

LOK SABHA

**THE ESTATE DUTY (AMENDMENT)
BILL, 1958**

(Report of the Select Committee)

PRESENTED ON THE 18TH AUGUST, 1958.



**LOK SABHA SECRETARIAT
NEW DELHI
August, 1958
Price 75 n.P.**

C O N T E N T S

	PAGES
1. Composition of the Select Committee	i-ii
2. Report of the Select Committee	iii—v
3. Note	vi
4. Minutes of Dissent	vii—xi
5. Bill as amended by the Select Committee	1—20
 APPENDIX I—	
Motion ¹¹¹ Lok Sabha for reference of the Bill to Select Committee	21-22
 APPENDIX II—	
Statement of representations received by the Select Committee	23
 APPENDIX III—	
Minutes of the sittings of the Select Committee	24—37

THE ESTATE DUTY (AMENDMENT) BILL, 1958

Composition of the Select Committee

1. Shri C. R. Pattabhi Raman- *Chairman.*
2. Shri Asoke K. Sen
3. Shri C. D. Pande
4. Shri M. Thirumala Rao
5. Shri Tribhuan Narayan Singh
6. Shri Mahavir Tyagi
7. Shri S. Ahmad Mehdi
8. Shrimati Uma Nehru
9. Shri Shivram Rango Rane
10. Sardar Iqbal Singh
11. *Dr. Y. S. Parmar
12. Shrimati Renuka Roy
13. Shri Liladhar Kotoki
14. Shri Jaganatha Rao
15. Shri Narendrabhai Nathwani
16. Shri Radheshyam Ramkumar Morarka
17. Shri Harish Chandra Mathur
18. Shri Radhelal Vyas
19. Shri Vidya Charan Shukla
20. Shri N. G. Ranga
21. Shri M. Shankaraiya
22. Shri Satyendra Narayan Sinha
23. Shri George Thomas Kottukapally
24. Shri A. M. Tariq
25. Shri Kamalnayan Jammalal Bajaj
26. Shri B. R. Bhagat
27. Shri Mathura Prasad Mishra
28. Shri T. Sanganna

*Ceased to be member of the Committee with effect from the 31st July, 1958 on the dismissal by the Judicial Commissioner of the appeal from the order of the Election Tribunal dated the 28th April, 1958 declaring his election to Lok Sabha void.

(ii)

29. Shri S. R. Damani
30. Shri Rajeshwar Patei
31. Shri T. C. N. Menon
32. Shri Prabhat Kar
33. Shri R. K. Khadilkar
34. Shri Bimal Comar Ghose
35. Shri Arjun Singh Bhadauria
36. Shri M. R. Masani
37. H.H. Maharaja Sri Karni Singhji of Bikaner
38. Shri Premji R. Assac
39. Shri N. Siva Raj
40. H.H. Maharaja Pratap Keshari Deo
41. Shri Naushir Bharucha
42. Dr. A. Krishnaswami
43. Shri Morarji Desai

DRAFTSMAN

Shri G. R. Rajagopaul, *Additional Secretary and Chief
Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai, *Under Secretary.*

Report of the Select Committee

I, the Chairman of the Select Committee to which the Bill* further to amend the Estate Duty Act, 1953 was referred, having been authorised to submit the report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 28th February, 1958. The motion for reference of the Bill to a Select Committee was moved by Shri Morarji Desai on the 24th April, discussed in the House on the 24th and 25th April, and adopted on the 25th April, 1958.

3. The Committee held 4 sittings in all.

4. The first sitting of the Committee was held on the 30th April, 1958 to draw up a programme of work.

5. The report of the Committee was to be presented by the 1st May, 1958. The Committee were granted extension of time on the 1st May, 1958 upto the 20th August, 1958.

6. Eight representations on the Bill were received by the Committee from different associations/individuals as mentioned in Appendix II.

7. The Committee considered the Bill clause by clause at their sittings held on the 7th and 8th August, 1958.

8. The Committee considered and adopted the Report on the 13th August, 1958.

9. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

10. *Clause 1.*—The Committee consider that power should be taken to bring the amending Act into force on a suitable date so that the Act is brought into force after necessary resolutions under Article 252(2) of the Constitution are passed by the State Legislatures so as to enable the Act to be made applicable to agricultural land.

The clause has been amended accordingly.

*Published in Part II, Section 2 of the Gazette of India Extraordinary dated the 28th February, 1958.

(iv)

11. *Clause 2.*—The definition of 'person accountable' or 'accountable person' in this clause has been amended so as to bring it in line with the definition of "assessee" in the Indian Income-tax Act, 1922.

12. *Clause 4.*—The Committee have considered the proposed amendment in the Bill raising the period of chargeable gifts from two years to five years, but are of the view that the *status quo* should be maintained.

Sub-clause (a) of this clause and the original clauses 5, 6 and 7 of the Bill have, therefore, been omitted.

13. *Clause 12 (Original clause 16).*—In conformity with the provisions made in the Wealth-tax Act, 1957 and the Expenditure Tax Act, 1957 in respect of the 'official residence' of a Ruler, the Committee have added a new sub-clause (d) exempting the official residence of a Ruler from estate duty.

The other amendment in sub-clause (b) is consequential upon the amendment made in clause 4.

14. *Clause 13 (Original clause 17).*—The amendment made in this clause is of a consequential nature.

15. *New clause 15.*—This new clause rectifies a printing mistake in the principal Act.

16. *Clause 19 (Original clause 22).*—In cases where any property in respect of which gift tax has been paid is also included in the estate of a donor as property passing under the Estate Duty Act, the Committee are of the opinion that, instead of exempting such property from estate duty altogether as proposed in the Bill, the amount of estate duty payable may be reduced by a sum equal to the amount of the gift tax paid.

The clause has been amended accordingly.

17. *Clause 21 (Original clause 24).*—

(a) *Proposed section 57.*—The amendment made in this section is of a drafting nature.

(b) *Proposed section 59.*—The amendment in this section is clarificatory.

(c) *Proposed section 60.*—The amendment made in this section is of a drafting nature and is intended to secure uniformity in language with that employed in sections 53, 55, 56 and 59.

(d) *Proposed section 62.*—The amendment in this section provides for an appeal in respect of penalties which may be levied under the proposed section 72, or under section 46(1) of the Indian Income-tax Act, 1922 as applied to the levy of estate duty under the proposed section 73(5).

(v)

18. *Clause 23 (Original clause 26).*—The Committee consider that the number of instalments for payment of estate duty in respect of immovable property should not be reduced to *three* yearly or *six* half-yearly instalments as proposed in the Bill, but to *four* yearly or *eight* half-yearly instalments.

The clause has been amended accordingly.

19. *New clause 24.*—As the original section 56 of the principal Act is now being replaced, a consequential amendment is necessary in section 72. The Committee feel that the penalty leviable under section 72 may be expressed so as not to exceed rupees one thousand and that before any such penalty is levied the person concerned should be given an opportunity of being heard. This new clause provides for the necessary amendment in section 72 of the principal Act.

20. *Clause 26 (Original clause 28).*—The Committee consider that as in the Wealth Tax, Gift-Tax and Expenditure Tax Acts, a provision should be made authorising the appearance before estate duty authorities of persons who are neither legal practitioners nor accountants but possess such qualifications as may be prescribed.

The clause has been amended accordingly.

21. *Clause 28 (Original clause 30).*—The Committee have given careful consideration to the new rates of duty proposed in the Bill. They are of the view that in Part I of the proposed Second Schedule the rates in the second and third slabs should be reduced from *6 per cent* and *8 per cent* to *4 per cent* and *6 per cent* respectively.

The schedule has accordingly been amended.

22. *New clause 30.*—This new clause clarifies the legal position with regard to the application of the amending Act to estates which consist wholly or in part of agricultural land. This amending Act can be made applicable to agricultural land only after two or more State Legislatures have passed the necessary resolutions.

23. The recommendation of the President has been obtained under articles 117(1) and 274(1) of the Constitution in respect of the amendment made in clause 19 (original clause 22) and under article 274(1) in respect of the amendments made in clause 28 (original clause 30) of the Bill.

24. The Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 16th August, 1958.

C. R. PATTABHI RAMAN,
Chairman,
Select Committee.

Note

While I am in general agreement with the Estate Duty (Amendment) Bill 1958, as passed by the Select Committee, on the 13th August 1958, I feel that the question of exempting from estate duty the members of the Armed Forces and the Police killed on active service in performance of their duties while in uniform has not been fully appreciated.

There is considerable difference between an average death of a person and the death of a person in the Armed and Police Forces who is duty-bound to undertake any dangerous work in which he may be killed in the service of his Country. It would be only fair for the Government in such circumstances to exempt such people from estate duty.

NEW DELHI;
The 14th August, 1958.

KARNI SINGH.

Minutes of Dissent

I

While the Bill has undoubtedly improved materially as a result of scrutiny in the Select Committee, there is still one feature with which I regret I am unable to agree, and that is in regard to the bringing within the scope of the Bill of estates valued at between Rs. 50,000 and Rs. 1,00,000. An estate of just over Rs. 50,000 would in pre-World War II days have been worth around Rs. 12,000. One is a little appalled at the thought that an inheritance of this very modest nature, which would probably be divided between several heirs, should be brought within the scope of a tax of this nature. It is obvious that the burden of this lowering of the exemption limit from Rs. 1 lakh to Rs. 50,000 will fall on members of the lower middle class and that what is taxed will be the hard earned savings of a lifetime of the small man and amounts received by employees from Provident Funds and gratuity schemes. It is ironic in this context to recall that in Soviet Russia fortunes running into millions of roubles are inherited without the payment of any inheritance tax or estate duty.

I would once again urge consideration of the question whether the net return to Government in the way of revenues will not be outweighed by the harassment caused to small people in respect of small estates and the greater work and strain involved on the administrative machinery.

NEW DELHI;

M. R. MASANI.

The 14th August, 1958.

II

With the change in the rates, the Bill as it has emerged from the Select Committee will, we fear, very nearly defeat its purpose. Even with the exemption limit brought down to Rs. 50,000/-, we doubt if the revenues will be appreciably larger in view of the reduction in the rates effected by the Select Committee. We are not in favour of such reduction in rates. Nor will the amending Bill have any effect in ensuring a more egalitarian society in future. To that end, the rates on the higher slabs, say beyond Rs. 10 lakhs, should have been progressively stepped up. That has not been done. In fact, the rates, particularly on the higher slabs, are much higher in practically all other countries where death duties obtain. It should also be remembered that death duties have certain advantages over other forms of direct taxation. They are not markedly disincentive, they affect all forms of wealth equally and they should be able over a period, provided the rates are sufficiently progressive, substantially to break up existing large stores of wealth. In the circumstances, it is unfortunate we are not making a proper use of death duties.

We are also opposed to clause 18 under which one half of the court fees paid is to be deducted from the estate duty that may be payable. It is true that in the existing Act the whole of the Court fees paid can be so deducted. But obviously this was an illogical provision and should have been rectified now. The estate duty as such should have no relation to any other imposts that may be levied by either a State Government or the Central Government. What we should like to propose is that any court fees that may be paid may be wholly allowed as an exemption in calculating the estate of the deceased and the estate duty should be levied on the balance in accordance with the provisions of the law.

The 14th August, 1958.
NEW DELHI;

BIMAL COMAR GHOSE.
PRABHAT KAR.

III

I regret I cannot endorse clause 30 in the amending Bill wherein it is proposed that for the Second Schedule of the principal Act a new Schedule shall be substituted bringing down the first slab to Rs. 50,000 of the principal value of the estate. This first slab should have been retained, in my opinion, as it was in the original Act at the level of Rs. 1,00,000 of the principal value of the estate.

While imposing a new burden of taxation its economic and social consequences should be very carefully considered. The lowering down of the slab will bring into the purview of the Act mostly people in the so-called liberal professions such as Medical Men, Lawyers, men of the teaching profession, Journalists, Artists and others, as well as quite a large section of salaried persons, technicians and others. This comprises the so-called lower middle class and in the present changing pattern of social set-up in our country this class is made to bear inequitous burdens. This class has very little economic pull in society but a good deal of socio-ideological influence. None the less in a democratic development of society it plays a vital role and savings of people belonging to it mostly result from their retirement benefits, such as gratuity, provident fund and etc. As such it would be unjust to put additional burdens on this section of society.

Moreover, by lowering the slab to Rs. 50,000, my inquiries elicited, that Government could hardly recover Rs. 30,00,000 annually. It would, therefore, just provide a handle for harassment without substantial recoveries to the Government. The new Bill proposes to bring down the rates of duty in the Second Schedule in the second and third slabs from 6 and 8 per cent to 4 and 6 per cent. I would, therefore, urge that instead of reducing the rates on the second and third slabs to the new proposed levels they should be so adjusted as to compensate for the loss that would result by keeping the first slab at the old level of Rs. 1,00,000.

I earnestly hope every effort would be made before the Bill is finally adopted to incorporate my suggestions in the Bill.

NEW DELHI;
The 14th August, 1958.

R. K. KHADILKAR.

The Estate Duty (Amendment) Bill, as it has emerged out of the Select Committee, needs various changes.

In a period of rising prices and economic development, few persons will deny the need for supplementing the revenue of the State by making the estate duty stiffer. When the country has accepted the socialistic pattern of society and have in view the equalisation of wealth, the necessity of such a Bill is imperative.

But, in reality, in a society where social security is almost unknown and where traditional and family ties act as an informal system of social security, it is unfair and unwise to ignore the Hindu joint family system and not to recognise the distinction between coparcenary property and property of any other kind. Though Income-tax Act and similar legislations of the Government have so far recognised the age-old Hindu joint family system, for the first time a step is being taken here to ignore this traditional institution so deep-rooted in this country.

With the reduction of exemption limit from Rs. 1,00,000/- to Rs. 50,000/- larger number of estates will be assessable, but it will mostly involve the middle class. In these days of inflated currency, Rs. 50,000/- is not a big sum. A person with a moderate income can easily acquire an estate of Rs. 50,000/- at the fag end of his career out of his hard earnings and his estate will automatically come within the mischief of this Bill. The revenue anticipated from this source can be easily collected by raising the rate of estate duty at the higher slabs. I suggest that the exemption limit for the purposes of estate duty may be fixed at Rs. 1,00,000/- and if necessary, rates of estate duty for estates of the principal value of Rs. 1,00,000/- and above may be increased.

Regarding the number of instalments for payment of estate duty in the case of immovable property, I do not agree that it should be reduced to four yearly or eight half-yearly instalments, as against eight yearly or sixteen half-yearly instalments of the original Act, as liquid cash in most of the cases may not be available with the assessee or the assessee may not get full price by selling his property. Being compelled to dispose of the property in a haste, the assessee will have to sell it for a bargain only. I think eight yearly or sixteen half-yearly instalments of the original Act need not be changed in the case of payment of estate duty for immovable property.

NEW DELHI;

P. K. DEO.

The 14th August, 1958.

Many issues arising in the Estate Duty (Amendment) Bill were fully discussed and have satisfactorily been solved.

The original Act contained Rs. one lakh as the basic figure over which the duty would be levied. In the amending Bill this basic figure is reduced to Rs. 50,000 as liable for duty. Though it might be stated that by bringing down the figure to Rs. 50,000 the duty has been broad-based, yet I feel it will not bring the desired results. Many middle-class men will be brought under the scope and their harassment might follow. It would rather be difficult for the authorities also to decide 'border cases' which will number more, without some sense of injustice and harassment amongst the assessees. The actual income which is expected to be realised would be disproportionate in relation to the expenditure, time involved in deciding cases, and the harassment to the middle class men. Instead, the expected income can also be realised by raising the percentage of duty on the higher slabs.

It is, therefore, requested that the original Rs. 1 lakh be retained in the amending Bill instead of Rs. 50,000.

NEW DELHI;

P. R. ASSAR.

The 14th August, 1958.