



WEALTH-TAX BILL, 2018
AND
EQUALIZATION LEVY BILL, 2018
(VOLUME - IV)

EQUALIZATION LEVY BILL, 2018

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25th Sep 2018



WEALTH-TAX BILL, 2018

A

Bill

to provide for the levy of wealth-tax.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:-

CHAPTER I

Preliminary

Extent, commencement and application.

1. (1) This Act shall be called the Wealth Tax Act, 2018.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

CHARGE OF WEALTH-TAX

Basis of charge

2. (1) Subject to the provisions of this Act, every person, other than a non-profit organization, shall be liable to pay wealth-tax on the net wealth on the valuation date of a financial year.
- (2) The wealth-tax shall be charged in respect of the net wealth referred to in subsection (1), on the valuation date of a financial year at the rate of one percent.
- (3) The liability to wealth-tax shall be discharged by payment of pre-paid taxes in accordance with the provisions of this Act.
- (4) The wealth-tax charged under this section shall be collected after allowing credit for pre-paid taxes, if any, in accordance with the provisions of this Act.

Computation of net wealth

3. (1) The net wealth of a person referred to in sub-sections (1) and (2) of section 2 shall be the amount computed in accordance with the formula—

A-B

Where

A = the aggregate of the value on the valuation date, of all the specified assets,

wherever located, belonging to the person referred to in this section, computed in accordance with the provisions of sub-section (5);

B = the aggregate of the value on the valuation date, of all the debts, owed by the person, which have been incurred in relation to the specified assets.

(2) The specified assets referred to in sub-section (1) shall be the following, namely:-

(a) any building or land appurtenant thereto (hereinafter referred to as “house”), used for any purpose;

(b) any farm house situated within twenty-five kilometers from local limits of any municipality or municipal corporation (by whatever name called) or a Cantonment Board;

(c) any urban land;

(d) motor car, yacht, boat, helicopter and aircraft other than those used by the taxpayer in the business of running them on hire or as stock-in-trade;

(e) jewellery, bullion, furniture, utensils or any other article made wholly or partly of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, other than those used by the taxpayer as stock-in-trade;

(f) archaeological collections, drawings, paintings, sculptures or any other work of art;

(g) watch having value in excess of fifty thousand rupees;

(h) cash in hand, in excess of two lakh rupees, of individuals and Hindu undivided families;

(i) deposit in a bank located outside India, in case of individuals and Hindu undivided families, and in the case of other persons any such deposit not recorded in the books of account;

(j) any interest in a foreign trust or any other body located outside India (whether incorporated or not) other than a foreign company; and

(k) any equity or preference shares held by a resident in a controlled foreign company, as referred to in the Twentieth Schedule.

(3) The specified assets referred to in sub-section (1) shall not include the following, namely:—

(a) any one building in the occupation of a Ruler, being a building which immediately before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was his official residence by virtue of a declaration by the Central Government under paragraph 13 of the Merged States (Taxation Concessions) Order, 1949, or paragraph 15 of the Part B States (Taxation Concessions) Order, 1950;

(b) jewellery in the possession of any Ruler, not being his personal property, which has been recognised as his heirloom—

(i) by the Central Government before the commencement of the Wealth-tax Act, 1957, as it stood before the commencement of this Act; or

(ii) by the Board at the time of his first assessment to wealth-tax under the Wealth-tax Act, 1957, as it stood before the commencement of this Act;

(c) the value of the assets located outside India, if the person is a non-resident; and

(d) any one house or part of a house or one vacant plot of land not exceeding five hundred square meters of area belonging to an individual or a Hindu undivided family.

(4) The house referred to in clause (a) of sub-section (2) shall not include the following, namely:—

(a) a house meant exclusively for residential purposes allotted by a company to an employee;

(b) any house for residential or commercial purposes which forms part of stock-in-trade;

(c) any house which the taxpayer may occupy for the purposes of business carried on by him;

(d) any house that has been let-out for a minimum period of three hundred days in the financial year;

(e) any house in the nature of commercial establishments or complexes.

(5) The value of any specified asset, other than cash, referred to in sub-section (2), shall be determined in such manner as may be prescribed.

(6) In this Chapter, “valuation date” means the 31st day of March in the financial year.

Net wealth to include certain assets

4. (1) The specified assets referred to in sub-section (2) of section 3 shall be deemed to be belonging to the person, being an individual, and included in computing his net wealth if such assets, as on the valuation date, are held (whether in the form they were transferred or otherwise)—

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

(b) by a minor child, not being a person with disability or person with severe disability, of such individual;

(c) by a person to whom such asset has been transferred by the individual, directly or indirectly, otherwise than for adequate consideration for the immediate or deferred benefit of the individual or his spouse;

(d) by a trust to whom such asset has been transferred by the individual, if the transfer is revocable during the life time of the beneficiary of the trust;

(e) by a person, not being a trust, to whom such asset has been transferred by the individual, if the transfer is revocable during the life time of the person; and

(f) by a Hindu undivided family by way of any converted property.

(2) The provisions of sub-section (1) shall not apply in respect of such specified asset as has been acquired by the minor child out of his income referred to in clause (b) of subsection (1) of section 9 and which are held by him on the valuation date.

(3) In this section,—

(a) the asset referred to in clause (b) of sub-section (1) shall be included in the net wealth of—

(i) the parent who is the guardian of the minor child; or

(ii) the parent whose net wealth (excluding the assets referred to in that clause) is higher, if both the parents are guardians of the child;

(b) a transfer shall be deemed to be revocable if—

(i) it contains any provision for the re-transfer, directly or indirectly, of the whole or any part of the income or asset to the transferor; or

(ii) it, in any way, gives the transferor a right to re-assume power, directly or indirectly, over the whole or any part of the income or asset;

(c) the person shall, notwithstanding anything in this Act or in any other law for the time being in force, be deemed to be the owner of a building or part thereof, if he is a member of a co-operative society, company or other association of persons and the building or part thereof is allotted or leased to him under a house building scheme of the society, company or association, as the case may be;

(d) the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate; and

(e) the value of any assets transferred under an irrevocable transfer shall be liable to be included in computing the net wealth of the transferor in the year in which the power to revoke vests in him.

CHAPTER III **ADMINISTRATION AND PROCEDURE**

Application of certain provisions of Income-tax Act

5. The provisions of Chapter -IX, Chapter-X, Chapter-XI, Chapter- XII and Chapter-XIII of the Income Tax Act 2018 relating to tax administration and

procedure, collection and recovery, additional income tax, penalties and prosecution, respectively, shall, *mutatis mutandis*, apply in relation to tax on net wealth, in so far as applicable, as they apply in relation to tax on income.

Power to make rules.

6. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the time within which and the form and the manner in which the return of net-wealth shall be delivered or caused to be delivered or furnished;
- (b) the form in which an appeal may be filed and the manner in which it may be verified;
- (c) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties.

7. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Act, remove the difficulty:

(2) No such order shall be made after the expiry of a period of two years from the date on which the provisions of this Act come into force.

(3) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

25th Sep 2018



EQUALIZATION LEVY BILL, 2018

A

Bill

to provide for the Equalization Levy.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:-

CHAPTER I

Preliminary

Extent, commencement and application.

1. (1) This Act shall be called the Equalization Levy Act 2018.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
- (4) It shall apply to consideration received or receivable for specified services provided on or after the commencement of this Act.

CHAPTER II

Definitions

Definitions.

2. In this Act, unless the context otherwise requires, —
 - (a) “Appellate Tribunal” means the Appellate Tribunal constituted under section 263 of the Income-tax Act 2018;
 - (b) “Assessing Officer” means the Income-tax Officer or Assistant Commissioner of Income tax or Deputy Commissioner of Income-tax or Joint Commissioner of Income-tax or Additional Commissioner of Income-tax who is authorized by the Board to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act;
 - (c) “Board” means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);
 - (d) “equalization levy” means the tax leviable on consideration received or receivable for any specified service under the provisions of this Act;
 - (e) “Income-tax Act” means the Income-tax Act, 2018;
 - (f) “online” means a facility or service or right or benefit or access that is obtained through the internet or any other form of digital or telecommunication network;
 - (g) “permanent establishment” includes a fixed place of business through which the business

of the enterprise is wholly or partly carried on;

(h) “prescribed” means prescribed by rules made under this Act;

(i) “specified service” means online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement and includes any other service as may be notified by the Central Government in this behalf;

(j) words and expressions used but not defined in this Act and defined in the Income-tax Act, 2018 or the rules made thereunder, shall have the meanings respectively assigned to them in that Act.

CHAPTER III

Basis of Charge

Charge of equalization levy.

3. (1) There shall be charged an equalization levy at the rate of six per cent of the amount of consideration for any specified service received or receivable by a person, being a non-resident from—

(i) a person resident in India and carrying on business or profession; or

(ii) a non-resident having a permanent establishment in India.

(2) The equalization levy under sub-section (1) shall not be charged, where—

(i) the non-resident providing the specified service has a permanent establishment in India and the specified service is effectively connected with such permanent establishment;

(ii) the aggregate amount of consideration for specified service received or receivable in a previous year by the non-resident from a person resident in India and carrying on business or profession, or from a non-resident having a permanent establishment in India, does not exceed one lakh rupees; or

(iii) where the payment for the specified service by the person resident in India, or the permanent establishment in India is not for the purposes of carrying out business or profession.

CHAPTER IV

Collection and Recovery

Collection and recovery of equalization levy.

4. (1) Every person, being a resident and carrying on business or profession or a non-resident having a permanent establishment in India (here in this Act referred to as person) shall deduct the equalization levy from the amount paid or payable to a non-resident in respect of the specified service at the rate specified in section 3, if the aggregate amount of consideration for specified service in a previous year exceeds one lakh rupees.

(2) The equalization levy so deducted during any calendar month in accordance with the provisions of sub-section (1) shall be paid by every person to the credit of the Central Government by the seventh day of the month immediately following the said calendar month.

(3) Any person who fails to deduct the levy in accordance with the provisions of sub-section (1) shall, notwithstanding such failure, be liable to pay the levy to the credit of the Central Government in accordance with the provisions of sub-section (2).

CHAPTER V

Procedure

Furnishing of statement.

5. (1) Every person shall, within the prescribed time after the end of each financial year, prepare and deliver or cause to be delivered to the Assessing Officer or to any other authority or agency authorized by the Board in this behalf, a statement in such form, verified in such manner and setting forth such particulars as may be prescribed, in respect of all specified services during such financial year.

(2) A person who has not furnished the statement within the time prescribed under subsection (1) or having furnished a statement under sub-section (1), notices any omission or wrong particular therein, may furnish a statement or a revised statement, as the case may be, at any time before the expiry of two years from the end of the financial year in which the specified service was provided.

(3) Where any person fails to furnish the statement under sub-section (1) within the prescribed time, the Assessing Officer may serve a notice upon such person requiring him to furnish the statement in the prescribed form, verified in the prescribed manner and setting forth such particulars, within such time, as may be prescribed.

Processing of statement.

6. (1) Where a statement has been made under section 5 by the person, such statement shall be processed in the following manner, namely:—

- (a) the equalization levy shall be computed after making the adjustment for any arithmetical error in the statement;
- (b) the interest, if any shall be computed on the basis of sum deductible as computed in the statement;
- (c) the sum payable by, or the amount of refund due to, the person shall be determined after adjustment of the amount computed under clause (b) against any amount paid under subsection (2) of section 4 or section 8 and any amount paid otherwise by way of tax or interest;
- (d) an intimation shall be prepared or generated and sent to the person specifying the sum determined to be payable by, or the amount of refund due to, him under clause (c); and
- (e) the amount of refund due to the person in pursuance of the determination under clause (c) shall be granted to him:

Provided that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the statement is furnished.

- (2) For the purposes of processing of statements under sub-section (1), the Board may make a scheme for centralized processing of such statements to expeditiously determine the tax payable by, or the refund due to, the person as required under that sub-section.

Rectification of mistake.

- 7. (1) With a view to rectifying any mistake apparent from the record, the Assessing Officer may amend any intimation issued under section 6, within one year from the end of the financial year in which the intimation sought to be amended was issued.
- (2) The Assessing Officer may make an amendment to any intimation under sub-section (1), either suo moto or on any mistake brought to his notice by the person.
- (3) An amendment to any intimation, which has the effect of increasing the liability of the person or reducing a refund, shall not be made under this section unless the Assessing Officer has given notice to the person of his intention so to do and has given the person a reasonable opportunity of being heard.
- (4) Where any such amendment to any intimation has the effect of enhancing the sum payable or reducing the refund already made, the Assessing Officer shall make an order specifying the sum payable by the person and the provisions of this Act shall apply accordingly.

Interest on delayed payment of equalization levy.

8. Every person, who fails to credit the equalization levy or any part thereof as required under section 4 to the account of the Central Government within the period specified in that section, shall pay simple interest at the rate of one per cent of such levy for every month or part of a month by which such crediting of the tax or any part thereof is delayed.

CHAPTER VI**Penalties****Penalty for failure to deduct or pay equalization levy.**

9. Any person who—

(a) fails to deduct the whole or any part of the equalization levy as required under section 4;

or

(b) having deducted the equalization levy, fails to pay such levy to the credit of the Central Government in accordance with the provisions of sub-section (2) of that section, shall be liable to pay, —

(i) in the case referred to in clause (a), in addition to paying the levy in accordance with the provisions of sub-section (3) of that section, or interest, if any, in accordance with the provisions of section 8, a penalty equal to the amount of equalization levy that he failed to deduct; and

(ii) in the case referred to in clause (b), in addition to paying the levy in accordance with the provisions of sub-section (2) of that section and interest in accordance with the provisions of section 8, a penalty of one thousand rupees for every day during which the failure continues, so, however, that the penalty under this clause shall not exceed the amount of equalization levy that he failed to pay.

Penalty for failure to furnish statement.

10. Where a person fails to furnish the statement within the time prescribed under subsection (1) or sub-section (3) of section 5, he shall be liable to pay a penalty of one hundred rupees for each day during which the failure continues.

Penalty not to be imposed in certain cases.

11. (1) Notwithstanding anything contained in section 9 or section 10, no penalty shall be imposed for any failure referred to in the said sections, if the person proves to the satisfaction

of the Assessing Officer that there was reasonable cause for the said failure.

(2) No order imposing a penalty under this Act shall be made unless the person has been given a reasonable opportunity of being heard.

CHAPTER VII

Appeals

Appeal to Commissioner of Income-tax (Appeals).

12. (1) A person aggrieved by an order imposing penalty under this Act, may appeal to the Commissioner of Income-tax (Appeals) within a period of thirty days from the date of receipt of the order of the Assessing Officer.

(2) An appeal under sub-section (1) shall be in such form and verified in such manner as may be prescribed and shall be accompanied by a fee of one thousand rupees.

(3) Where an appeal has been filed under sub-section (1), the provisions of sections 259 to 262 of the Income tax Act shall, as far as may be, apply to such appeal.

Appeal to Appellate Tribunal.

13. (1) A person aggrieved by an order made by the Commissioner of Income-tax (Appeals) under section 12 may appeal to the Appellate Tribunal against such order.

(2) The Principal Commissioner of Income-tax may, if he objects to any order passed by the Commissioner of Income-tax (Appeals) under section 13, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

(3) An appeal under sub-section (1) or sub-section (2) shall be filed within sixty days from the date on which the order sought to be appealed against is received by the person or by the Commissioner of Income-tax, as the case may be.

(4) An appeal under sub-section (1) or sub-section (2) shall be in such form and verified in such manner as may be prescribed and, in the case of an appeal filed under sub-section (1), it shall be accompanied by a fee of one thousand rupees.

(5) Where an appeal has been filed before the Appellate Tribunal under sub-section (1) or subsection (2), the provisions of sections 263 to 267 of the Income tax Act shall, as far as may be, apply to such appeal.

CHAPTER VIII

Prosecution

Punishment for false statement.

14. (1) If a person makes a false statement in any verification under this Act or any rule made thereunder, or delivers an account or statement, which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years and with fine.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under sub-section (1) shall be deemed to be non-cognizable within the meaning of that Code.

Institution of prosecution.

15. No prosecution shall be instituted against any person for any offence under section 14 except with the previous sanction of the Chief Commissioner of Income-tax.

CHAPTER IX

General

Application of certain provisions of Income-tax Act.

16. The provisions of Chapter -IX, Chapter-X, Chapter-XI, Chapter- XII and Chapter-XIII of the Income Tax Act 2018 relating to tax administration and procedure, collection and recovery, additional income tax, penalties and prosecution, respectively, shall, *mutatis mutandis*, apply in relation to equalization levy, in so far as applicable, as they apply in relation to tax on income.

Power to make rules.

17. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the time within which and the form and the manner in which the statement shall be delivered or caused to be delivered or furnished under section 6;

(b) the form in which an appeal may be filed and the manner in which it may be verified under sections 13 and 14;

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(c) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties.

18 . (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Act come into force.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

