

A HANDBOOK ON THE DEATH DUTIES

B.

H. ARNOLD WOOLLEY

Solicitor of the Supreme Court

A very useful textbook
and reference book, for
which both lawyer and
layman alike should be
grateful.

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By H. ARNOLD WOOLLEY

SOLICITOR OF THE SUPREME COURT

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PREFACE

THIS small book is intended to deal in a concise yet clear manner with the main features of the death duties as met with in a solicitor's office. It makes no pretensions to rank as an exhaustive work, being designed to serve as an inexpensive secondary book for use in ordinary cases, or where the larger treatise is engaged in another room. The objects being brevity and economy in price, as well as accuracy and lucidity, only those points which more commonly arise are dealt with, and examples, rather than long verbal explanations, are resorted to as much as possible. Illustrative cases are given in Chapter XIII, as well as in the earlier pages. The endeavour has been to avoid detail of a kind which would render the book unreadable by the general business man, and at the same time to retain sufficient to make it a useful reference work to practitioners—a difficult task, but one that, it is hoped, has been successfully accomplished.

The book has, it is believed, the distinction of being the first one on this important subject, at all events of recent years, to be written by a practising solicitor, familiar with everyday cases arising in a busy London office, and that should add in some degree to its helpfulness.

The alterations in the law made by the 1925 Finance and Property statutes are embodied. Except for a heavy raising of the Estate Duty, these alterations are few, and not of great general importance.

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The Administration of Estates Act, 1925, although abolishing the distinction between real and personal property as regards devolutions on intestacy, expressly retains the former law as to incidence and collection of the Death Duties. Inquiries by purchasers of real property as to death duties charged thereon will henceforth take a new form (Chapter I).

The rates of Estate Duty in force since 1909 are given in Chapter III; and Table I (single life annuities) of the Succession Duty Act, to which reference is constantly necessary in the course of business, appears in Chapter VIII.

An accurate knowledge of the death duties law is now more than ever important in solicitors' offices, and practitioners and their articulated clerks will do well to make themselves thoroughly acquainted with it, in so far as they may not have already done so. Instances are constantly occurring where a little extra knowledge of intricate points saves large sums to clients. In too many cases claims for duties received from the Estate Duty Office are passed as correct without sufficient scrutiny—due to insufficient intimacy with the law.

I have set myself this task largely in the hope that it will result in increasing popular knowledge of the subject, so that general resistance to further increases in the burdens may be stimulated, and I trust that this book may find a wider public than the learned, but necessarily cumbrous, works which have previously appeared can hope to do. They are written solely for the profession, and deal with all manner of points, many of only rare occurrence.

The heaviness of the duties brings the subject into the front rank of affairs of general practical importance. Mr. Churchill gave the following figures in the House

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of Commons on 31st March, 1925. They relate to Great Britain alone (excluding Ireland) :—

Year.	Aggregate Net Capital Value of Estates on which Duty was Paid.	Total Death Duties Paid.	
		Amount.	Per Cent. of Capital Value.
	£	£	
1920-21	372,889,609	45,169,064	12·11
1921-22	402,085,234	51,206,473	12·73
1922-23	431,197,524	56,432,906	13·09
1923-24	441,895,962	57,500,191	13·01

The table includes, of course, a very large number of small estates on which only trifling sums were payable for duties. In the case of moderate and large estates the percentage paid in duties is far higher than the percentage indicated, as Chapter XIII will show. For instance, in the case of an estate of from £45,000 to £50,000 the duties amount to nearly 24 per cent. if the whole goes to a beneficiary liable to the highest rate of Legacy and Succession Duty, and to no less than 46 per cent. in the case of an estate of £2,000,000 or more. And if the beneficiary were to die next day and had property of his own, the State might again take the same proportion of the remainder. (See Chapter XIII, Case 7.) The more deaths in a family the worse for the family fortune and the better for the Inland Revenue, but the justice is, at best, problematical.

The Chancellor of the Exchequer in the late Labour Government recently published in a popular journal an outline of the Budget which he would have introduced in 1925, had he been in office. His proposals

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included the raising of the death duties to a degree which would make confiscation of private property an accomplished fact—confiscation because the duties would be aimed at an object beyond production of necessary revenue. He stated (in effect) that it is bad for people to inherit property, because it tends to make them idlers. Such views seem to be born of the primitive desire to take from another what one has not got oneself, and they have no justification. A very small proportion only of those who inherit property on the death of parents or others are transformed into idlers thereby. There are more idlers amongst those who do not inherit property. In a large number of cases the principal effect of the acquisition of capital is to enable the recipient to engage in further activities; in others to enable him to better educate his children and give them more suitable openings in life; not infrequently it makes it possible for a man to devote his life to unpaid or little-paid work of the utmost value to the community, such as religion, philanthropy, diplomacy, the fighting services, scientific research, or the Arts.

Further, it is a mistake to maintain taxation of any kind in normal times up to the limit of the taxpayers' capacity to pay. A reserve should be kept in hand for exceptional crises, such as war, and in times of peace as much as possible of the taxpayers' money should be allowed to accumulate in building up the mercantile and financial strength of the country. At the present time this country has no such reserve.

Over-taxation encourages evasion and discourages thrift. (See Chapter XII.)

The law is urgently in need of amendment and simplification—a matter dealt with in Chapter XIV. The chapter is in the nature of an appendix, and I

hope that the best possible reason for its removal will before long arise. The operation will cause no pain.

It is feared that the subject may at first sight appear to be a somewhat dry one from the lay standpoint ; but if the reader will visualize the death duties system as a carefully contrived and ever-growing capital levy scheme, already in full working order, and ready at any moment to be used as a downright confiscatory machine, he will find that the study acquires a certain liveliness. One fears that a class which has its full share of value to the nation is in great danger of annihilation. It has, indeed, already to a large extent disappeared since 1914.

Before closing I desire to offer a small tribute to the Estate Duty Office, with whose officials I have over a considerable period been brought into close business contact. Their work is difficult, and it is done with signal efficiency and courtesy. In proportion to the size of the revenue which the Office collects, it is the smallest-staffed and least expensive of all our Public Departments.

I tender humble apologies in advance for any mistakes of which I may have been guilty in the following chapters. Corrections will be received with gratitude.

I am indebted to my friend, Mr. W. Durham Wilkinson (Messrs. Wilkinson and Son), for very kind assistance in correcting the proofs.

H. ARNOLD WOOLLEY.

HIGH LEA, WEMBLEY,
October 1925.

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