) issuing commissions.

Thus, the Valuation Officer has power to enforce attendance of any person and examine him on oath.

[Guidance Note: Section 37 of Wealth-tax Act, 1957 is similar to section 131 of Income-tax Act, 1961].

Q.No.	SEQ / 59.95	Exam	May 2011	Marks	4
-------	-------------	------	----------	-------	---

X gifted a gold chain worth Rs. 1,00,000 to C (C is the adopted minor child of his son B). On March 31, 2014, the net wealth of X is worth Rs. 50 lakh whereas the net wealth of X's wife is Rs. 60 lakh. Besides, the net wealth of X's son B is worth Rs. 30 lakh while the net wealth of Mrs. B (daughter-in-law of X) is worth Rs. 40 lakh. State with reason, in whose net wealth the value of gifted chain will be included ?

Will it make any change in your answer if the marriage of the parents of adopted minor child does not subsist and the child is maintained by his father ?

Answer :-

Section 4(1)(a)(ii) prescribes that the assets held by a minor child shall be clubbed in the net wealth of that parent whose net wealth is higher before such clubbing. However, if the marriage relationship of parents does not subsist, the asset shall be included in the net wealth of that parent who maintains the minor child.

In this case, Mr. B and Mrs. B are the parents of minor child Mr. C and their net wealth is 30 lakh and 40 lakh respectively. Admittedly, the net wealth of Mrs. B exceeds the net wealth of Mr. B. Hence, the gold chain held by C shall be included in computing net wealth of Mrs. B.

However, if the marriage of parents does not subsist, the value of gold chain shall be included in the net wealth of Mr. B because he maintains the child.

Q.No.	SEQ / 59.96	Exam	Nov 2011	Marks	4
-------	-------------	------	----------	-------	---

X Ltd., engaged in manufacturing activity, has the following immovable properties as on March 31, 2014. State, with reasons, whether these assets are chargeable to wealth-tax for the assessment year 2014-15 :-

1. A plot of agricultural land in Chennai acquired on January 1, 2012 for conversion into non-agricultural land to be used for opening a new factory. The approval of the Tamil Nadu State Government for conversion into industrial land was obtained on November 1, 2013. The development activity for conversion was in progress on March 31, 2014.
2. A building is under construction at Coimbatore. The said building after construction will be used partly for accommodating senior executives each having annual salary exceeding Rs. 5 lakh and partly as guest house.

Answer :-

1. The assessee is having land in Chennai. It is an urban land and hence falls within the definition of "asset" u/s 2(ea).

It may be noted that there are certain exceptions in section 2(ea). Once such exception is any land held for industrial use for a period of 2 years from the date of acquisition. Now, we shall examine whether the assessee gets benefit of this exception or not. In the present case, the land was acquired on 01.01.2012. Thus, the period of 2 years has expired on 01.01.2014. Our valuation date is 31.03.2014. Thus, the period of 2 years has already expired. In **Rockman Cycle Industrials Ltd. v. CWT [2010] 191 Taxman 399 (P&H)**, it was held that the period of 2 years is to be computed from the date of acquisition and not from the date on which the approval for change in land-use is obtained. Therefore, the assessee does not get the benefit of exception.

Thus, the land is chargeable to wealth-tax.

It may also be noted that the question states "**development activity for conversion was in progress on March 31, 2014**". If this language intends to demonstrate that the construction activity was in progress on 31.03.2014, the assessee can take benefit of decisions in **Apollo Tyres Ltd. V. CIT [2010] 189 Taxman 225 (Ker.) / Smt. Neena Jain (2011) 330 ITR 157 (P&H)** discussed *infra*.

2. The Wealth-tax law is a selective law. It imposes tax only on those assets which fall within the definition of "asset" as prescribed in section 2(ea). If we analyse section 2(ea), only six types of assets are covered. Any asset not falling in the list of six assets is not chargeable.

In the present question, the asset is a “building under construction”. In **Apollo Tyres Ltd. V. CIT [2010] 189 Taxman 225 (Ker.) / Smt. Neena Jain (2011) 330 ITR 157 (P&H)** it was held that once construction activity starts on land, the land loses its character of “land”. Further, such land does not acquire the character of “building or land appurtenant to building”. In short, the “building under construction” is neither a “land” nor a “building or land appurtenant to building”.

Hence, the “building under construction” is not an asset u/s 2(ea) and therefore not chargeable to wealth-tax.

Alternative view: In CWT Vs. Giridhar G. Yadlam (2010) 325 ITR 323 (Kar), the Court held that incomplete structure is not a “building or land appurtenant thereto”. Hence “incomplete structure” is not an asset u/s 2(ea). But the land on which construction is going on, remains a land. It does not lose the character of land. Being so, the land remains an “asset” u/s 2(ea). The Court also held that even the assessee cannot take advantage of exception prescribed in section 2(ea) which says “any land occupied by a building which has been constructed with the approval of authority”. Finally, the Court held that land shall be taxable. This view is in favour of department.

Q.No.	SEQ / 59.97	Exam	Nov 2011	Marks	3
--------------	--------------------	-------------	-----------------	--------------	----------

Same as Q.No. 59.9.

Q.No.	SEQ / 59.98	Exam	Nov 2011	Marks	3
--------------	--------------------	-------------	-----------------	--------------	----------

“The rules laid down in Schedule III to the wealth tax Act, 1957 are not binding on the Valuation Officer.” Examine the correctness of the statement.

Answer :-

The statement is not correct.

Reason: Section 7(1) of the Wealth-tax Act, 1957 prescribes that the value of any asset other than cash **shall** be determined according to the rules prescribed in Schedule III to Wealth-tax Act, 1957. The use of word “shall” indicates that the rules prescribed in Schedule III are mandatory and not optional.

Further, section 16A prescribes that for the purpose of making assessment under Wealth-tax Act, 1957, where under the provisions of section 7 the value of asset is to be determined, the Assessing Officer may refer valuation of asset to a Valuation Officer.

Further, section 2(r) provides that “Valuation Officer” means a person appointed as a Valuation Officer u/s 12A of Wealth-tax Act, 1957. This demonstrates that the Valuation Officer is a creature of Wealth-tax Act, 1957.

In view of above, it can be concluded that the rules prescribed in Schedule III to Wealth-tax Act, 1957 are binding upon the Valuation Officer. This has also been accepted in **Bharat Hari Singhania Vs. CWT [1994] 73 Taxman 3 (SC)**.

Q.No.	SEQ / 59.99	Exam	May 2012	Marks	4
--------------	--------------------	-------------	-----------------	--------------	----------

Same as Q.No. 59.29.

Q.No.	SEQ / 59.100	Exam	May 2012	Marks	3
--------------	---------------------	-------------	-----------------	--------------	----------

Same as Q.No. 59.24.

Q.No.	SEQ / 59.101	Exam	May 2012	Marks	
--------------	---------------------	-------------	-----------------	--------------	--

What are the cases where it is deemed that net wealth chargeable to tax has escaped assessment u/s 17 of the wealth tax Act, 1957.

Answer :-

The following are deemed to be cases where net wealth chargeable to tax has escaped assessment –

1. Where no return of net wealth has been furnished by the assessee although his net wealth on the valuation date exceeded the maximum amount not chargeable to wealth tax (i.e. Rs. 30,00,000 at present).
2. 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 or has claimed excessive exemption or deduction in the return.
3. Where a person is found to have any asset (including financial interest in any entity) located outside India.

[Guidance Note: Similar provision exists in section 147 of Income-tax Act, 1961].

Q.No.	SEQ / 59.102	Exam	May 2012	Marks	3
--------------	---------------------	-------------	-----------------	--------------	----------

Can the AO u/s 16A of Wealth-tax Act, 1957 refer valuation of assets to the Departmental Valuation Officer for the purpose of making an assessment in a case where no return of wealth has been filed by the assessee?

Answer :-

Section 16A prescribes that for the purpose of making an assessment under Wealth-tax Act, 1957, where the market value of any asset is to be taken into account, the AO may refer valuation to the Valuation Officer. Thus, the reference to Valuation Officer is made for the purpose of making assessment.

Now, if we analyse the scheme of assessment under Wealth-tax Act, 1957, we would find that if a person does not submit return of wealth, the AO can serve a notice requiring him to submit a return. Even after service of such notice, if the person does not submit a return of wealth, the AO can make assessment to the best of his judgement. It may be noted that best-judgement assessment is also a type of assessment in the scheme of Wealth-tax Act, 1957. Therefore, while making best-judgement assessment, if the AO requires market value of any asset, he can invoke section 16A and refer valuation to the Valuation Officer. Thus, we can conclude that the AO can refer valuation of asset to Valuation Officer in a case where no return of wealth has been filed by the assessee. This view is also accepted in **CWT Vs. Anil Tayal (HUF) (2006) 285 ITR 243**.

Q.No.	SEQ / 59.103	Exam	Nov. 2012	Marks	5
--------------	---------------------	-------------	------------------	--------------	----------

State with reasons whether the following assets are chargeable to wealth tax –

1. Factory building and godown leased out on rent.
2. Silver and gold in the jeweller's shop.
3. Jewellery purchased by X, a NRI out of balance lying in his Non-Resident External Account (i.e. NRE A/c) on the date of his return to India. Mr. X returned India two years back on permanent basis.
4. Aircraft owned and used by a company for transportation of its goods.
5. Life interest in a property.

Answer :-**1. Factory building and godown leased out on rent :-**

Under section 2(ea), any "building or land appurtenant thereto" is an asset. However, there are certain exceptions. One such exception is any "building or land appurtenant thereto" in the nature of a "commercial establishment or commercial complex". The factory building or godown is in the nature of "commercial establishment" and hence covered by exception. Thus, it is not an "asset" and therefore not chargeable to tax.

2. Silver and gold in the jeweller's shop :-

Under section 2(ea), any "jewellery, bullion etc." is an asset. However, there is one exception i.e. the jewellery / bullion etc. held as stock-in-trade, is not an "asset".

In the present case, the silver and gold is held in jeweller's shop. Hence, it is assumed that the silver / gold is held as a part of stock-in-trade. Therefore it is not an "asset" and consequently not taxable.

3. Jewellery :-

Under section 2(ea), jewellery is an “asset”. However, under section 5(v), any asset purchased by a NRI by utilising the balance in NRE A/c is exempted for a period of 7 assessment years after return to India on permanent basis.

In this case, the assessee has acquired jewellery by utilising his balance in NRE A/c. Further, the assessee returned to India 2 years back only on permanent basis. That means the exemption period of 7 assessment years has not expired. Being so, all conditions of section 5(v) are satisfied. Hence, the assessee shall be entitled to exemption u/s 5(v). The asset shall not be taxable.

4. Aircraft used for transportation of goods :-

Under section 2(ea), “aircraft” is an “asset”. However, there is one exception i.e. the aircraft held for “commercial use” is not an asset.

The expression “commercial use” is not defined in Wealth-Tax Act. However, it has been held in **Amalgamated Electricity Co. Ltd Vs. State of Rajasthan AIR 1983 (Raj) 154 / Garware Wall Ropes Ltd. Vs. CIT (2004) 89 ITD 221 (Mum)** that the aircraft held for own business use falls within “commercial use”. Being so, the aircraft is not an “asset” and therefore not taxable.

5. Life interest in a property :-

The Wealth-tax law is a selective law. It imposes tax only on those assets which fall within the definition of “asset” as prescribed in section 2(ea). If we analyse section 2(ea), only six types of assets are covered. Any asset not falling in the list of six assets is not chargeable.

“Life interest in a property” as such is not mentioned in section 2(ea). However, the opinion is that we have to check the nature of underlying property i.e. the property in which life interest is created. If the underlying property falls within the definition of “asset”, the life interest therein shall be taxable. However, if the underlying property does not fall within the definition of “asset”, the life interest shall not be taxable. In short, we can conclude that taxability or non-taxability of “life interest” would depend upon the nature of “underlying asset”.

Q.No.	SEQ / 59.104	Exam	Nov 2012	Marks	5
--------------	---------------------	-------------	-----------------	--------------	----------

State the cases where the Assessing Officer can make an assessment of net wealth to the best of his judgement by exercising his powers under section 16(5) of the wealth-tax Act, 1957. Is it necessary for the Assessing Officer to issue show-cause notice before making such assessment?

Answer :-

Section 16(5) of Wealth-tax Act, 1957 empowers the Assessing Officer to make best judgement assessment. The AO can make this assessment in following situations:

- (i) Where a person fails to make a return u/s 14(1) and has also not made a belated return or a revised return u/s 15, or
- (ii) Where a person fails to comply with all the terms of a notice issued under section 16(2), or
- (iii) Where a person fails to comply with all the terms of a notice issued under section 16(4).

The AO makes best judgment assessment after taking into account all relevant material which he has gathered. However, before making this assessment, the AO shall afford an opportunity of hearing to the assessee by serving a show-cause notice upon the assessee calling him to show as to why the assessment should not be completed to the best of his judgement. Thus, it is necessary for the AO to issue show-cause notice before making best judgement assessment. However, it is specifically provided in section 16(5) that in a case where best judgement assessment is made on account of failure to comply with notice u/s 16(4), it shall not be necessary for the AO to afford the opportunity of hearing to the assessee. Therefore, in that case, the AO is not bound to issue show-cause notice.

[Guidance Note: Similar provision exists in section 144 of Income-tax Act, 1961].

Q.No.	SEQ / 59.105	Exam	May 2013	Marks	5
--------------	---------------------	-------------	-----------------	--------------	----------

Same as Q.No. 59.25.

Q.No.	SEQ / 59.106	Exam	May 2013	Marks	5
--------------	---------------------	-------------	-----------------	--------------	----------

Mr. Anil has a house property in Delhi. He constructed this property in 1985 at a cost of Rs. 40 lakh. He has let out the property at Rs. 25,000 per month for a period of three years from October 1, 2013. The half yearly municipal tax is Rs 12,500 which is borne by him. The house was constructed on free hold land measuring 10,000 Sq.ft. The built up area of the house is 2000 Sq.ft. compute the value of the house property for wealth tax purpose as on the valuation date march 31, 2014.

Answer :-

COMPUTATION OF VALUE OF HOUSE PROPERTY

Particulars	Working	Rs.
GMR:		
Actual rent for let out period	25,000 X 6	1,50,000
Annualised Rent	$\frac{1,50,000 \times 12}{6}$	3,00,000
Local authority valuation	Not given in question	--
GMR		3,00,000
Less : Standard deduction	15% of GMR	45,000
Less : Municipal tax	$\frac{12,500 \times 12}{6}$	25,000
NMR		2,30,000
Capitalised value	2,30,000 X 12.5 (Since the property is constructed on freehold land, the multiplier shall be 12.5)	28,75,000
Substitution of cost	Capitalised value is Rs. 28,75,000 Cost of property is Rs. 40,00,000 Higher of these two	40,00,000
Add: Premium	Aggregate area = 10,000 Sq.Ft. Built-up area = 2,000 Sq.Ft. Actual vacant area = 8,000 Sq.Ft. Actual vacant area = 80% Specified vacant area = 60% Excess vacant area = 20% Hence addition for excess vacant area shall be 40% of 40,00,000.	16,00,000
Value of house property		56,00,000

Q.No.	SEQ / 59.107	Exam	Nov 2013	Marks	10
--------------	---------------------	-------------	-----------------	--------------	-----------

Mr. X, a person of Indian origin, was working in Singapore from 1990. He returns to India for permanent settlement in July 2012 when he remits money into India. The following particulars are furnished for the valuation date March 31, 2014. Compute the taxable wealth of Mr. X for the assessment year 2014-15 giving justification for the inclusion or exclusion of each item:-

Particulars	Rs. in lakh
Jewellery purchased in May 2012 out of money remitted to India from Singapore	15
Jewellery purchased in July 2012 out of sale proceeds of motor car brought from abroad and sold	14
Land purchased for industrial purpose on January 1, 2011	5.5
Land purchased for industrial purpose on March 25, 2014	7.5
Loan against the purchase of land on January 1, 2011	2.75

Particulars	Rs. in lakh
Loan against the purchase of land on March 25, 2014	3.5
Value of Assets held by Mrs. X acquired out of the gifts from her husband	
–Share and securities	2
–Residential house property at Mumbai	9
Urban land purchased in January 2012 out of withdrawals for NRE account	25
Cash in hand	1
Cash at bank	2

Answer :-

Asset / Liability	Treatment with reason	Rs. in lakh
Jewellery	Jewellery is an asset u/s 2(ea). However, since the assessee has come to India in July, 2012 and jewellery has been purchased in May, 2012 by utilising money remitted from outside India, which is within 1 year before coming to India, the assessee is entitled to exemption u/s 5(v). Hence not taxable.	Nil
Jewellery	Jewellery is an asset u/s 2(ea). However, the assessee has originally brought motor car from foreign country, sold such motor car (i.e. converted motor car into money) and thereafter purchased jewellery by utilising sale proceed of motor car, the jewellery shall be eligible for exemption u/s 5(v) as held in CWT Vs. K.O. Mathews (2003) 133 Taxman 418 (Ker) . Hence not taxable.	Nil
Land	Under section 2(ea), the urban land held for industrial purpose is not an asset for a period of 2 years from the date of purchase. The assessee has purchased this land on 01.01.2011. Thus, 2 years period has expired before valuation date i.e. 31.03.2014. Therefore, the land is an asset. Hence taxable.	5.5
Land	Under section 2(ea), the urban land held for industrial purpose is not an asset for a period of 2 years from the date of purchase. The assessee has purchased this land on 25.03.2014. Thus, 2 years period has not expired before valuation date i.e. 31.03.2014. Therefore, the land is not an asset. Hence not taxable.	Nil
Shares / Securities	Section 4(1)(a)(i) prescribes that any asset transferred by an individual to his spouse without consideration is includible in the net wealth of transferor. In this case, Mrs. X has acquired shares / securities out of gifts given by Mr. X. Hence, section 4(1)(a)(i) applies and the value of shares / securities is includible in the net wealth of Mr. X. However, the shares / securities are not “asset” u/s 2(ea). In the ultimate, nothing is taxable.	Nil
Residential house	Section 4(1)(a)(i) prescribes that any asset transferred by an individual to his spouse without consideration is includible in the net wealth of transferor. In this case, Mrs. X has acquired house property out of gifts given by Mr. X. Hence, section 4(1)(a)(i) applies and the value of house property is includible in the net wealth of Mr. X. It may be noted that house property is an “asset” u/s 2(ea). Hence it is taxable. However it should also be noted that the assessee is an individual. Hence one house property is exempted u/s 5(vi). The assessee can claim this exemption. In the ultimate, nothing is taxable.	Nil
Urban land	Urban land is an asset u/s 2(ea). However, since the assessee has come to India in July, 2012 and this land has been purchased in	Nil

Asset / Liability	Treatment with reason	Rs. in lakh
	January, 2012 out of withdrawal from NRE A/c, which is within 1 year before coming to India, the assessee is entitled to exemption u/s 5(v). Hence not taxable.	
Cash in hand	The assessee is individual. Hence cash balance upto Rs. 50,000 is not an asset. Only excess is asset u/s 2(ea). Therefore Rs. 50,000 shall be taxable out of total balance of Rs. 1,00,000/-.	0.50
Cash at Bank	Bank balance is not an asset u/s 2(ea). Hence not taxable.	Nil
	Aggregate of assets	6.00
	LIABILITIES:	
Loan	Loan against the land purchased on January 1, 2011 is deductible because the land is taxable.	2.75
Loan	Loan against the land purchased on March 25, 2014 is not deductible because the land is not taxable.	Nil
	Aggregate of liabilities	2.75
	Net Wealth	3.25