

THE ESTATE DUTY ACT, 1953

No. 34 OF 1953

*See India Code,  
Vol. VII B.*



[6th October, 1953]

An Act to provide for the levy and collection of an estate duty.

BE it enacted by Parliament as follows:—

PART I.—PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Estate Duty Act, 1953.

(2) It extends to the whole of India. ~~except the State of Jammu and Kashmir.~~ *xxxxx*

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(1) "affidavit of valuation" means the affidavit of valuation made under section 19-I of the Court-fees Act, 1870 (VII of 1870), in connection with an application for the grant of representation;

(2) "Board" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924);

(3) "company" includes anybody corporate wheresoever incorporated;

(4) "controlled company" means a company as defined in section 17;

(5) "Controller" means a person appointed to be a Controller of Estate Duty under section 4 and includes a person appointed to be a Deputy Controller of Estate Duty or an Assistant Controller of Estate Duty;

*↓ 15-10-1953, vide notifi. no. SRO 1882, A 8.10.53, Gazette of India, 1953, Pt. II, Section 3, p-1595.*

(6) "deceased person" and "the deceased" mean a person dying after the commencement of this Act;

(7) "estate duty" means estate duty under this Act;

(8) "executor" means the executor or administrator of a deceased person;

(9) "general power" includes every power or authority enabling the donee or other holder thereof to appoint or dispose of property as he thinks fit, whether exercisable by instrument *inter vivos* or by will or both, but exclusive of any power exercisable in a fiduciary capacity under a disposition not made by himself or exercisable as mortgagee;

(10) "incumbrances" includes mortgages and terminable charges;

(11) "interest in expectancy" includes an estate in remainder or reversion and every other future interest whether vested or contingent, but does not include reversions expectant upon the determination of leases;

(12) "legal representative" means a person who in law represents the estate of a deceased person, and includes—

(i) an executor,

(ii) as regards any obligation under this Act, any person who takes possession of, or intermeddles with, the estate of a deceased person or any part thereof, and

(iii) where the deceased was a coparcener of a Hindu family, the manager for the time being of the family;

(13) "power to appoint property" means power to determine the disposition of property of which the person invested with the power is not the owner;

(14) "prescribed" means prescribed by rules made under this Act;

(15) "property" includes any interest in property, movable or immovable, the proceeds of sale thereof and any money or investment for the time being representing the proceeds of sale and also includes any property converted from one species into another by any method;

*Explanation 1.*—The creation by a person or with his consent of a debt or other right enforceable against him personally or against property which he was or might become competent to dispose of, or to charge or burden for his own benefit, shall be deemed to have been a disposition made by that person, and in relation to such a disposition the expression "property" shall include the debt or right created.

*Explanation 2.*—The extinguishment at the expense of the deceased of a debt or other right shall be deemed to have been a disposition made by the deceased in favour of the person for whose benefit the debt or right was extinguished, and in relation to such a disposition the expression "property" shall include the benefit conferred by the extinguishment of the debt or right;

(16) "property passing on the death" includes property passing either immediately on the death or after any interval, either certainly or contingently, and either originally or by way of substitutive limitation, and "on the death" includes "at a period ascertainable only by reference to the death";

(17) "public charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility within the territory of India;

(18) "representation" means probate of a will or letters of administration;

(19) "settled property" means property which stands limited to, or in trust for, any persons, natural or juridical, by way of succession, whether the settlement took effect before or after the commencement of this Act; and "settlement" means any disposition, including a dedication or endowment, whereby property is settled;

(20) "Valuer" means a Valuer appointed under section 4.

3. Interpretation.—(1) For the purposes of this Act,—

(a) a person shall be deemed competent to dispose of property if he has such an estate or interest therein or such general power as would, if he were *sui juris*, enable him to dispose of the property;

(b) a disposition taking effect out of the interest of the deceased shall be deemed to have been made by him, whether the concurrence of any other person was or was not required;

(c) money which a person has a general power to charge on the property of another person shall be deemed to be an interest in that property of which the former has power to dispose;

(d) the domicile of a person shall be determined as if the provisions of the Indian Succession Act, 1925 (XXXIX of 1925), on the subject applied to him.

(2) In Parts II and III of this Act, any reference to any interest disposed of, policy of insurance effected, annuity or other interest purchased or provided or to any gift, settlement, disposition or transfer of property made, shall be construed as including any such interest, policy, annuity, gift, settlement, disposition or transfer, as the case may be, whether it was disposed of, effected, purchased or provided, or made before or after the commencement of this Act.

4. Estate duty authorities.—(1) There shall be the following authorities for the purposes of this Act, namely:—

(3) For the avoidance of doubt, it is hereby declared that references in this Act to property passing on the death of a person shall be construed as including references to property deemed to pass on the death of such person.

(2) The Central Government may appoint any Controller or Estate Duty as it thinks fit and they shall, subject to the control of the Board, perform their functions in respect of such estates or classes of estates and such areas as are assigned to them by the Board:

Provided that, subject to such rules as may be made by the Board in this behalf, every Controller, within the local limits of whose jurisdiction any part of the estate of the deceased is situated, may exercise in relation to the whole estate or any part thereof any of the powers conferred on the Controller by this Act:

Provided further that the Board may, by general or special order, direct that any Controller specified by it in this behalf may exercise all or any of the powers conferred on the Controller by this Act to the exclusion of any other Controller.

Ins. by S. 4 of Act 17 of 1954 (retrospectively)

(3) The Central Government shall, within twelve months after the commencement of this Act and may thereafter, from time to time, appoint a sufficient number of qualified persons to act as Valuers for the purposes of this Act and shall fix a scale of charges for the remuneration of such persons.

(4) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, a Controller may appoint such executive or ministerial staff as may be necessary to assist him in the execution of his functions.

(5) All officers and persons employed in the execution of this Act, other than Valuers, shall observe and follow the orders, instructions and directions of the Board.

## PART II.—IMPOSITION OF ESTATE DUTY

### *Extent of charge*

5. **Levy of estate duty.**—(1) In the case of every person dying after the commencement of this Act, there shall, save as hereinafter expressly provided, be levied and paid upon the principal value ascertained as hereinafter provided of all property, settled or not settled, including agricultural land situate in the States specified in the First Schedule to this Act, which passes on the death of such person, a duty called "estate duty" at the rates fixed in accordance with section 35.

(2) The Central Government may, by notification in the Official Gazette, add the names of any other States to the First Schedule in respect whereof resolutions have been passed by the Legislatures of those States adopting this Act under clause (1) of article 252 of the Constitution in respect of estate duty on agricultural lands situate in those States, and on the issue of any such notification the States so added shall be deemed to be States specified in the First Schedule within the meaning of sub-section (1).

### *Property which is deemed to pass*

6. **Property within disposing capacity.**—Property which the deceased was at the time of his death competent to dispose of shall be deemed to pass on his death.

7. **Interests ceasing on death.**—(1) Subject to the provisions of this section, property in which the deceased or any other person had an interest ceasing on the death of the deceased shall be deemed to pass on the deceased's death to the extent to which a benefit accrues or arises by the cesser of such interest, including, in particular, a coparcenary interest in the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law.

(2) If a member of a Hindu coparcenary governed by the Mitakshara school of law dies, then the provisions of sub-section (1) shall apply with respect to the interest of the deceased in the coparcenary property only—

(a) if the deceased had completed his eighteenth year at the time of his death, or

(b) where he had not completed his eighteenth year at the time of his death, if his father or other male ascendant in the male line was not a coparcener of the same family at the time of his death.

↓ Subs. by the A.O. (no. 3)/1956.

*Explanation.*—Where the deceased was also a member of a sub-coparcenary (within the coparcenary) possessing separate property of its own, the provisions of this sub-section shall have effect separately in respect of the coparcenary and the sub-coparcenary.

(3) If a member of any *tarwad* or *lavazhi* governed by the Marumakkattayam rule of inheritance or a member of a *kutumba* or *kavaru* governed by the Aliasantana rule of inheritance dies, then the provisions of sub-section (1) shall not apply with respect to the interest of the deceased in the property of the *tarwad*, *tavazhi*, *kutumba* or *kavaru*, as the case may be, unless the deceased had completed his eighteenth year.

(4) The provisions of sub-section (1) shall not apply to the property in which the deceased or any other person had an interest only as holder of an office or recipient of the benefits of a charity, or as a corporation sole.

*Explanation.*—For the removal of doubts, it is hereby declared that the holder of a *Sthanam* is neither the holder of an office nor a corporation sole within the meaning of this sub-section.

**8. Gifts mortis causa.**—Property taken as a gift made in contemplation of death shall be deemed to pass on the donor's death.

*Explanation.*—In this section, the expression "gift made in contemplation of death" has the same meaning as in section 191 of the Indian Succession Act, 1925 (XXXIX of 1925).

**9. Gifts within a certain period before death.**—(1) Property taken under a disposition made by the deceased purporting to operate as an immediate gift *inter vivos* whether by way of transfer, delivery, declaration of trust, settlement upon persons in succession, or otherwise, which shall not have been *bona fide* made two years or more before the death of the deceased shall be deemed to pass on the death.

Provided that in the case of gifts made for public charitable purposes the period shall be six months.

(2) The provisions of sub-section (1) shall not apply to gifts made in consideration of marriage or which are proved to the satisfaction of the Controller to have been part of the normal expenditure of the deceased, but not exceeding rupees five thousand in the aggregate.

**10. Gifts whenever made where donor not entirely excluded.**—Property taken under any gift, whenever made, shall be deemed to pass on the donor's death to the extent that *bona fide* possession and enjoyment of it was not immediately assumed by the donee and thenceforward retained to the entire exclusion of the donor or of any benefit to him by contract or otherwise:

Provided that the property shall not be deemed to pass by reason only that it was, not, as from the date of the gift, exclusively retained as aforesaid, if, by means of the surrender of the reserved benefit or otherwise, it is subsequently enjoyed to the entire exclusion of the donor or of any benefit to him for at least two years before the death.

**11. Limited interests disposed of within a certain period before death.**—(1) Subject to the provisions of this section, where an interest limited to cease on a death has been disposed of or has determined, whether by surrender, assurance, divesting, forfeiture or in any other manner (except by the expiration of a fixed period at the expiration of which the interest was limited to cease), whether wholly or partly, and whether for value or not, after becoming an interest in possession, and the disposition or de-

termination (or any of them if there are more than one) is not excepted by sub-section (2), then—

(a) if, had there been no disposition or determination, as aforesaid of that interest and no disposition of any interest expectant upon or subject to that interest, the property in which the interest subsisted would have passed on the death under section 5, that property shall be deemed by virtue of this section to be included as to the whole thereof in the property passing on the death; or

(b) if, had there been no disposition or determination as aforesaid of that interest and no disposition of any interest expectant upon or subject to that interest, the property in which the interest subsisted would have been deemed by virtue of section 7 to be included to a particular extent in the property passing on the death, the property in which the interest subsisted shall be deemed by virtue of this section to be included to that extent in the property passing on the death.

(2) Where a disposition or determination of an interest limited to cease on the death was *bona fide* effected or suffered not less than two years before the death (or, if it was effected or suffered for public charitable purposes, not less than six months before the death), the disposition or determination shall be excepted by this sub-section—

(a) if *bona fide* possession and enjoyment of the property in which the interest subsisted was assumed immediately thereafter by the person becoming entitled by virtue of or upon the disposition or determination and thenceforward retained to the entire exclusion of the person who immediately before the disposition or determination had the interest and of any benefit to him by contract or otherwise; or

(b) in the case of a partial determination, if the conditions specified in the preceding paragraph were not satisfied by reason only of the retention or enjoyment by the deceased of possession of some part of the property, or of some benefit, by virtue of the provisions of the instrument under which he had the interest:

Provided that where *bona fide* possession and enjoyment of the property referred to in clause (a) was not assumed immediately after the disposition or determination of the interest limited to cease on death, the disposition or determination shall be excepted by this sub-section, if, by means of the surrender of the reserved benefit or otherwise, the property is subsequently enjoyed for at least two years before the death, to the entire exclusion of the person who immediately before the disposition or determination had the interest and of any benefit to him by contract or otherwise:

Provided further that nothing in this sub-section shall be construed as affecting any charge of estate duty arising otherwise than by virtue of the provisions of the preceding sub-section.

(3) In the application of sub-section (1) to a case in which an incumbrance on the property in which the interest in question subsisted has been created by associated operations (as hereinafter defined in section 27) which included a disposition of that interest, references to that property shall be construed as references to that property free from the incumbrance, except in a case in which the incumbrance was created for consideration in money or money's worth which was applied for purposes calculated to maintain or increase the value of that pro-

erty, and, in that case, shall be construed as references to that property subject to the incumbrance to the extent to which the consideration was so applied.

(4) Where an interest limited to cease on a death has been disposed of or has determined, *bona fide* possession and enjoyment of the property shall not be deemed for the purposes of sub-section (2) to be assumed immediately thereafter and thenceforward retained to the entire exclusion of a person who had the interest and of any benefit to him by contract or otherwise, if at any time thereafter he has a benefit by virtue of any operations associated with the disposition or determination, nor while he has such a benefit shall the property be deemed to be enjoyed to the entire exclusion as aforesaid for the purposes of the first proviso to sub-section (2).

(5) In the preceding sub-section—

(a) the reference to any operations associated with the disposition shall be taken as referring to any associated operations as defined in section 27, of which the disposition is one; and

(b) the reference to any operations associated with the determination shall be taken as referring to any associated operations as so defined of which any disposition resulting in, or effected in contemplation of or with reference to, the determination is one.

**12. Settlements with reservation.**—(1) Property passing under any settlement made by the deceased by deed or any other instrument not taking effect as a will whereby an interest in such property for life or any other period determinable by reference to death is reserved either expressly or by implication to the settlor or whereby the settlor may have reserved to himself the right by the exercise of any power, to restore to himself or to reclaim the absolute interest in such property shall be deemed to pass on the settlor's death :

Provided that the property shall not be deemed to pass on the settlor's death by reason only that any such interest or right was so reserved if by means of the surrender of such interest or right the property is subsequently enjoyed to the entire exclusion of the settlor and of any benefit to him by contract or otherwise, for at least two years before his death.

*Explanation.*—A settlor reserving an interest in the settled property for the maintenance of himself and any of his relatives (as defined in section 27) shall be deemed to reserve an interest for himself within the meaning of this section.

(2) Notwithstanding anything contained in sub-section (1), where property is settled by a person on one or more other persons for their respective lives and after their death, on the settlor for life and thereafter on other persons and the settlor dies before his interest in the property becomes an interest in possession, the property shall not be deemed to pass on the settlor's death within the meaning of this section.

**13. Joint investments.**—Where a person, having been absolutely entitled to any property or to the funds with which any property was purchased, has caused it to be transferred to or vested in himself and any other person jointly, whether by disposition or otherwise, either by himself alone, or in concert, or by arrangement, with any other person so that the beneficial interest in some part of that property passes or accrues by survivorship on his death to the other person, the whole of that property shall be deemed to pass on the death.

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**14. Policies kept up for a donee.**—(1) Money received under a policy of insurance effected by any person on his life, where the policy is wholly kept up by him for the benefit of a donee, whether nominee or assignee, or a part of such money in proportion to the premiums paid by him, where the policy is partially kept up by him for such benefit, shall be deemed to pass on the death of the assured.

*Explanation.*—A policy of insurance on the life of a deceased person effected by virtue or in consequence of a settlement made by the deceased shall be treated as having been effected by the deceased.

(2) For the purposes of sub-section (1), so much of the premiums paid on any policy of insurance as was, by virtue or in consequence of a settlement made by the deceased, paid out of property, whether or not provided by the deceased, comprised in the settlement or out of income, whether or not provided by the deceased, arising under the settlement, shall be treated as having been paid by the deceased:

Provided that any payments which were not made either out of property provided directly or indirectly by the deceased for the purposes of the settlement, or out of property representing that property, or out of income provided directly or indirectly by the deceased whether arising from such property or otherwise, shall not be treated as having been made by the deceased if the Controller is satisfied that those payments were not made as part of any reciprocal arrangements between the deceased and any other person.

(3) For the purposes of this section,—

(a) the expression "settlement" includes any disposition, trust, covenant, agreement or arrangement; and

(b) a person shall be deemed to have made a settlement if he has made or entered into the settlement directly or indirectly, in particular (but without prejudice to the generality of the foregoing words of this clause) if he has provided or undertaken to provide funds directly or indirectly for the purposes of the settlement, or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement.

**15. Annuity or other interest purchased or provided by the deceased.**—Any annuity or other interest, purchased or provided by the deceased, either by himself alone or in concert or by arrangement with any other person shall be deemed to pass on his death to the extent of the beneficial interest accruing or arising, by survivorship or otherwise, on his death.

*Explanation.*—The extent of the beneficial interest must be ascertained without regard to any interest in expectancy which the beneficiary may have had therein before the death.

**16. Annuity or other interest purchased or provided out of property derived from the deceased.**—(1) Section 15 shall have effect in relation to any annuity or other interest that was purchased or provided wholly or in part by any person who was at any time entitled to, or amongst whose resources there was at any time included, any property derived from the deceased, as if that annuity or other interest had been provided by the deceased, or, if it is proved to the satisfaction of the Controller that the application of all the property derived from the deceased would have been insufficient to provide the whole of that annuity or other interest, as if a similar annuity or interest of an amount reduced to an extent proportionate to the insufficiency proved had been provided by the deceased:



Provided that for the purpose of determining whether there would have been any such insufficiency as aforesaid, and the extent thereof, there shall be excluded from the property derived from the deceased any part thereof as to which it is proved to the satisfaction of the Controller that the disposition of which it, or the property which it represented, was the subject-matter, was not made with reference to, or with a view to enabling or facilitating, the purchase or provision of the annuity or other interest, or the recoupment in any manner of the cost thereof.

(2) In this section the following expressions have the meanings hereby assigned to them respectively, namely:—

(a) "property derived from the deceased" means any property which was the subject-matter of a disposition made by the deceased, either by himself alone or in concert or by arrangement with any other person, otherwise than for full consideration in money or money's worth paid to him for his own use or benefit, or which represented any of the subject-matter of such a disposition, whether directly or indirectly, and whether by virtue of one or more intermediate dispositions and whether any such intermediate disposition was or was not for full or partial consideration:

Provided that where the first-mentioned disposition was for full consideration in money or money's worth paid to the deceased for his own use or benefit and it is proved to the satisfaction of the Controller that the disposition was not part of associated operations which included—

(a) a disposition by the deceased, either by himself alone or in concert or by arrangement with any other person, otherwise than for full consideration in money or money's worth paid to the deceased for his own use or benefit; or

(b) a disposition by any other person operating to reduce the value of the property of the deceased;

then, in considering whether estate duty should be charged the said first mentioned disposition shall be left out of account as if this provision did not apply in relation to it;

(b) "disposition" includes any trust, covenant, agreement or arrangement; and

(c) "subject-matter" includes, in relation to any disposition, any annual or periodical payment made or payable under or by virtue of the disposition.

(3) For the purposes of section 34 the deceased shall be deemed to have had an interest in any property included by virtue of this section in the property passing on the death of the deceased.

*Special provisions relating to transfers to companies*

**17. Property transferred to a controlled company.**—(1) Where the deceased has made to a controlled company a transfer of any property (other than an interest limited to cease on his death or property which he transferred in a fiduciary capacity), and any benefits accruing to the deceased from the company accrued to him in the three years ending with his death, the assets of the company shall be deemed for the purposes of estate duty to be included in the property passing on his death to an extent determined in accordance with sub-section (2).

(2) The extent to which the assets of the company are to be deemed to be included as aforesaid shall be the proportion ascertained by com-

paring the aggregate amount of the benefits accruing to the deceased from the company in the last three accounting years with the aggregate amount of the net income of the company for the said years.

Provided that—

(a) where, in any of the said accounting years, the company sustained a loss, the amount of that loss shall be deducted in ascertaining the said aggregate net income of the company;

(b) where the company came into existence in the last year but one, or in the last, of the said accounting years, the references in this sub-section to the said accounting years shall be construed as references to the last two, or, as the case may be, the last, of those years.

(3) The assets of the company which are deemed to be included in the property passing on the death of the deceased by virtue of this section shall include any assets thereof which have been disposed of or distributed by the company at any time between the beginning of the first of the accounting years aforesaid and the death of the deceased either—

(a) in or towards satisfaction of rights attaching to shares in or debentures of the company, or

(b) otherwise howsoever except as follows, that is to say, by way of sale for full consideration in money or money's worth received by the company for its own use and benefit, or in or towards discharge of taxes or rates or other liability imposed by or under an enactment, or in or towards discharge of a fine or penalty or a liability for tort incurred without collusion with the injured party, including assets which have been so disposed of or distributed in a winding up, whether continuing at or completed before the death:

Provided that this sub-section shall not apply to assets disposed of or distributed by way of payments from which income-tax was deductible, or which were assessable to income-tax, of amounts not exceeding in the aggregate, as respects payments made in any accounting year or in the period between the end of the last accounting year and the death of the deceased, the amount of the income of the company for that year or period.

(4) (i) A controlled company is any company which at any relevant time, was or would, if these provisions had always been in force, have been deemed to be, under the control of not more than five persons and which is not a subsidiary company or a company in which the public are substantially interested.

*Explanation.*—For the purposes of this sub-section,—

(a) a company shall be deemed to be a subsidiary company if, by reason of the beneficial ownership of shares therein, the control of the company is in the hands of a company not being a company to which the provisions of this sub-section apply, or of two or more companies none of which is a company to which the aforesaid provisions apply;

(b) a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than twenty-five per cent. of the voting power have been allotted unconditionally to, or acquired unconditionally by, and are at the end of the year or other period for which the accounts of the company have been made

up beneficially held by the public (not including a company to which the provisions of this sub-section apply) and any such shares have, in the course of such year or other period, been the subject of dealings on a recognised stock exchange or are in fact freely transferable by the holders to other members of the public.

(ii) A company shall be deemed to be under the control of not more than five persons—

(a) if any five or fewer persons together exercise, or are able to exercise or are entitled to acquire, control, whether direct or indirect, over the company's affairs, and in particular, but without prejudice to the generality of the foregoing words, if any five or fewer persons together possess, or are entitled to acquire, the greater part of the share capital or voting power of the company; or

(b) if any five or fewer persons together possess, or are entitled to acquire, either the greater part of the issued share capital of the company, or such part of that capital as would, if the whole of the income of the company were in fact distributed to the members, entitle them to receive the greater part of the amount so distributed; or

(c) if,—

(i) on the assumption that the company is a company to which this sub-section applies; or

(ii) on the assumption that the company and any other company or companies are companies to which the said sub-section applies,

more than one half of the income of the company (including any income which has been apportioned to it, or could on either of those assumptions be apportioned to it, for the purposes of the said sub-section) could be apportioned for those purposes among not more than five persons.

(iii) In determining whether a company is or is not under the control of not more than five persons, persons who are relatives of one another, persons who are nominees of any other persons together with that other person, persons in partnership, and persons interested in any shares or obligations of the company which are subject to any trust or are part of the estate of a deceased person, shall respectively be treated as a single person.

*Explanation.*—For the purpose of this clause,—

(a) the expression "relative" means a husband, wife, ancestor, lineal descendant, brother or sister;

(b) a person shall be deemed to be the nominee of another person, if, whether directly or indirectly, he possesses on behalf of that other person, or may be required to exercise on the direction of or on behalf of that other person, any right or power which, by virtue of any of the provisions of this sub-section, is material in determining whether a company is or is not to be deemed to be under the control of not more than five persons.

(iv) An investment company shall be deemed to be under the control of not more than five persons if any five or fewer persons would, if the company were wound up, be entitled as members or loan creditors of the company to receive more than half of the assets of the Company which would be available for distribution to members and loan creditors.

(v) Notwithstanding anything contained in clause (i), a company which is deemed for the purposes of that clause to be under the control of not more than five persons shall not be deemed to be a subsidiary company, unless it can be deemed to be under the control of not more than five persons only by including among the persons mentioned in sub-clauses (a), (b) or (c) of clause (ii) or in clause (iv) a company to which the provisions of the said clause (i) do not apply and which is not the nominee of any other person.

(vi) The expression "relevant time" in this sub-section means any time during the period ending with the death of the deceased and beginning at the date of the disposition, transfer or other transaction or even relevant for the purposes of this Act, or, if that disposition, transfer or other transaction or event was one of associated operations, at the date of the earliest of those operations.

(5) For the purposes of section 34 the deceased shall be deemed to have had an interest in the property deemed by virtue of this section to be included in the property passing on his death.

**18. Duty of company and officers of company to give information to Controller on death of transferor.**—(1) Where the deceased has made a transfer of property to a controlled company, the company shall be under obligation to inform the Controller within forty-five days from the date of the death of the deceased, of the death, of the fact that the deceased made a transfer of property to the company, and of the fact that benefits accrued to the deceased from the company, and every person who was a principal officer of the company at that date, or if the company has been wound up and dissolved before that date, who was a principal officer of the company at any time and who has been called upon to furnish any information under this section, shall be under the like obligation as respects such of the facts aforesaid as are within his knowledge, unless he knows, or has reasonable cause for believing, that the information in question has already been given to the Controller by the company or some other person.

(2) If the company or any such person as aforesaid who is under obligation by virtue of the preceding sub-section to give any information to the Controller makes default in the performance of that obligation, the Controller may impose upon the defaulter a penalty not exceeding one thousand rupees.

*Explanation.*—For the purposes of this section "principal officer" means a manager, managing agent or secretary, and includes any person connected with the company upon whom the Controller has served a notice under this section of treating him as the principal officer thereof.

**19. Collection and incidence of duty under section 17.**—(1) The following persons shall be accountable for the duty payable on the death of the deceased by virtue of section 17, namely:—

(a) the company;

(b) any person (other than a *bona fide* purchaser for full consideration in money or money's worth received by the company for its own use and benefit) who receives, whether directly from the company or otherwise, or disposes of, any assets which the company had, whether as capital or as income, at the death or at any time thereafter;

(c) any person who received any distributed assets of the company on their distribution.

Provided that a person shall not,—

(i) by virtue of clause (b), be accountable in respect of any assets for any duty in excess of the value of those assets, or

(ii) by virtue of clause (c), be accountable in respect of any assets for more than a part of the duty bearing to the whole thereof the same proportion as the value of the distribution of those assets bears to the principal value of the assets of the company passing on the death by virtue of section 17.

*Explanation.*—For the purposes of this sub-section the expressions “distributed assets” and “assets of the company passing on the death” do not include any distributed assets of the company which the deceased received on their distribution; and a person who, having received any distributed assets of the company, has died before the deceased shall be deemed to have been a person accountable by virtue of clause (c).

(2) Where a company incorporated outside the territories to which this Act extends is accountable for any duty by virtue of the preceding sub-section or of this sub-section, every person who is a member of that company at the death shall also be accountable for a rateable part of that duty in proportion to the value of his interest in that company.

(3) A person accountable for any duty by virtue of this section shall, for the purpose of raising and paying the duty, have all the powers conferred on accountable parties.

(4) On a winding up of the company, sub-section (1) of section 230 of the Indian Companies Act, 1913 (VII of 1913), shall have effect as if there were included in clause (a) of that sub-section a reference to any duty payable in respect of assets of the company passing on a death by virtue of section 17 of this Act, and section 129 of the Indian Companies Act, 1913, shall have effect accordingly. [17]½

(5) The duty payable on the death of the deceased by virtue of section 17 shall be a first charge by way of floating security on the assets which the company had at the death or has at any time thereafter, and any part of the duty for which by virtue of clause (c) of sub-section (1) any person is accountable in respect of any distributed assets shall be a first charge also on those assets:

Provided that nothing in this sub-section shall operate to make any property chargeable as against a *bona fide* purchaser thereof for valuable consideration without notice.

(6) Where any duty has been—

(a) paid by a person accountable therefor by virtue only of clause (c) of sub-section (1); or

(b) raised by virtue of sub-section (5) out of any distributed assets charged therewith;

that person or, as the case may be, the person who was entitled to those assets subject to the charge, may (without prejudice to any right of contribution or indemnity which he may have apart from this sub-section) recover the amount of the duty so paid or raised as aforesaid from any person who is accountable therefor otherwise than by virtue of the said clause (c)

½ Subs. by Act 36 of 1957, S. 3, & sch. II.

(7) No part of the duty paid by the company shall be recoverable by it from any person on the ground only that he is entitled to any interest in, or to any sum charged on, the assets which the company had at the death of the deceased.

(8) The provisions of sub-sections (1) and (3) of section 53 shall not have effect in relation to the duty payable by virtue of section 17.

**20. Power to make rules respecting controlled companies generally.—**

(1) The Board may make rules—

(a) prescribing the class of dispositions or operations which shall be deemed to be transfers to controlled companies within the meaning of section 17;

(b) prescribing the matters to be treated as benefits accruing to the deceased from any such controlled company, the manner in which their amount is to be determined, and the time at which they are to be treated as accruing;

(c) prescribing the manner in which the net income and the value of the assets of any such company are to be determined;

(d) prescribing the manner in which the accounting year of any such company is to be reckoned;

(e) prescribing the manner in which the shares and debentures of any such company passing upon the death of the deceased are to be valued for estate duty;

(f) providing an upper limit by reference to the value of the property transferred by the deceased to any such company and preventing duplication of charge where duty would otherwise be payable in respect of both the assets of any such company (or a proportion of them) and the deceased's holding of shares and debentures in any such company;

(g) prescribing the conditions upon which and the extent to which transactions in the name of any such company shall be deemed to be *bona fide* transactions for full consideration; and

(h) generally for the purpose of checking the avoidance of estate duty through the machinery of any such company.

(2) All rules made under this section shall be laid before the House of the People for not less than fifteen days before the date of their final publication.

**PART III.—EXCEPTIONS FROM THE CHARGE OF DUTY**

**21. Foreign property.—**(1) There shall not be included in the property passing on the death of the deceased—

(a) immovable property situated outside the territories to which this Act extends;

(b) movable property situated outside the territories to which this Act extends at the time of the death unless—

(i) in the case of any property, whether settled or not, the deceased was domiciled in the said territories at the time of his death; or

(ii) in the case of settled property of which the deceased was a life tenant, the settlor was domiciled in the said territories at the date the settlement took effect.

(2) The Board may make rules regulating the manner in which the nature and locality of different classes of assets shall be determined for the purposes of this section.

**22. Property held by the deceased as trustee.**—Property passing on the death of the deceased shall not be deemed to include property held by the deceased as trustee for another person under a disposition not made by the deceased or under a disposition made by the deceased where (whether by virtue of the original disposition or of a subsequent surrender of any benefit originally reserved to the deceased or otherwise) possession and enjoyment of the property was *bona fide* assumed by the beneficiary at least two years before the death and thenceforward retained by him to the entire exclusion of the deceased or of any benefit to the deceased by contract or otherwise:

Provided that in the case of property held by the deceased as sole trustee for another person under a disposition made by himself, the period shall be five years.

**23. Interest failing before becoming an interest in possession.**—In the case of settled property where the interest of any person under the settlement fails or determines by reason of his death before it becomes an interest in possession, and one or more subsequent limitations under the settlement continue to subsist, the property shall not be deemed to pass on his death by reason only of the failure or determination of that interest.

*Explanation 1.*—Where property is settled by a person on himself for life and after his death on any other person, with an ultimate reversion of an absolute interest or absolute power of disposition to the settlor, the property shall not be deemed to pass to the settlor on the death of such other person by reason only that the settlor being then in possession of the property as tenant for life becomes, in consequence of such death, entitled to the immediate reversion or acquires an absolute power to dispose of the whole property.

*Explanation 2.*—Where the interest of a person in settled property consists of an interest in the residue or part of the residue of an estate of a testator or intestate and the said estate continues to be under administration until the death of the person, the said interest of the person in the residue or part of the residue shall be deemed to have become an interest in possession on the date as from which the income from the residue or part of the residue would have been attributable to that interest if the residue had been ascertained immediately after the death of the testator or intestate.

**24. Property reverting to disponer.**—(1) Where by a disposition of any property an interest is conferred on any person, other than the disponer for the life of such person or determinable on his death, the remainder being conferred upon the disponer absolutely, and such person enters into possession of the interest, and thenceforward retains possession of it, then, on the death of such person, the property shall not be deemed to pass by reason only of its reverting to the disponer in his life time.

(2) Where by a disposition of any property any such interest as is mentioned in sub-section (1) is conferred on two or more persons either severally or jointly or in succession, sub-section (1) shall apply in like manner as where the interest is conferred on one person:

Provided that sub-section (1) shall not apply where such person or persons taking the said life or determinable interest had at any time prior

to the disposition been himself or themselves competent to dispose of the said property.

**25. Income of settled property acquired on death of spouse.**—Where a husband or wife is entitled, either solely or jointly with the other, to the income of any property settled by the other under a disposition which took effect before the commencement of this Act and on his or her death the survivor becomes entitled to the income of the property (as distinguished from the property itself) settled by such survivor, estate duty shall not be payable in respect of that property until the death of that survivor.

**26 Property passing by reason of a bona fide purchase for full or partial consideration in money.**—(1) Subject to the provisions of section 27 and section 46 estate duty shall not be payable in respect of property passing on the death of the deceased by reason only of a bona fide purchase from the person under whose disposition the property passes, nor in respect of the falling into possession of the reversion on any lease for lives, nor in respect of the determination of any annuity for lives, where such purchase was made, or such lease or annuity granted, for full consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease for the use or benefit of any person for whom the grantor was a trustee.

(2) Where any such purchase was made, or lease or annuity granted, for partial consideration in money or money's worth paid to the vendor or grantor for his own use or benefit, or in the case of a lease for the use or benefit of any person for whom the grantor was a trustee, the value of the consideration shall be allowed as a deduction from the value of the property for the purpose of estate duty.

**27. Dispositions in favour of relatives.**—(1) Any disposition made by the deceased in favour of a relative of his shall be treated for the purposes of section 9 as a gift unless—

(a) the disposition was made on the part of the deceased for full consideration in money or money's worth paid to him for his own use or benefit; or

(b) the deceased was concerned in a fiduciary capacity imposed on him otherwise than by a disposition made by him and in such a capacity only; and references to a gift in this Act shall be construed accordingly:

Provided that where the disposition was made on the part of the deceased for partial consideration in money or money's worth paid to him for his own use or benefit, the value of the consideration shall be allowed as a deduction from the value of the property for the purpose of estate duty.

(2) Where the deceased has made a disposition of property in favour of a relative of his, the creation or disposition in favour of the deceased of an annuity or other interest limited to cease on the death of the deceased or of any other person shall not be treated for the purposes of this section as consideration for the disposition made by the deceased.

(3) If a controlled company was concerned in a transaction in relation to which it is claimed that the provisions of clause (a) of or the proviso to sub-section (1) have effect, those provisions shall have effect in relation thereto if and only if, and to the extent only to which, the Controller is satisfied that those provisions would have had effect in the following circumstances, namely, if the assets of the company had been held by it on trust for the members thereof and any other person to whom it is under



any liability incurred otherwise than for the purposes of the business of the company wholly and exclusively, in accordance with the rights attaching to the shares in and debentures of the company and the terms on which any such liability was incurred, and if the company had acted in the capacity of a trustee only with power to carry on the business of the company and to employ the assets of the company therein.

(4) Any gift made in favour of a relative of the deceased by a controlled company of which the deceased at the time of the gift had control within the meaning of section 17 shall be treated for the purposes of section 9 as a gift made by the deceased, and the property taken under the gift shall be treated as included by virtue of that section in the property passing on the death of the deceased, if and to the extent to which the Controller is satisfied that they would fall to be so treated in the circumstances mentioned in the last foregoing sub-section.

(5) If the deceased has made in favour of a controlled company a disposition which, if it had been made in favour of a relative of his, would have fallen within sub-section (2), this section shall have effect in like manner as if the disposition had been made in favour of a relative of his, unless it is shown to the satisfaction of the Controller that no relative of the deceased was, at the time of the disposition or subsequently during the life of the deceased, a member of the company.

*Explanation.*—For the purposes of this sub-section a person who is, or is deemed by virtue of this provision to be, a member of a controlled company which is a member of another such company shall be deemed to be a member of that other company.

(6) Where there have been associated operations effected with reference to the receiving by the deceased of any payment in respect of such an annuity or other interest as is mentioned in sub-section (2), or effected with a view to enabling him to receive or to facilitating the receipt by him of any such payment, this section shall have effect in relation to each of those associated operations as it has effect in relation to the creation or disposition in favour of the deceased of such an annuity or other interest.

(7) In this section—

(i) “relative” means, in relation to the deceased,—

(a) the wife or husband of the deceased,

(b) the father, mother, children, uncles and aunts of the deceased, and

(c) any issue of any person falling within either of the preceding sub-clauses and the other party to a marriage with any such person or issue;

(ii) reference to “children” and “issue” include reference to illegitimate children and to adopted children;

(iii) “annuity” includes any series of payments, whether interconnected or not, whether of the same or of varying amounts, and whether payable at regular intervals or otherwise, and payments of dividends or interests on shares in or debentures of a company shall be treated for the purposes of this section as a series of payments constituting an annuity limited to cease on a death if the payments are liable to cease on the death, or the amounts thereof are liable to be reduced on the death, by reason directly or indirectly of the extinguishment or any alteration of rights attaching to, or of the issue of any shares in or debentures of a company;

(iv) "associated operations" means any two or more operations of any kind being—

(a) operations which affect the same property, or one of which affects some property and the other or others of which affect property which represents, whether directly or indirectly, that property, or income arising from that property, or any property representing accumulations of any such income; or

(b) any two operations of which one is effected with reference to the other, or with a view to enabling it to be effected or to facilitating its being effected, and any third operation having a like relation to either of those two, and any fourth operation having a like relation to any of those three, and so on;

whether those operations are effected by the same person or by different persons, whether they are connected otherwise than as aforesaid or not, and whether they are contemporaneous or any of them precedes or follows any other.

**28. Effect of new or increased rates of duty on certain prior sales and mortgages.**—Where an interest in expectancy in any property has, whether before or after the commencement of this Act, been *bona fide* sold or mortgaged for full consideration in money or money's worth, and the rates of estate duty in force in the case of a person dying when the interest falls into possession are higher than the rates in force, if any, in the case of a person dying at the time of the sale or mortgage, then—

(a) no other duty on that property shall be payable by the purchaser or mortgagee when the interest falls into possession than the duty, if any, which would have been payable if the rates of estate duty applicable had been the rates in force, if any, in the case of a person dying at the time of the sale, or mortgage, and

(b) in the case of a mortgage, any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

**29. Settled property in respect of which since the date of the settlement estate duty has been paid on the death of the deceased's spouse.**—If estate duty has already been paid in respect of any settled property since the date of the settlement, on the death of one of the parties to a marriage, the estate duty shall not be payable in respect thereof on the death of the other party to the marriage, unless the latter was at the time of his death, or had been at any time during the continuance of the settlement, competent to dispose of such property, and, if on his death subsequent limitations under the settlement take effect in respect of such property, was *sui juris* at the time of his death, or had been *sui juris* at any time while so competent to dispose of the property.

**30. Agreement for avoidance or relief of double taxation with respect to estate duty.**—The Central Government may enter into an agreement with the Government of any reciprocating country for the avoidance or relief of double taxation with respect to estate duty leviable under this Act and under the corresponding law in force in the reciprocating country and may, by notification in the Official Gazette, make such provision as may be necessary for implementing the agreement.

*Explanation.*—The expression "reciprocating country" for the purposes of this Act means any country which the Central Government may, by notification in the Official Gazette, declare to be a reciprocating country.

**31. Allowance for quick succession to property.**—Where the Board is satisfied that estate duty has become payable on any property passing upon the death of any person, and that subsequently within five years estate duty has again become payable on the same property or any part thereof passing on the death of the person to whom the property passed on the first death, the amount of estate duty payable on the second death in respect of the property so passing shall be reduced as follows:—

Where the second death occurs within one year of the first death, by fifty per cent.;

Where the second death occurs within two years of the first death, by forty per cent.;

Where the second death occurs within three years of the first death, by thirty per cent.;

Where the second death occurs within four years of the first death, by twenty per cent.;

Where the second death occurs within five years of the first death, by ten per cent. :

Provided that where the value on which the duty is payable of the property on the second death exceeds the value on which the duty was payable of the property on the first death, the latter value shall be substituted for the former for the purpose of calculating the amount of duty on which the reduction under this section is to be calculated.

*Explanation 1.*—For the purposes of this section every death shall be deemed to be a second death in relation to the death immediately preceding.

*Explanation 2.*—In computing any period for the purposes of this section, deaths occurring within a period of three months after the death of any person in respect of whose property estate duty has become payable, shall be treated as one death, and no estate duty shall again be payable on the same property by reason of the subsequent deaths occurring within the said period of three months.

**32. Exemption of interest of a Hindu widow devolving upon reversioners in certain cases.**—Where on the death of any person governed by any school of Hindu law, his interest in any property has devolved on his widow, then, if the widow dies within seven years of her husband's death and the interest aforesaid devolves upon the reversioners or any of them, no estate duty shall be leviable in respect of the passing of the interest aforesaid on the death of the widow, if and in so far as estate duty had been paid in respect of the passing of such interest on the death of her husband.

**33. Exemptions.**—(1) To the extent specified against each of the clauses in this sub-section, no estate duty shall be payable in respect of property of any of the following kinds belonging to the deceased which passes on his death—

(a) property taken under a gift made by the deceased for a public charitable purpose within a period of six months before his death, to the extent of rupees two thousand and five hundred in value;

(b) property taken under a gift made by the deceased for any other purpose within a period of two years before his death, to the extent of rupees one thousand and five hundred in value:

(c) household goods, including tools of artisans, agricultural implements or any other tools or implements as were necessary to the deceased to enable him to earn his livelihood, to the extent of rupees two thousand and five hundred in value ;

(d) books not intended for sale ;

(e) wearing apparel, but not including any precious or semi-precious stones or ornaments worked or sewn into the wearing apparel ;

~~✓ x x /~~  
(f) moneys payable under one or more policies of insurance effected by the deceased on his life for the purpose of paying estate duty or assigned to the Government for the said purpose, to the extent of the amount of duty payable ~~but not exceeding rupees fifty thousand ;~~

~~✓ x x /~~  
(g) moneys deposited with the Government in such manner as may be prescribed for the purpose of paying estate duty, together with the interest which has accrued due thereon at such rate as may be prescribed, to the extent of the amount of duty payable ~~but not exceeding rupees fifty thousand ;~~

(h) moneys payable under one or more policies of insurance effected by the deceased on his life, to the extent of rupees five thousand ;

(i) drawings, paintings, prints, manuscripts, works of art or archæological or scientific collections which are of national, scientific or historical interest and which are retained in the family of the deceased and dealt with or disposed of in accordance with such conditions as the Board may prescribe, or which are given absolutely or bequeathed to Government or to any University or other public institution ;

(j) drawings, paintings, photographs, prints, manuscripts and any other heir-loom, not falling within clause (i), which are retained in the family of the deceased and are dealt with or disposed of in accordance with such conditions as the Board may prescribe and are not intended for sale ;

(k) moneys earmarked under policies of insurance or declarations of trust or settlements effected or made by a deceased parent or natural guardian for the marriage of any of his female relatives dependent upon him for the necessaries of life, to the extent of rupees five thousand in respect of the marriage of each of such relatives.

(2) If the Central Government is of opinion that in respect of any class of property or class of persons the circumstances are such that some relief in addition to the reliefs provided in sub-section (1) should be given, it may, by notification in the Official Gazette, make any exemption, reduction in rate or other modification in respect of estate duty in favour of any such class of property or the whole or any part of the property of any class of persons, and any notification so issued shall be laid before both Houses of Parliament as soon as may be after it is issued.

#### PART IV.—AGGREGATION OF PROPERTY AND RATES OF DUTY

**34. Aggregation.**—(1) For determining the rate of estate duty to be paid on any property passing on the death of the deceased, all property so passing, excluding—

property exempted from duty under clauses (c), (d), (e), (i) and (j) of sub-section (1) of section 33,

*Amended & Ins. by S. 4 of Act 17 of 1954 (retrospectively)*

but including—

- (i) property on which no estate duty is leviable under section 35,
- (ii) property exempted from duty under clauses (a), (b), (f), (g), (h) and (k) of section 33, and
- (iii) agricultural land situate in any State not specified in the First Schedule,

shall be aggregated so as to form one estate and the duty shall be levied at the rate or rates applicable in respect of the principal value thereof :

Provided that any property so passing, in which the deceased never had an interest, not being a debt or right or benefit that is treated as property by virtue of the *Explanations* to clause (15) of section 2, shall not be aggregated with any other property, but shall be an estate by itself and the estate duty shall be leviable at the rate or rates applicable in respect of the principal value thereof.

(2) Every estate shall include all income accrued upon the property included therein down to and outstanding at the date of the death of the deceased.

(3) Property passing on any death shall not be aggregated more than once nor shall estate duty in respect thereof be levied more than once on the same death.

(4) Where an estate includes any property which is exempt from estate duty, the estate duty leviable on the property which is not so exempt shall be an amount bearing to the total amount of duty which would have been payable on the whole estate had no part of it been exempted the same proportion as the unexempted value of the property bears to the value of the whole estate.

*Explanation.*—For the purposes of this sub-section property which is exempt from estate duty means any property which is exempt from estate duty under section 33 and also any agricultural land situate in any State not specified in the First Schedule.

**35. Rates of estate duty on property including agricultural land.—(1)** The rates of estate duty shall be as mentioned in the Second Schedule:

Provided that no such duty shall be levied upon—

(a) property which consists of an interest in the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law, to the extent to which the principal value of the estate does not exceed rupees fifty thousand;

(b) property of any other kind, to the extent to which the principal value of the estate does not exceed rupees one lakh.

(2) Where an estate passing on the death of a person consists partly of property of the nature described in clause (a) of the proviso to sub-section (1) and partly of the nature described in clause (b) of the said proviso, the estate duty payable thereon shall be—

(i) the amount which bears to the total amount of estate duty which would have been payable on the estate had it wholly consisted of property of the nature described in clause (a) the same proportion as the value of such property bears to the value of the estate, plus

(ii) the amount which bears to the total amount of estate duty which would have been payable on the estate had it wholly consisted of property of the nature described in clause (b) the same proportion as the value of such property bears to the value of the estate.

(3) Notwithstanding anything contained in sub-section (1) and the Second Schedule, where any property passing on the death of any person consists wholly or in part of agricultural land and the principal value of the estate does not exceed rupees two lakhs, there shall be allowed by way of rebate—

(a) in the case of an estate which consists wholly of agricultural land, a sum representing one-fourth of the estate duty payable; and

(b) in the case of an estate which consists in part only of agricultural land, a sum representing one-fourth of the estate duty payable on that part of the estate which consists of agricultural land, the duty on such part being a sum which bears to the total amount of estate duty the same proportion as the value of the agricultural land bears to the value of the estate.

#### PART V.—VALUE CHARGEABLE

**36. Principal value how to be estimated.**—(1) The principal value of any property shall be estimated to be the price which, in the opinion of the Controller it would fetch if sold in the open market at the time of the deceased's death.

(2) In estimating the principal value under this section the Controller shall fix the price of the property according to the market price at the time of the deceased's death and shall not make any reduction in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time;

Provided that where it is proved to the satisfaction of the Controller that the value of the property has depreciated by reason of the death of the deceased, the depreciation shall be taken into account in fixing the price.

**37. Valuation of shares in a private company where alienation is restricted.**—Where the articles of association of a private company contain restrictive provisions as to the alienation of shares, the value of the shares, if not ascertainable by reference to the value of the total assets of the company, shall be estimated to be what they would fetch if they could be sold in the open market on the terms of the purchaser being entitled to be registered as holder subject to the articles, but the fact that a special buyer would for his own special reasons give a higher price than the price in the open market shall be disregarded.

**38. Valuation of interests in expectancy.**—Where an estate includes an interest in expectancy, estate duty in respect of that interest shall be paid, at the option of the person accountable for the duty, either with the duty in respect of the rest of the estate or when the interest falls into possession, and if the duty is not paid with the estate duty in respect of the rest of the estate, then—

(a) for the purpose of determining the rate of estate duty in respect of the rest of the estate, the value of the interest shall be its value at the date of the death of the deceased; and

(b) the rate of estate duty in respect of the interest when it falls into possession shall be calculated according to its value when it falls into possession, together with the value of the rest of the estate as previously ascertained.

**39. Valuation of interest in coparcenary property ceasing on death.—**

(1) The value of the benefit accruing or arising from the cesser of a coparcenary interest in any joint family property governed by the Mitakshara school of Hindu law which ceases on the death of a member thereof shall be the principal value of the share in the joint family property which would have been allotted to the deceased had there been a partition immediately before his death.

(2) The value of the benefit accruing or arising from the cesser of an interest in the property of a *tarwad* or *tavazhi* governed by the Marumakkattayam rule of inheritance or of a *kutumba* or *kavaru* governed by the Aliyasantana rule of inheritance which ceases on the death of a member thereof shall be the principal value of the share in the property of the *tarwad* or *tavazhi* or, as the case may be, the *kutumba* or *kavaru* which would have been allotted to the deceased had a partition taken place immediately before his death.

(3) For the purpose of estimating the principal value of the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law in order to arrive at the share which would have been allotted to the deceased had a partition taken place immediately before his death, the provisions of this Act, so far as may be, shall apply as they would have applied if the whole of the joint family property had belonged to the deceased.

**40. Valuation of benefits from interests ceasing on death.—**The value of the benefit accruing or arising from the cesser of an interest ceasing on the death of the deceased shall—

(a) if the interest extended to the whole income of the property, be the principal value of that property; and

(b) if the interest extended to less than the whole income of the property, be the principal value of an addition to the property equal to the income to which the interest extended.

**41. Valuation to be made by the Controller.—**Subject to the provisions of this Act, the value of any property for the purpose of estate duty shall be ascertained by the Controller in such manner and by such means as may be prescribed and if he authorises a person to inspect any property and to report the value thereof for the purposes of this Act, that person may enter upon the property and inspect it at such reasonable times as may be prescribed.

**42. Costs of valuation.—**Where the Controller requires any person to report on the value of any property for the purposes of this Act, the reasonable costs of such valuation shall be defrayed by the Controller.

**43. Controller may accept and certify valuation when convenient.—**The Controller on application from a person accountable for the duty on any property forming part of an estate shall, where he considers that it can conveniently be done, certify the amount of the valuation accepted by him for any class or description of property forming part of such estate.

## PART VI.—DEDUCTIONS

**44. Reasonable funeral expenses and, with some exceptions, debts and incumbrances to be allowed for in determining chargeable value of estate.**—In determining the value of an estate for the purpose of estate duty, allowance shall be made for funeral expenses (not exceeding rupees one thousand) and for debts and incumbrances; but an allowance shall not be made—

(a) for debts incurred by the deceased, or incumbrances created by a disposition made by the deceased, unless, subject to the provisions of section 27, such debts or incumbrances were incurred or created *bona fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit and take effect out of his interest, or

(b) for any debt in respect whereof there is right to reimbursement from any other estate or person, unless such reimbursement cannot be obtained, or

(c) more than once for the same debt or incumbrance charged upon different portions of the estate, or

(d) for debts incurred by or on behalf of the deceased by way of dower, to the extent to which such debts are in excess of rupees five-thousand,

and any debt or incumbrance for which an allowance is made shall be deducted from the value of the property liable thereto.

*Explanation.*—For the purposes of this section, “funeral expenses” include all expenses which may have to be incurred in connection with the *sraddha* or *barsi* ceremonies of the deceased for a period of one year from his death.

**45. Limitations on debts deductible.**—Where a debt or incumbrance has been incurred or created in whole or in part for the purpose of or in consideration for the purchase or acquisition or extinction, whether by operation of law or otherwise of any interest in expectancy in any property passing or deemed to pass on the death of the deceased and any person whose interest in expectancy is so purchased, acquired, or extinguished becomes (under any disposition made by or through devolution of law from, or under the intestacy of, the deceased) entitled to any interest in that property, then in determining the value of the estate of the deceased for the purpose of estate duty no allowance shall be made in respect of such debt or incumbrance, and any property charged with any such debt or incumbrance shall be deemed to pass freed from that debt or incumbrance:

Provided that—

(a) if part only of such debt or incumbrance was incurred or created for such purpose or as such consideration as aforesaid, this provision shall apply to that part of such debt or incumbrance only; and

(b) if a person whose interest in expectancy in the property so purchased, acquired or extinguished becomes entitled to an interest in part only of that property, this provision shall apply only to such part of the debt or incumbrance as bears the same proportion to the whole debt or incumbrance as the value of the part of the property to an interest in which he becomes entitled bears to the value of the whole of that property.



**46. Further limitations.**—(1) Any allowance which, but for this provision, would be made under section 44 for a debt incurred by the deceased as mentioned in clause (a) of that section, or for an incumbrance created by a disposition made by the deceased as therein mentioned, shall be subject to abatement to an extent proportionate to the value of any of the consideration given therefor which consisted of—

(a) property derived from the deceased; or

(b) consideration not being such property as aforesaid, but given by any person who was at any time entitled to, or amongst whose resources there was at any time included, any property derived from the deceased:

Provided that if, where the whole or a part of the consideration given consisted of such consideration as is mentioned in clause (b) of this sub-section, it is proved to the satisfaction of the Controller that the value of the consideration given, or of that part thereof, as the case may be, exceeded that which could have been rendered available by application of all the property derived from the deceased, other than such (if any) of that property as is included in the consideration given or as to which the like facts are proved in relation to the giving of the consideration as are mentioned in the proviso to sub-section (1) of section 16 in relation to the purchase or provision of an annuity or other interest, no abatement shall be made in respect of the excess.

(2) Money or money's worth paid or applied by the deceased in or towards satisfaction or discharge of a debt or incumbrance in the case of which sub-section (1) would have had effect on his death if the debt or incumbrance had not been satisfied or discharged, or in reduction of a debt or incumbrance in the case of which that sub-section has effect on his death, shall, unless so paid or applied two years before the death, be treated as property deemed to be included in the property passing on the death and estate duty shall, notwithstanding anything in section 25, be payable in respect thereof accordingly.

(3) The provisions of sub-section (2) of section 16 shall have effect for the purpose of this section as they have effect for the purpose of that section.

**47. Debts to persons resident in foreign country not to be deducted in first instance except from duty-paid property in that country.**—An allowance shall not be made in the first instance for debts due from the deceased to persons resident out of the territories to which this Act extends (unless contracted to be paid in the said territories or charged on properties situate within the said territories), except out of the value of any property of the deceased situate out of the said territories in respect of which estate duty is paid; and there shall be no repayment of estate duty in respect of any such debts, except to the extent to which it is shown to the satisfaction of the Controller that the property of the deceased situate in the foreign country in which the person to whom such debts are due resides is insufficient for their payment.

**48. Cost of realising or administering foreign property may be allowed for within certain limits.**—Where the Controller is satisfied that any additional expense in administering or in realising property has been incurred by reason of the property being situate out of the territories to which this Act extends, he may make an allowance from the value of the property on account of such expense not exceeding in any case five per cent. on the value of the property.

**49. Allowance for duty paid in a non-reciprocating country.**—Where any property passing on the death of the deceased is situate in a non-reciprocating country and the Controller is satisfied that by reason of such death any duty is payable in that country in respect of that property, he may, subject to such rules as may be made by the Board in this behalf, make an allowance of the whole or any part of the amount of that duty from the value of the property.

*Explanation.*—In this section, the expression “non-reciprocating country” means any country other than India which has not been declared to be a reciprocating country for the purposes of this Act.

**50. Relief from estate duty where court-fees have been paid for obtaining representation to estate of deceased.**—Where any fees have been paid under any law relating to court-fees in force in any State ~~other than the State of Jammu and Kashmir~~ for obtaining probate, letters of administration or a succession certificate in respect of any property on which estate duty is leviable under this Act, the amount of the estate duty payable shall be reduced by an amount which is equal to the court-fees so paid.

#### PART VII.—COLLECTION OF THE DUTY

**51. Method of collection of duty.**—Estate duty may be collected by such means and in such manner as the Board may prescribe.

**52. Payment of duty may be accepted in prescribed Government securities.**—The Board may prescribe that Government securities shall be accepted in payment of estate duty on such terms as it thinks fit.

**53. Persons accountable, and their duties and liabilities.**—(1) Where any property passes on the death of the deceased—

(a) every legal representative to whom such property so passes for any beneficial interest in possession or in whom any interest in the property so passing is at any time vested,

(b) every trustee, guardian, committee or other person in whom any interest in the property so passing or the management thereof is at any time vested, and

(c) every person in whom any interest in the property so passing is vested in possession by alienation or other derivative title,

shall be accountable for the whole of the estate duty on the property passing on the death but shall not be liable for any duty in excess of the assets of the deceased which he actually received or which, but for his own neglect or default, he might have received:

Provided that nothing in this section shall render a person accountable for duty who acts merely as agent or bailiff for another person in the management of property.

(2) Notwithstanding anything contained in sub-section (1), where an heir-at-law proves to the satisfaction of the Controller that some other person is in adverse possession of any assets of the deceased, the heir-at-law shall not be accountable for the portion of the estate duty payable in respect of such assets:

Provided that he shall become so accountable if, and to the extent that, he subsequently recovers possession of such assets.

*↓ Omitted by S. 2(2) & Sch. of Act 41 of 1954.*

(3) Every person accountable for estate duty under the provisions of this section shall, within six months of the death of the deceased or such later time as the Controller may allow, deliver to the Controller and verify to the best of his knowledge and belief, an account of all the property in respect of which estate duty is payable.

(4) Where the person accountable knows of any property which he has not included in his account because he does not know its amount or value, he may state that such property exists, but he does not know the amount or value thereof and that he undertakes, as soon as the amount and value are ascertained to bring a supplementary account thereof and to pay both the duty for which he may be liable in respect of such property and any further duty payable by reason thereof for which he may be liable in respect of the property mentioned in the original account.

(5) Where two or more persons are accountable, whether in the same capacity or in different capacities, for estate duty in respect of any property passing on the death of the deceased, they shall be liable jointly and severally for the whole of the estate duty on the property so passing.

**54. Persons accountable may include trustees in certain cases.—(1)** Where an interest limited to cease on a death within the meaning of section 11 after becoming an interest in possession is disposed of or determines wholly or partly, then, whatever the nature of the property in which the interest subsisted, the following persons shall be accountable for any estate duty payable on the death by virtue of that section (in addition to any persons accountable therefor apart from this section), that is to say—

(a) if the settlement under which the interest subsisted is in existence at the death, the trustees for the time being of that settlement; and

(b) if it is not, the persons who were the last trustees of that settlement.

(2) Where—

(a) the trustees of a settlement may become accountable for estate duty payable by virtue of section 11 in respect of any property; and

(b) it is intended that the property or any part thereof shall cease to be comprised in the settlement;

then if the trustees obtain from the Controller a certificate of the amount which in the opinion of the Controller may properly be treated as the prospective amount of the duty, and give the Controller all the information and evidence required by the Controller in connection with the application for the certificate, no person shall be accountable as trustee of the settlement for the duty to which the certificate relates to an amount in excess of the amount certified.

(3) It is hereby declared that a person who may become accountable as trustee of a settlement for estate duty payable by virtue of section 11 on property which is or has been comprised in the settlement has a lien for the prospective amount of the duty and the costs in respect thereof on any property in his hands which is so comprised.

*Explanation.*—References in this section to the prospective amount of any duty are to be taken as referring to the prospective amount of the duty on the assumption that it will become chargeable.

**280** Every person believed to be in possession to deliver statement of particulars of property as required by Controller.—Every person accountable for estate duty, every company to which, in the opinion of the Controller, a transfer of property has been made by the deceased as mentioned in section 17, every person who is or was at any time an officer or auditor of such a company, and every person whom the Controller believes to have taken possession of or administered any part of the estate in respect of which duty is leviable on the death of the deceased, or of the income of any part of such estate shall, if required by the Controller, deliver to him and verify, to the best of his knowledge and belief, a statement of such particulars together with such accounts, documents, evidence or information as the Controller may require relating to any property which he has reason to believe to form part of an estate in respect of which estate duty is leviable on the death of the deceased.

**56. Penalty for default.**—Any person who without reasonable cause has failed to comply with the provisions of section 53 or section 55 or has failed to comply with the said provisions within the time allowed, shall be liable to pay a penalty of one thousand rupees or a sum equal to double the amount of estate duty, if any, remaining unpaid for which he is accountable, according as the Controller may direct:

Provided that the Controller may reduce the penalty in any particular case.

**57. Executor to specify all chargeable property with affidavit of valuation.**—In all cases in which a grant of representation is applied for within six months of the death of the deceased—

(a) the executor of the deceased shall, to the best of his knowledge and belief, specify in an appropriate account annexed to the affidavit of valuation filed in court under section 19-I of the Court-fees Act, 1870 (VII of 1870), all the property in respect of which estate duty is payable upon the death of the deceased and shall deliver a copy of the affidavit with the account to the Controller, and

(b) no order entitling the applicant to the grant of representation shall be made upon his application until he has delivered the account prescribed in clause (a) and has produced a certificate from the Controller under section 60 or section 67 that the estate duty payable in respect of the property included in the account has been or will be paid, or that none is due, as the case may be.

**58. Estate duty when due and how and when to be collected.**—(1) Estate duty shall be due from the date of the death of the deceased and shall be collected upon the account delivered under section 53 or clause (a) of section 57 or the account prepared under sub-section (2) of section 61.

(2) When any estate duty, penalty, interest or any other sum chargeable under this Act has been determined in consequence of any order passed under or in pursuance of this Act, the Controller shall serve on the person accountable a notice of demand in the prescribed form specifying the sum so payable and the time within which and the place at which it is payable.

**59. Limitation for commencing proceedings for levy of estate duty.**—No proceeding for the levy of any estate duty under this Act shall be commenced after the expiration of twelve years from the date of death of the deceased in respect of whose property estate duty became leviable.

**60. Duty to be paid or security for payment furnished on delivery of account and certificate to be granted thereupon.**—Upon delivery of the account under section 53 or clause (a) of section 57, the person delivering it shall pay to the Controller, or furnish security to the satisfaction of the Controller for the payment of, the estate duty, if any, payable in respect of the property included in the account, and the Controller shall thereupon grant him a certificate that such duty has been or will be paid, or that none is due, as the case may be.

**61. Controller's powers in respect of valuations.**—(1) If the Controller is of opinion that the person delivering the account has under-estimated the value of the property in respect of which estate duty is payable (whether by placing too low a value on the property included in the account or by omitting to include therein property that ought to have been included), the Controller may inquire into the matter in such manner and by such means as he thinks fit and, if still of opinion that the value of the property has been under-estimated, may require him to amend the valuation, and if that person does not amend the valuation to the satisfaction of the Controller, the Controller may determine the valuation on the basis of which estate duty is payable after giving the person accountable an opportunity of being heard.

(2) In any case where no account has been delivered as required by section 53 or clause (a) of section 57, the Controller may cause an account of the property passing on the death of the deceased to be prepared in such manner and by such means as he thinks fit and may call upon any person who in his opinion is accountable for the payment of estate duty in respect of the property to accept such account, and if that person does not accept the account or his liability, the Controller may determine the estate duty payable by that person.

**62. Rectification of mistakes relating to valuation for estate duty.**—(1) If, after the determination of the estate duty payable in respect of any estate, it appears to the Controller that, by reason of any mistake apparent from the record or of any mistake in the valuation of any property in any case other than a case in which the valuation has been the subject matter of an appeal under this Act or of the omission of any property, the estate duty paid thereon is either in excess of or less than the actual duty payable, he may, either on his own motion or on the application of the person accountable and after obtaining the previous approval of the Board, at any time within three years from the date on which the estate duty was first determined—

(a) refund the excess duty paid, or, as the case may be,

(b) determine the additional duty payable on the property:

Provided that where the person accountable had fraudulently under-estimated the value of any property or omitted any property, the period shall be six year:

Provided further that no order shall be made under this sub-section unless the person accountable has been given an opportunity of being heard.

(2) Nothing contained in sub-section (1) shall render any person accountable to whom a certificate that the estate duty has been paid is granted liable for any additional duty in excess of the assets of the deceased which are still in his possession, unless the person accountable had fraudulently attempted to evade any part of the estate duty in the first instance.

## 63. Appeal against determination by Controller.—(1) Any person—

- (a) objecting—
- (i) to any valuation made by the Controller, or
  - (ii) to any order made by the Controller determining the estate duty payable, or
  - (iii) to any penalty levied by the Controller under section 56, or
  - (iv) to any final order or adjudication having the effect of imposing a liability or an obligation to pay estate duty in respect of any property, or
- (b) denying his liability to account for the estate duty payable in respect of any property, or
- (c) objecting to any order made by the Controller refusing to grant a certificate of discharge or any other certificate under this Act,

may, within ninety days of the date of the receipt of the notice of demand under section 58 in the cases specified in clauses (a) and (b), and within ninety days of the date of the order in the cases specified in clause (c), appeal to the Board in the prescribed form which shall be verified in the prescribed manner.

(2) The Board may admit an appeal after the expiry of ninety days referred to in sub-section (1) if it is satisfied that there was sufficient cause for not presenting it within that period.

(3) The Board may, in disposing of any appeal, hold or cause to be held such further inquiry as it thinks fit, and after giving the appellant an opportunity of being heard, pass, subject to the provisions of sub-section (4) such orders thereon as it thinks fit and shall send a copy of such orders to the appellant and the Controller.

(4) Where the dispute pertains to any valuation of property, the Board may, and if the appellant so requires, it shall, refer the question of disputed value to the arbitration of two valuers, one of whom shall be nominated by the Board and the other by the appellant, and the costs of any such arbitration shall be borne by the Board or the appellant, as the case may be, at whose instance the matter was referred to the valuers:

Provided that where the appellant has been wholly or partially successful in any reference made at his instance, the extent to which costs should be borne by the appellant shall be at the discretion of the Board:

Provided further that if there is a difference of opinion between the two valuers, the matter shall be referred to a third valuer nominated by agreement, or failing agreement by the Central Government, and his decision on the question of valuation shall be final.

(5) The valuers may, in disposing of any matter referred to them for arbitration under sub-section (4), hold or cause to be held such inquiry as they think fit, and, after giving the appellant and the Controller an opportunity of being heard, pass such orders thereon as they think fit and shall send a copy of such order to the appellant and to the Board.

(6) Notwithstanding that an appeal has been filed before the Board, so much of the estate duty as is not in dispute shall be payable by the appellant.

**64. Statement of case by the Board to High Court.**—(1) Within ninety days of the date upon which he is served with an order under sub-section (3) of section 63, the person accountable may present an application to the Board in the prescribed form, accompanied by a fee of one hundred rupees, requiring the Board to refer to the High Court any question of law arising out of such order, and the Board shall, if in its opinion a question of law arises out of such order, state the case for the opinion of the High Court:

Provided that the Board may admit such an application after the expiry of ninety days if it is satisfied that there was sufficient cause for not presenting it within the said period.

(2) If, on an application made under sub-section (1), the Board—

(a) refuses to state a case on the ground that no question of law arises, or

(b) rejects it on the ground that it is time-barred, the person accountable may, within three months from the date on which he is served with a notice of refusal or rejection, as the case may be, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Board, require the Board to state the case to the High Court and on receipt of such requisition the Board shall state the case:

Provided that if, in any case where it has been required by a person accountable to state a case, the Board refuses to do so on the ground that no question of law arises, such person may within thirty days from the date on which he receives notice of the refusal to state the case, withdraw his application and if he does so the fee paid by him under sub-section (1) shall be refunded.

(3) Section 5 of the Indian Limitation Act, 1908 (IX of 1908) shall apply to an application to the High Court under sub-section (2).

(4) If, on an application made under sub-section (1), the Board is of opinion that either on account of the importance of any question of law involved in the case or on account of a conflict in the decisions of different High Courts in respect of any particular question of law arising therefrom, it is expedient that a case should be stated direct to the Supreme Court, the Board may state the case direct to the Supreme Court.

(5) The case shall set forth the facts, the determination of the Board and the questions of law which arise out of the case.

(6) If the High Court or the Supreme Court is not satisfied that the case as stated is sufficient to enable it to determine the questions of law raised thereby, the Court may require the Board to make such additions thereto, or alterations therein, as it may direct in this behalf.

(7) The High Court or the Supreme Court upon hearing any such case shall decide the question of law raised therein and in doing so may, if it thinks fit, alter the form of the question of law and shall deliver its judgment thereon containing the ground on which such decision is founded and shall send a copy of such judgment, under the seal of the Court and the signature of the Registrar, to the Board which shall pass such orders as are necessary to dispose of the case conformably to such

(8) The costs of any reference to the High Court or to the Supreme Court shall be in the discretion of the Court.

Provided that in case the case is referred to the Supreme Court under sub-section (4) of this section the party shall pay, if required to do so, the cost only as if reference has been made to a High Court and not the Supreme Court.

(9) Notwithstanding that a reference has been made under this section to the High Court or to the Supreme Court, estate duty shall be payable in accordance with the determination made by the Board.

(10) For the purposes of this section "High Court" means the High Court to which, or to a court subordinate to which, an application for grant of representation has been made, or where no such application has been made, the High Court which would have jurisdiction to entertain such an application:

~~Provided that in the case of Part C States, "High Court" means~~

~~(a) in relation to Ajmer and Windhya Pradesh, the High Court at Allahabad,~~

~~(b) in relation to Bhopal, the High Court at Nagpur,~~

~~(c) in relation to Bilaspur, Delhi and Himachal Pradesh, the High Court of Punjab,~~

~~(d) in relation to Coorg, the High Court of Mysore,~~

~~(e) in relation to Kutch, the High Court at Bombay,~~

~~(f) in relation to Manipur and Tripura, the High Court of Assam,~~  
and

~~(g) in relation to the Andaman and Nicobar Islands, the High Court at Calcutta.~~

**65. Case to be heard by Benches of High Courts and appeal to lie in certain cases to the Supreme Court.**—(1) When a case has been stated to the High Court under section 64, it shall be heard by a Bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges:

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it.

(2) An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a case stated under section 64 in any case which the High Court certifies to be a fit one for appeal to the Supreme Court.

(3) The provisions of the Code of Civil Procedure, 1908 (Act V of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court:

Provided that nothing in this sub-section shall be deemed to affect the provisions of sub-section (7) of section 64:

↓ Sube. by the A.O. (no. 3), 1956.



Provided further that the High Court may, on petition made <sup>285</sup> for the execution of the order of the Supreme Court in respect of any costs awarded thereby, transmit the order for execution to any court subordinate to the High Court.

(4) Where the judgment of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (7) of section 64.

**66. Grant of representation not to be delayed on reference to High Court.**—Where any grant of representation has been applied for, it shall not be delayed by reason of any reference to a High Court under section 64.

**67. Certificate of payment of duty, and penalty for non-payment.**—(1) Where the valuation is amended by the person accountable upon the Controller's requisition under sub-section (1) of section 61 or is enhanced by the Court upon the Board's reference under section 64, and in any case where the original valuation has been discovered to be too low, such person shall, within two months of the amendment or enhancement or discovery, pay the deficit duty which is payable in respect of the property upon the amended or enhanced or full valuation and the Controller shall thereupon grant him a certificate accordingly.

(2) Where the valuation is reduced by the Court on the Board's reference under section 64, the Controller shall refund to the person accountable any excess duty paid by him within two months from the date of receipt by him of the order and shall grant to him a certificate that the full duty payable in respect of the property has been paid.

(3) In any case where no account has been delivered as required by section 53 or clause (a) of section 57 the person who is called upon to accept the account prepared by the Controller under sub-section (2) of section 61 shall, within two months of his acceptance or, as the case may be, of the final disposal of the reference made under sub-section (1) of section 64, pay the full duty payable in respect of the property and the Controller shall thereupon grant him a certificate accordingly.

(4) If the person accountable does not pay the amount of duty due from him under sub-section (1) or sub-section (3) within the period specified therein, he shall be liable to a penalty of one thousand rupees or a sum equal to twice the amount due according as the Controller may elect:

Provided that the Controller may in any particular case reduce the penalty.

(5) Where a person accountable for the estate duty in respect of any property passing on a death applies to the Controller at any time and delivers and verifies a full statement to the best of his knowledge and belief of all property passing on such death and the several persons entitled thereto, the Controller may determine the estate duty payable in respect of the property and on payment of that duty, the Controller shall give him a certificate accordingly.

**68. Commutation of duty in respect of interest in expectancy.**—The Controller in his discretion may, upon application by a person entitled to an interest in expectancy, commute the estate duty which would or might, but for the commutation, become payable in respect of such interest for a certain sum to be presently paid, and, for determining that sum, shall cause a present value to be set upon such duty, regard being

had to the contingencies affecting the liability to and rate and amount of such duty and interest being reckoned at three per cent.; and on the receipt of such sum the Controller shall give a certificate accordingly.

**69. Assessment in complicated cases.**—Where by reason of the number of deaths upon which property has passed or of the complicated nature of the interests of different persons in property which has passed on death, or from any other cause, it is difficult to ascertain exactly the amount of estate duty payable in respect of any property or any interest therein or so to ascertain the same without undue expense in proportion to the value of the property or interest, the Board, on the application of any person accountable for the duty and upon his giving to the Board all the information in his power respecting the amount of the property and the several interests therein and other circumstances of the case, may by way of composition for all or any of the duties payable in respect of the property or interest and the various interests therein or any of them, assess such sum on the value of the property or interest, as having regard to the circumstances appears proper, and may accept payment of the sum so assessed in full payment of all claims for estate duty in respect of such property or interest, and shall give a certificate accordingly.

**70. Controller may allow postponement of payment on terms.**—(1) Where the Controller is satisfied that the estate duty leviable in respect of any property cannot, without excessive sacrifice, be raised at once, he may allow payment to be postponed for such period, to such extent, and on payment of such interest not exceeding four per cent. or any higher interest yielded by the property, and on such other terms as he may think fit.

(2) Notwithstanding anything contained in sub-section (1), estate duty in respect of immovable property may at the option of the person accountable be paid in eight equal yearly instalments or sixteen equal half-yearly instalments with interest at the rate of four per cent. per annum or any higher interest yielded by the property from the date on which the first instalment is payable and the interest on the unpaid portion of the duty shall be added to each instalment and paid accordingly; but the duty for the time being unpaid with such interest to the date of payment may be paid at any time and in case where the property is sold shall be paid on the completion of the sale and if not so paid shall be recovered in the manner specified in section 73.

**71. Board may remit duty and interest outstanding after twenty years from death.**—If after the expiration of twenty years from a death upon which estate duty became leviable any such duty remains unpaid, the Board may, if it thinks fit, on the application of any person accountable or liable for such duty or interested in the property, remit the payment of such duty or any part thereof or any interest thereon.

**72. Forms.**—All affidavits, accounts, certificates, statements and forms used for the purposes of this Part of this Act shall be in such form and contain such particulars as may be prescribed by the Board and, if so required by the Board, shall be in duplicate and accounts and statements shall be delivered and verified on oath and by production of books and documents in the manner prescribed by the Board and any person who wilfully fails to comply with the provisions of this section shall be liable to the penalty mentioned in section 56.

**73. Recovery of duty and penalties.**—Any estate duty or deficit duty and any interest or penalty payable under this Act may, on the certificate

of the Controller, be recovered from the person liable thereto as if it were an arrear of land revenue by any Collector in any State.

**PART VIII.—CHARGE OF ESTATE DUTY ON PROPERTY AND FACILITIES FOR RAISING IT**

**74. Estate duty a first charge on property liable thereto.**—(1) Subject to the provisions of section 19, the estate duty payable in respect of property, movable or immovable, passing on the death of the deceased, shall be a first charge on the immovable property so passing (including agricultural land) in whomsoever it may vest on his death after the debts and incumbrances allowable under Part VI of this Act; and any private transfer or delivery of such property shall be void against any claim in respect of such estate duty.

(2) A rateable part of the estate duty on an estate, in proportion to the value of any beneficial interest in possession in movable property which passes to any person (other than the legal representative of the deceased) on the death of the deceased shall be a first charge on such interest:

Provided that the property shall not be so chargeable as against a *bona fide* purchaser thereof for valuable consideration without notice.

(3) The Controller may release the whole or any part of any property, whether movable or immovable, from charge under this section in such circumstances and on such conditions as he thinks fit.

**75. Discharge from estate duty in certain cases.**—A certificate granted by the Controller under section 67, or by the Board under section 69, shall discharge the property included therein and the grantee so far as regards that property from any further claim for estate duty, but shall not discharge any person or property from estate duty in case of fraud or failure to disclose material facts and shall not affect the duty payable in respect of any property afterwards shown to have passed on the death nor any further duty payable by reason thereof in respect of the property included in the certificate:

Provided nevertheless that a certificate purporting to be a discharge of the whole estate duty payable in respect of any property included in the certificate shall exonerate a *bona fide* purchaser for valuable consideration without notice from the duty notwithstanding any such fraud or failure.

**76. Person accountable to be repaid by trustees and owners in certain cases.**—If a person accountable under section 53 pays any part of the estate duty in respect of any property not passing to him, it shall, where occasion requires, be repaid to him by the trustees or owners of the property.

**77. Facilities for paying duty or raising amount already paid.**—(1) A person authorised or required to pay estate duty in respect of any property shall, for the purposes of paying the duty, or raising the amount of the duty when already paid, have power, whether the property is or is not vested in him, to raise the amount of such duty and any interest and expenses properly paid or incurred by him in respect thereof, by the sale or mortgage of or a terminable charge on that property or any part thereof:

Provided that any sum payable under any such sale, mortgage or terminable charge may be paid (to the extent to which such sum or part thereof represents the estate duty payable), not to the person raising the sum but to the Controller at the option of the person from whom the sum is being raised.

(2) A person having an interest in any property, who pays the estate duty in respect of that property, shall be entitled to the like charge, as

if the estate duty in respect of that property had been raised by means of a mortgage to him.

(3) Any money arising from the sale of property comprised in a settlement or held upon trust to lay out upon the trusts of a settlement may be expended in paying any estate duty in respect of property comprised in the settlement and held upon the same trusts.

#### PART IX.—MISCELLANEOUS

**78. Jurisdiction of Courts barred in certain cases.**—No suit shall be brought in any Civil Court to set aside or modify any estate duty determined under this Act and no prosecution suit or other proceedings shall lie against any officer of Government for anything in good faith done or intended to be done under this Act.

**79. Power to take evidence on oath etc.**—Every authority specified in sub-section (1) of section 4, other than valuers, shall for the purposes of this Act have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908) when trying a suit in respect of the following matters, namely:—

- (a) enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit;
- (d) issuing commissions for the examination of witnesses;

and any proceeding before any such authority under this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860).

**80. Disclosure of information by a public servant.**—The provisions of section 54 of the Indian Income-tax Act, 1922 (XI of 1922), shall apply to all accounts, statements, documents, evidence or affidavits, given, produced or obtained in connection with or in the course of the proceedings under this Act:

Provided that nothing in the said section 54 shall apply to the disclosure of any such particulars to any person acting in the execution of this Act or of the Indian Income-tax Act, 1922 (XI of 1922), where it is necessary or desirable to disclose the same to him for the purposes of either this Act or the said Act.

**81. Arrangements with States to supply information.**—The Central Government may make arrangements with the Government of any State for exchange of such information as may be necessary for the purposes of levying or realising any estate duty under this Act or under any other law for the time being in force in that State.

**82. Service of Notices.**—Any notice or requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a court under the Code of Civil Procedure, 1908 (Act V of 1908).

**83. Appearance by authorised representatives.**—Any person accountable for estate duty who is entitled or required to attend before any authority specified in sub-section (1) of section 4 in connection with any proceeding under this Act, otherwise than when required under section 79 to attend in person, may attend by a person authorised by him in writing

in this behalf, being a relative of or a person regularly employed by that person, or a legal practitioner or a chartered accountant.

*Explanation.*—In this section—

(a) a person regularly employed by the accountable person shall include any officer of a Scheduled Bank with which the accountable person maintains a current account or has other regular dealings;

(b) 'legal practitioner' means an advocate, vakil or attorney of any High Court in the territories to which this Act extends and includes a pleader practising in any part of the said territories;

(c) 'chartered accountant' means a chartered accountant as defined in the Chartered Accountants Act, 1949 (XXXVIII of 1949).

**84. Company to furnish particulars of deceased members to the Controller.**—(1) Where a company incorporated outside India carries on business in the territories to which this Act extends and has been treated for the purposes of the Indian Income-tax Act, 1922 (XI of 1922), as resident for two out of the three completed assessments immediately preceding, such company shall, within three months of the receipt of intimation of the death of a member dying after the commencement of this Act, furnish to the Controller such particulars as may be prescribed in respect of the shares of the deceased member in the company, and shall be liable to pay estate duty at the rates mentioned in Part III of the Second Schedule, on the principal value of the shares held by the deceased in the company except in cases where the deceased member was a person domiciled in India and the person accountable has obtained a certificate from the Controller showing that either the estate duty in respect thereof has been paid or will be paid or that none is due, as the case may be.

(2) If any member of a company formed and registered under the Indian Companies Act, 1913 (VII of 1913) dies after the commencement of this Act and the company through any of its principal officers as defined in section 18, has knowledge of the death, it shall not be lawful for the company to register the transfer of any shares standing in the name of the deceased member unless the company is satisfied that the transferee has acquired such shares for valuable consideration or there is produced before it a certificate from the Controller that either the estate duty in respect thereof has been paid or will be paid or none is due, as the case may be.

(3) Any company which fails to comply with the provisions of sub-section (1) or sub-section (2) shall be liable to a penalty of one thousand rupees or a sum equal to double the amount of the estate duty payable according as the Controller may direct:

Provided that the Controller may reduce the penalty in any particular case.

**85. Rule-making powers of the Board.**—(1) Subject to the condition of previous publication and subject to the control of the Central Government, the Board may make rules not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out the purposes of or giving effect to this Act.

(2) The power to make rules conferred by this section shall, on the first occasion of the exercise thereof, include the power to give retrospective effect to the rules or any of them from a date not earlier than the date of the commencement of this Act.

(3) All rules made under this Act shall be laid before both Houses of Parliament as soon as may be after they are made.

### THE FIRST SCHEDULE

(See section 5)

*States in which estate duty is leviable on agricultural land*

Bombay.  
Madhya Pradesh.  
Orissa.  
Punjab.  
Uttar Pradesh.  
Hyderabad.  
Madhya Bharat.  
Rajasthan.  
Saurashtra.  
All Part C States.

1 [Assam  
Bihar]  
2 [Travancore-cochin]  
3 [Madras]  
4 [Andhra]  
5 [Mysore]  
6 [PEPSU]

### THE SECOND SCHEDULE

(See sections 5, 35 and 84)

#### RATES OF ESTATE DUTY

#### PART I

In the case of property which consists of an interest in the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law :—

	<i>Rate of Duty</i>
(1) on the first Rs. 50,000 of the principal value of the estate	Nil
(2) on the next Rs. 50,000	5 per cent.
(3) on the next Rs. 50,000	7½ "
(4) on the next Rs. 50,000	10 "
(5) on the next Rs. 1,00,000	12½ "
(6) on the next Rs. 2,00,000	15 "
(7) on the next Rs. 5,00,000	20 "
(8) on the next Rs. 10,00,000	25 "
(9) on the next Rs. 10,00,000	30 "
(10) on the next Rs. 20,00,000	35 "
(11) on the balance of the principal value of the estate	40 "

## PART II

In the case of property of any other kind—

	<i>Rate of Duty</i>
(1) on the first Rs. 1,00,000 of the principal value of the estate	Nil
(2) on the next Rs. 50,000	7½ per cent.
(3) on the next Rs. 50,000	10 "
(4) on the next Rs. 1,00,000	12½ "
(5) on the next Rs. 2,00,000	15 "
(6) on the next Rs. 5,00,000	20 "
(7) on the next Rs. 10,00,000	25 "
(8) on the next Rs. 10,00,000	30 "
(9) on the next Rs. 20,00,000	35 "
(10) on the balance of the principal value of the estate	40 "

## PART III

In the case of shares held by a deceased member in any such company as is referred to in sub-section (1) of section 84—

	<i>Rate of Duty</i>
(1) If the principal value of the shares does not exceed Rs. 5,000	Nil
(2) If the principal value of the shares exceeds Rs. 5,000	7½ per cent.