

Wealth Tax Act, 2047 (1990)

Date of Authentication

2047.11.20 (4 March, 1990)

Act No. 22 of the year 2047 (1990)

An Act Made to Levy and Recover Wealth Tax

Preamble: Whereas, it is expedient to manage *modus operandi* of levying and recovering the wealth tax pursuant to the prevailing law;

Now, therefore, be it enacted by His Majesty's King Birendra Bir Bikaram Shah Dev on the advice and with the consent of the Council of Ministers.

1. **Short title and Commencement:** (1) This Act may be called the "Wealth Tax Act, 2047 (1990)".

(2) It shall come into force immediately.

2. **Definitions** : Unless the subject or the context otherwise requires, in this Act, -

- (a) "Wealth" means all kinds of movable and immovable properties remaining in cash or in-kind and ownership of which is capable of being transferred and this expression also includes bank account and investment of the taxpayer.
- (b) "Tax" means wealth tax levied or levible pursuant to this Act or the prevailing law.
- (c) "Tax-payer" means any person who is liable to pay the wealth tax pursuant to this Act or prevailing law or any person to whom or against whom the Tax Officer has given a notice or taken any other action to cause him/her to furnish statements of wealth pursuant to this Act.
- (d) "Investment" means any investment in the form of cash or in-kind made in a share, security, stock, bond, debenture and partnership firm.
- (e) "Director General" means the Director General of the Tax Department.

- (f) "Assessment of Tax" includes provisional assessment of tax, re- assessment of tax and additional assessment of tax.
- (g) "Tax Officer" means, for the purpose of this Act, the Chief Tax Officer, Senior Tax Officer, Tax Officer appointed by Government of Nepal or any other officer as may be appointed by Government of Nepal entitled to exercise the power of a Tax Officer Pursuant to this Act.
- (h) "Person" means any person liable to pay income tax by carrying on any industry, trade, Profession or occupation or any person having ownership in a company, which buys and sells shares publicly.
- (i) "Family" means husband, wife and minor son and daughter whether separated or not.
- (j) "Firm" means any firm whether registered or not pursuant to the prevailing law.
- (k) "Company" means a company or body corporate incorporated under the prevailing law.
- (l) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

3. **Appointment of Tax Officer and delegation of powers:** (1) Government of Nepal may appoint such number of Tax Officers as may be necessary for the purpose of this Act.

(2) The jurisdiction of a Tax Officer shall be as prescribed by Government of Nepal. Government of Nepal, if it thinks necessary, may authorize any Tax Officer to exercise powers which are under the jurisdiction of any other Tax Officer.

(3) The Tax Officers appointed before the commencement of this Act shall be deemed to have been appointed under this Act.

(4) A Tax Officer may delegate any or all of his/her powers to his/her subordinate to be exercised under his/her general supervision and control.

(5) Government of Nepal may delegate any or all of the powers conferred on it by this Act to the Director General or any other Tax Officer.

(6) The Tax Officer shall comply with specific instructions of Government of Nepal, if any, on matters related to the delegation of powers by such Tax Officer to his/her subordinate.

4. Assessment and recovery of wealth tax : (1) If any Act provides for levying wealth tax for years or for any one year, such wealth tax shall be assessed and converted pursuant to this Act and the Rules framed under this Act.

(2) If any person has wealth in various places, the statement of the whole of such wealth shall be obtained and evaluated separately and the wealth tax shall be assessed by allocating the whole of such wealth as one unit for the purpose of this Act.

(3) Tax shall be assessed having assumed/considered any wealth belonging to that person in whose ownership the wealth remains on the first day of *Shravan* (about mid July) of each year for that fiscal year; and if any wealth is owned jointly by more than one person, tax shall be assessed on *pro-rata* basis, considering the wealth to belong to such joint owners.

5. Not considered as wealth: (1) The goods mentioned in Schedule-1 shall not be considered as wealth for purposes of the wealth tax.

(2) The wealth mentioned in Schedule-2 shall not be included in the valuation of wealth for purposes of the wealth tax.

6. Mode of valuation of wealth: The Tax Officer shall evaluate the wealth in accordance with the method, if any, specified by prevailing law for the purposes of the wealth tax and if no such method has been specified in such a way as may be prescribed.

7. **Duty to furnish statements:** Every person liable to pay the wealth tax pursuant to this Act or prevailing law has to furnish, or cause to be furnished, statements of the wealth in his/her name or his/her family's name with the Tax Officer of the area where such person resides or with the Tax Officer of the area where major of wealth belongs to such person is situated, no later than the last day of the month of *Ashwin* (about mid October) of each year.

Provided, however, that statements of the wealth for fiscal year 2047/048 (1990/1991) may be submitted within the last day of the month of *Ashad* of 2048 (about mid July 1991).

(2) A person residing outside of the Nepal shall furnish, or cause to be furnished such statement with the Tax Officer of Kathmandu.

(3) Any person out of the joint ownership over the wealth may furnish statements of the wealth so owned by more than one person.

8. **Power to have statements of wealth furnished:** If the Tax Officer suspects that any person has got the wealth subject to the wealth tax under this Act or the prevailing law, he/she may give a written order to such person to furnish, or cause to be furnished statement of his/her wealth. Such person has to furnish, or cause to be furnished, statements of his/her wealth with the Tax Officer in such format as may be prescribed within thirty five days from the date of receipt of the order.

Provided, however, that any tax payer who cannot furnish, or cause to be furnished, statements even within thirty five days has to give a written notice thereof to the Tax Officer within the time-limit, and the Tax Officer may, if he thinks reasonable, grant extension of the time limit for a period not exceeding one month.

9. **Amendment to statements of wealth allowed** : (1) After any statement of the wealth have been furnished, if the tax-payer subsequently comes to know that the

statement contains some error, he/she may furnish an amended statement, having clearly setting out the reasons and grounds for the occurrence of such error.

(2) Notwithstanding anything contained in Sub-section (1), no amended statement can be submitted in the following circumstances -

- (a) In the event of expiry of one year of receipt of the tax assessment order pursuant to Section 10.
- (b) In the event of receipt of a notice indicating initiation of action by Government of Nepal pursuant to Section 20.

(3) No tax-payer shall be allowed to submit amended statement under sub-section (1) more than once in one fiscal year.

(4) In reassessing the tax on the basis of the amended statement of wealth submitted after assessment of tax, if the amount of tax assessed earlier varies, an additional fee of ten per cent on the amount or such variation shall be charged.

10. To Assess the tax : (1) After receipt of statement of wealth of a tax payer, the Tax Officer has to assess the tax within the fiscal year immediately following the fiscal year in which the statement of wealth is received; and if the tax cannot be assessed within that period, the Tax Officer has to give a notice to the Director General setting out the reason therefore. The Director General may, after receipt of such notice, extend the time-limit as per necessity, in a condition that the tax has to be assessed within three years from the date of submission of the statement of wealth.

(2) If a tax-payer fails to furnish the statement of wealth or is held to have furnished a false statement, the Tax Officer may determine the value of the wealth on any of the following grounds and assess the tax accordingly :-

- (a) Evidence or proof received or collected by the Tax Officer on the wealth of such taxpayer,

- (b) Report or ground accompanied by any evidence or proof received by the Tax Office on the wealth of the tax payer.

Explanation: For the purpose of this Section "False statement," means any or all of the circumstances specified in Sub-section (1) of Section 20.

(3) In determining the value of the wealth pursuant to sub-section (2), the Tax Officer shall give a notice in writing clearly setting out the grounds for so determining the value to the tax-payer and also give a time-limit of fifteen days to such tax payer to state something or submit evidence and proof about his/her wealth.

(4) If, in examining the statement of wealth required to be furnished by any person pursuant to this Act, after such statement has been furnished, it held that there is only the wealth which is not to be included in the value of wealth pursuant to Schedule-2, tax of such wealth shall not be assessed and the certificate indicating non-levying of tax shall be made available to the concerned person.

11. Deduction from value of wealth : (1) For purposes of determining the tax, net wealth shall be determined by deducting, from the value of the wealth, the following amounts received by the tax-payer in the year immediately before the year for which year the wealth of the tax payer is to be evaluated :-

- (a) Loans borrowed from any bank, financial institution or any other person or organization by getting registered the deed to obtain ownership of the taxable wealth.
- (b) Amount of which payment has been received for life insurance or accident insurance.
- (c) Any cash or in-kind prizes received for having carried out any remarkable public service or work,

- (d) Amount of which payment has been received from the employee's Provident Fund.
- (e) Amount of which payment has been received from the Citizen's Investment Fund.
- (f) Amount of which payment has been received for pension or gratuity.
- (g) Dividend received from domestic Companies or Associations.
- (h) Amounts paid for debentures so issued by Government of Nepal not being the subject to the wealth tax.
- (i) Amount equivalent to the convertible foreign currency brought from a foreign country.

(2) The amounts received pursuant to Sub-section (1) shall be deducted from the value of the wealth, only if such amounts are proved to have been included in the wealth mentioned in the statement of wealth submitted by the tax payer.

12. Payment of wealth tax: (1) Each tax payer shall, after receiving the tax assessment order pursuant to this Act, pay the amount of tax to such bank or office as may be prescribed in that order within thirty five days from the date of receipt of such order.

(2) An annual fee of fifteen percent of such tax shall be imposed on the tax payer who does not pay the tax within the time-limit as referred to in sub-section (1). The authority or office specified as per the notice of the Tax Officer may recover the amount of outstanding tax and fee by following any or all of the following methods:

- (a) Impounding or seizing the movable or immovable property of the tax payer.

- (b) Withholding the security deposit furnished in the name of the tax payer in any governmental office or body corporate owned by Government of Nepal or the amount payable by such office or body corporate to the tax payer or requiring such amount to be paid to the Tax Office.
- (c) Auctioning off any or all of the movable or immovable properties of the tax-payer at one time or several times in such a manner as may be prescribed.

(3) If the tax-payer comes to pay the amount of tax after the commencement of auction sale of his/her property and before the completion of the auction sale, the levied tax as well as an additional fee at the rate of five percent of the total amount of fee shall be recovered.

13. Refund or adjustment of tax: (1) In cases where any other separate tax has been levied on any wealth pursuant to the prevailing law, such tax shall be deducted from the assessed wealth tax payable by such tax payer.

(2) In cases while assessing the tax for any fiscal year, if it is found that the amount of tax paid in advance by any tax payer is held to be in excess, the taxpayer may adjust it in the amount of tax payable by the taxpayer for other fiscal year, and if there is not any amount of tax to be so adjusted in, then the Tax Officer has to refund the excess amount within Six months.

14. Concession on the tax determined: If any tax-payer pays all the amounts of tax determined pursuant to this Act within the time-limit as referred to in Sub-section (1) of Section 12, a concession of five per cent of the tax so determined shall be given to such tax payer.

15. Power of rebate or remission: Government of Nepal may, if it deems necessary under specific circumstances, by a Notification published in the Nepal Gazette,

remit in whole or in part any fine, fee or additional fee which may be or has been imposed under this Act.

16. Powers of Court of Law to be Vested: (1) The Tax Officer shall, for the purpose of carrying out inquiries regarding the statement of income submitted pursuant to this Act, be deemed to possess the powers vested in a court of law by the prevailing Nepal law in the matter of issuing summons, recording of statement, receiving evidence and producing documents by the person submitting statement of income.

(2) The Tax Officer shall, after notifying in the order issued pursuant to sub-section (1) that the taxpayer or his/her legal representative shall incur such legal liabilities as mentioned in such order for not supplying the details or information sought by the Tax Officer, proceed to take such actions as he/she may deem necessary.

17. Power to Make Agreements for Avoidance of Double Taxation : Government of Nepal may enter into an agreement with the government of any foreign country for the avoidance of double taxation on income subject to tax under this Act or the existing Nepal law and under the corresponding law in force in such other country.

18. Documents to be kept Confidential: The Tax Officer shall be deemed to consider with all documents and information relating to the income of any person which may come to his/her possession or to his/her knowledge as confidential. Such documents or confidential information shall not be disclosed or used as evidence in any court of law except for the purpose of income tax or any other tax, and before the final tax has been assessed no officer shall demand for inspection or investigation without the permission of Government of Nepal.

Provided, however, that no tax Officer shall be prevented from disclosing such confidential information to any person for the purpose of this Act where such person has the duty of administering this Act.

19. Power to make correction: (1) If it is learnt from an application made by a tax-payer or from any other source that tax has been so assessed that the figure of tax is lower or higher because of some error in any statements or mathematical error in evaluating the wealth, the Tax Officer may, within two years from the date of assessment of tax, correct the error and reassess the tax.

(2) If the amount of tax to be set after making correction of the error in the tax assessment order pursuant to Sub-section (1) becomes lesser than that of tax assessed previously, prior to correcting error in such tax assessment order, approval of the Director General of the Department of Tax shall be obtained by executing a memo (*Parcha*) setting out clear reasons therefor.

(3) If the amount of tax to be set after making correction pursuant to Sub-section (1) becomes higher than that of tax assessed previously, prior to correcting the error in such tax assessment order, a memo setting out clear reasons therefor has to be executed and the tax-payer has to be given a written notice for the same and given a reasonable opportunity to defend him/herself in respect of the tax payable by him/her.

20. Power to make Reassessment or Supplementary Assessment: (1) If Government of Nepal is satisfied that any tax-payer has submitted the statement of wealth pursuant to this Act or the existing Nepal law, with an objective of reducing tax liability in the following manner, it may order for reassessment or additional assessment of his/her tax within five years from the date of the said assessment.

- (a) Concealment of any wealth in whole or in part;
- (b) Production of forged documents to support his/her statement of wealth;
- (c) Submission of statement on the basis of false books of account;

(d) Avoidance of tax or reduction of tax liability in the manner mentioned in Sub-sections (1) or (2) of Section 24.

(2) If Government of Nepal is satisfied that the tax liability has been reduced in the case of a taxpayer due to dishonesty, negligence or irregularity, it may order reassessment or supplementary assessment of his/her tax within five years from the date of the said assessment.

- 21. Appeal to the Revenue Tribunal:** Any person aggrieved by tax assessment order or punishment order made by the Tax Officer pursuant to this Act may make an appeal to the Revenue Tribunal within thirty five days of receipt of such order.
- 22. Wealth not to be examined:** Notwithstanding anything contained elsewhere in this Act, no inquiry or examination shall be made without the order of Government of Nepal about the earning or source of the wealth mentioned in the statement of wealth to be furnished for the first year after the commencement of this Act.
- 23. Departmental action in case of Negligence:** If it is found that a Tax Officer has, with regard to any tax payer, made dishonest (reckless) or negligent tax assessment and as a result of which the tax liability of such person has become excessive or reduced, the Director General shall have to initiate proceedings for departmental action for punishment in accordance with the provisions made in the prevailing law regarding the conditions of service of such Tax Officer.
- 24. Penalty for Failure to Submit Statement of Wealth:** (1) Any tax payer who fails to submit a statement of wealth within the time limit as prescribed in Sub-section (1) of section 7 shall be liable to a fine upto a maximum of Five Thousand Rupees.
- (2) Any person who fails to submit a statement of wealth as per the order as referred to in Section 8 shall be liable to a fine equal to an amount of ten percent of the tax payable annually by him/her.

(3) The Tax Officer may take any or all of the following actions to any Tax payer who fails to submit his statement of wealth as referred to in Sub-section (2) unless he submits the statement of wealth,-

- (a) To impound or size the movable or immovable property of the tax payer;
- (b) To impound any security deposit of the tax payer with any government office or corporation owned by Government of Nepal or any amount payable to him/her by such office or corporation.
- (c) To restrain from the business of the tax payer including that of import or export trade.

(4) The Tax Officer shall have to give the information of initiating of action as referred to in Sub-section (3) to the Director General within Seven days of initiating of such action.

(5) If any tax payer fails to submit the details of wealth within the time limit pursuant to Sub-section (1) of Section 7 or Section 8 and it comes to assess the tax pursuant to Sub-section 2 of Section 10, the tax payer who submits the details of wealth only after giving the time limit pursuant to Sub-section (3) of the same section or denies to submit the details of wealth, shall be punished with a fine at the rate of Fifteen percent of tax levied on him/her annually.

(6) In fixing the figure of fine pursuant to Sub-section (2) or (5), the figure of fine shall be fixed only from the amount due to recover by deducting the withholding tax paid from the amount of levied tax.

(7) Notwithstanding anything contained in Sub-section (1), (2) and (5), in calculating the figure of fine pursuant to the said Sub-sections, the calculation shall be made from the date of exceeding three months of the expiry of fiscal year

and such fine shall not exceed Fifty percent of the tax due to be paid by the tax payer.

25. **Penalty for Submitting False Statement:** Any person who submits or causes to submit a false statement of wealth required to be submitted pursuant to this Act which had fallen short due to the submission of such false statement the short fallen amount shall be recovered, and the amount equivalent to the said amount shall be imposed as a fine.
26. **Punishment for Breach of the Provisions of the Act or the Rules:** Except for any act punishable under Section 24 and 25, any person, firm, company, bank, financial or other institutions responsible for any breach of the provisions of this Act or the Rules made thereunder shall be punishable by an order of the Tax Officer with a fine upto the maximum of One Thousand Rupees.
27. **Authority to Impose Penalty:** The Tax Officer shall have authority to impose penalty under this Act.
28. **Limitation not to be expired:** Notwithstanding anything contained in other Sections of this Act in computing the limitation for assessing the tax pursuant to sections 10, 19 and 20 of this Act, it shall be computed excluding the period as mentioned below :-
- (a) If any order is issued by a court to stop or held up any action initiated by the Tax Officer or Government of Nepal pursuant to this Act, the period of such stoppage or holding up.
 - (b) If an appeal has been made against the tax assessment order made by the Tax Officer, the period until information of final settlement of such appeal is received.
29. **Prescription of forms:** The formats of statements or forms required for purposes of this Act shall be as prescribed and, pending such prescription shall be as prescribed by the Director General from time to time.

30. **Power to Frame Rules**: Government of Nepal may frame Rules to carry out the objectives of this Act. .
31. **Repeal**: The wealth Tax Act, 2017 (1960) is, hereby, repealed.

NEPAL LAW COMMISSION

Schedule -1

(Relating to sub-section (1) of Section 5)

Goods or material not to be included in wealth

1. Agro and forest products, buildings, tools, machineries and equipment (including tractor) used for agricultural works.
2. Animals,
3. Amounts deposited for life insurance.
4. Amounts deposited in the Employee Provident Fund.
5. Copy right of the book written by oneself, patent right and design of the article invented by oneself.
6. Books and educational materials for study.
7. Utensils made from metals other than precious metals.
8. Clothes and mattress (bedding) in household use.
9. Furniture, machineries and equipment (other than television, video, deck, refrigerator, washing machine, movie camera and air conditioner) put into daily use.
10. Tools, machineries and equipment to be used in profession.
11. Decorative goods placed or installed in buildings (other than the goods made from or installed with precious metals).
12. Musical equipment and instruments to be put into daily use.
13. Machineries and equipment to be placed in buildings for medical treatment and examination.
14. Goods to be used in sports and physical exercise.
15. Means of vehicle like a bicycle, rickshaw, and similar other man operated vehicle which does not have engine,
16. Arms and ammunitions kept for security.
17. Goods to be used in research work.
18. Goods relating to painting and photography.
19. Such other goods or material as may be so specified by the prevailing law as not to be included in the wealth.

Schedule -2

(Relating to sub-section (2) of section 5)

Wealth not to be included in valuation

1. Up to ten *tola* of gold including ornaments.
2. Up to two hundred *tola* of silver.
3. Stock-in-trade.
4. Industrial mills, machineries, equipment, tools and ware house in the use of industry and spare-parts (*Lagapat*) thereto.
5. Shares and debentures invested in native companies and corporations.
6. Debentures issued by Government of Nepal not subject to the wealth tax
7. One building of up to 3000 square feet held in the name of the tax payer or of his/her family and the land with an area of up-to two *Ropani* covered by that building.
8. In-kind property given to be used for religions or public interest works.
9. In respect of land subject to tenancy right, the land equal to the portion of land to which the tenant is entitled pursuant to the prevailing law.
10. The Land within the following ceiling used in agricultural works situated in the following areas:-
 - (a) Ten *Bigaha* in the whole *Terai* region including inner *Terai*,
 - (b) Twenty *Ropani* in Kathmandu Valley.
 - (c) Sixty *Ropani* in all hilly areas except Kathmandu Valley.
11. Such other wealth as may be so specified by the prevailing law as not to be included in the valuation of the wealth.