



ERGO

Analysing developments impacting business

MUCH ADO ABOUT NOTHING? AN UPDATE ON ESTATE DUTY BEING RE-INTRODUCED IN INDIA

20 December 2018

Presently, India does not have an estate duty. The Estate Duty Act, 1953 which sought to impose an estate duty in India on property passing on demise was repealed in the year 1985. Is the estate duty a relic of the past? Rumours are rife that an estate duty will soon be re-introduced in India. Further, while there is no specific gift tax legislation in India today, gifts among 'relatives' as defined in the domestic tax legislation are exempt from taxes. Thus, the transfer of assets through testamentary or intestate succession is not subject to any tax today. That said, albeit there has been no formal statement by the Indian Government, the abolition of the Wealth Tax Act, 1957 and the amendments to tax provisions governing trusts (in 2017) have somewhere left taxpayers and tax professionals second guessing when and how the estate duty shall be reintroduced (if at all!).

It now appears that the reintroduction of an estate duty vide a separate legislation (akin to the erstwhile 1953 Act) is unlikely in the next fiscal budget since the estate duty legislation has not been included in the list of bills sought to be discussed or introduced in the winter session of the Indian Parliament (11 December 2018 to 8 January 2019). In view of the upcoming general election in 2019, whether the Indian Government shall employ the alternative approach of amending the Income Tax Act, 1961 in next year's budget, to tax the transfer of assets received by way of inheritance, is unknown.

What is interesting to note is that despite speculation that the reintroduction of an estate duty (applicable in countries such as the United States, United Kingdom, etc.) in India is on the anvil, Indian HNIs and promoter families are largely focussed on objectives other than planning for an estate duty or inheritance tax. For instance, what has been paramount for them is to have in place a robust succession plan for their assets – both personal and business assets, asset protection – both internal (family discord) as well as external (business claims, liabilities), and mitigating disputes among heirs. This has become a noticeable trend in the realm of private client practice.

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