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CAs Inherit Quick Wealth as the Rich Fear Estate Duty

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Widespread speculation about the possible reintroduction of estate duty is proving lucrative for many chartered accountants. Clients, mostly high networth ones, are seeking advice on how to restructure ownership of assets to avoid the possibility of huge tax payments by their heirs when the grim reaper comes calling.

Estate duty, a tax on inheritance of wealth, is known in many countries as the 'death tax'. In the US, estate tax is imposed on the transfer of the 'taxable estate' of a deceased person. The tax — which is levied on the total market value of assets owned by a person at the time of death — was abolished in India in 1985, during the tenure of VP Singh as FM.

On November 8 last year, Finance Minister P Chidambaram, while delivering a lecture in the memory of renowned economist Raja Chelliah, wondered whether moderation of taxes had gone "too far" leading to accumulation of wealth in a few hands. He added that there should be a debate on inheritance tax while adding that he was still "hesitant" to speak about the subject.

Most experts say the government is unlikely to slap estate duty. Indeed, the finance ministry has clarified such a tax was not on the cards. But some are taking no chances. Two methods are proving popular to avoid the much-feared tax. **'Levy is a Punishment for Tax Payers'**

One is to transfer assets of the wealthy to investment firms owned by their heirs. The other is to set up trusts in which heirs become beneficiaries. Since the duty is a tax on transfer of wealth after a person's death, no duty is attracted if assets are transferred to entities or vehicles that are not persons.

Lawyer Sanjay Sanghvi, tax partner of Khaitan & Co, told ET : "We have been advising clients for past one year on how to restructure their wealth to mitigate the effects of such a law." Lawyer Vispi Patel, who runs an accounting firm by the same name, termed the tax a "punishment" for "honest taxpayers".

"Tax professionals are advising high net-worth individuals to restructure their wealth mainly in anticipation of inheritance tax. But I do not agree with the idea of introducing estate duty. In a liberalised economy, it would encourage spending instead of saving. And such taxes in fact are punishment for honest taxpayers," Patel said.

Nishith Desai of Nishith Desai Associates, a law firm specialising in international taxation, too argued that such a tax was undesirable. "People are generally asking us how to go about if such a tax comes into effect. I do not support such a tax," he said. Desai further pointed out that estate tax was abolished in India after the government realised the cost of collecting it was more than the actual inflow. "The nation has evolved from a situation in which the ratio of black money to white money was 70:30 to a situation in which most of the real estate transactions in Mumbai are paid through cheques," Desai said. Estate duty rates vary widely across countries, ranging from 40% to 70%. The threshold limit after which estate tax is applicable in the US is $5 million while in the UK the comparative figure is £500,000.

In India, while it existed, the levy started at a threshold limit of . 1 lakh with a rate of 7.5% and a maximum rate of 40% if the value of the estate was in excess of Rs 20 lakh. Since the duty had a complex structure, it led to litigations that lasted decades. Yet, the revenue collected from estate duty was a paltry . 20-25 crore. It was the difficulty in administering the tax, coupled with the low revenue yield, which prompted the finance ministry to abolish the tax. The biggest emerging market of all, China, has no estate duty.

The professionals charging hefty fees on ways of getting around the tax, should it come into existence, are accounting firms — small and large — including those that are a part of international accounting chains. Dinesh Kanabar, deputy CEO & chairman (tax) at KPMG, was cautious in his comments. “It is true that people are restructuring their wealth now, but anticipation of inheritance tax may not be the sole reason for the restructuring exercise.” Another chartered accountant, who did not want to be identified, had a more cynical view of the matter. “If estate duty does not become a law in next budget, the same professionals will charge another round of fees to bring the restructured wealth back to the original structure.”