Conference paper

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‘Hidden in open view’: Estate Duty and attitudes to inherited wealth.

Abstract

Estate Duty has been, since it was enacted in 1894, a source of extensive debate, especially as successive governments increased the rate and the valuation methods failed to accommodate the realities facing those who inherited wealth. We examine the extent to which the imposition of Estate Duty provided fascinating insights into British attitudes towards inherited wealth, demonstrating that despite significant debate and evidence provided in the public forum, politicians appeared immune to the complaints. On the other hand, in freezing the rate of Estate Duty for the agricultural sector in 1925, it is possible that a bias towards landed inherited wealth crept into the system. Using a wide range of sources, including parliamentary papers, newspapers and trade association publications, the paper evaluates the nature of this debate, which was largely carried out in the public domain.

Keywords: Estate Duty, Death Duties, inherited wealth, family firms, agriculture, landed interest.

Introduction

Enacted in 1894, Estate Duty was perhaps the most emphatic manifestation of Benjamin Franklin’s famous dictum that ‘in this world nothing can be said to be certain except death and taxes’ (Franklin, 1789, np). While the truth in this statement was widely acknowledged, it is nevertheless clear that Estate Duty provoked heated and extensive debate throughout its existence, and especially with regard to its impact on the ways in which wealth was passed from one generation to another. In studying these debates through an examination of four episodes, we will assess whether successive governments were more concerned with generating increased tax revenue, rather than undermining the means by which the next generation inherited wealth. As Schumpeter noted: ‘The spirit of a people, its cultural level, its social structure…all this and more is written in its fiscal history…the public finances are one of the best starting points for an investigation of society, especially though not exclusively of its political life.’(Quoted in Daunton 2001)

Using an extensive array of contemporary documentation found in parliamentary papers, newspapers and trade association publications, after a brief literature review demonstrating that most historians have neglected to study the impact of this tax, the article will start by offering a narrative explaining how the tax rates and valuation methods changed over time. This will be followed by examining four episodes; its introduction in 1894; the debates surrounding the ‘People’s Budget’ of 1909; granting a concession to landed interests in 1925; and the impact of the 1940 Finance Act. Although it is difficult to identify the exact impact of Estate Duty on various types of business, by examining the intense debates that sprang up about this tax it will be possible to differentiate between politicians’ attitudes towards inherited wealth and the exigencies associated with funding the ever-growing public sector. Apart from highlighting an increasingly pervasive and negative attitude towards inherited wealth, it will become clear that even a Conservative government committed to the virtues of private enterprise proved to be deaf to the pleas of business organizations for a revision of Estate Duty (hereafter, ED).

Estate Duty: a brief literature review

As ED prevailed for over eighty years, it is surprising that few historians have fully analysed both its impact and the debates surrounding what became a controversial tax. Although Daunton (2001, 2002) has produced two specialised works on taxation and mentions estate duty, rather than assessing its impact he focused mainly on revealing the high level of complexity in fiscal policy and demonstrated that long-term tax

planning was being overlooked by governments in favour of short-term solutions. While Sandford (1971) offered a comprehensive history of estate duty, showing an awareness of potential issues concerning the valuation of shares in non-listed companies, as this book was published towards the end of the life of Estate Duty its impact on business was not fully analysed. From a business history perspective, only Hannah (1983) has recognized that ED might have caused some difficulties in passing on control of a family firm, and thereby influenced the pattern of share ownership in some firms. At the same time, Hannah (1983; 57) appears to have accepted the findings of the 1927 Colwyn Committee Report in noting that ED could be avoided through careful tax planning and would not impact much on the vast majority of businesses. In assessing whether ED could be paid without disturbing a business's assets, the Colwyn Committee had concluded that there were generally enough non-business assets in most enterprises to pay any duty which arose at a time when the rates were relatively low. It is clear from later studies of this issue (Federation of British Industries, 1953; Ilersic, 1954), however, that this analysis had been excessively simplistic and based on flawed data, significantly understating the real impact of a tax that was undoubtedly beginning to influence various aspects of British business.

When assessing these influences and the ways in which ED has been implicated, undoubtedly one of the most important business trends was the increasing divorce between control and ownership. Although Hannah and Foreman-Peck (2012) have claimed that by 1914 large-scale British business was characterized by an extensive divorce between control and ownership, Cheffins' (2008) detailed analysis of the scene reveals that this had occurred mainly amongst the railways, insurance and banking sectors, while most industrial companies continued to be characterised by large blockholdings. By the interwar era, however, the situation was changing, because as Hannah (1983; 57) notes, 'wealthy families no longer held their wealth in single companies'. Thomas (1978; 25) has also noted this trend, quoting the *Economist*'s 1937 comment that 'industrialists now deem it worth their while…to turn family businesses into public companies with widely diffused shareholdings'. Moreover, Thomas argues that one of the key factors behind this trend was the 'growing burden of death duties…[which] increased the desire to keep capital in a liquid form'. This point was reinforced by Cheffins (2008;301), who noted that after 1940: 'Dividend-unfriendly tax rules and high taxes on large incomes and rich estates further increased the pressure on blockholders'. At the same time, while these trends were accelerating up to the 1950s, it is vital to remember that there were still many family firms that continued to operate as private limited companies. Harris (2013) has provided an extensive analysis of how the private company form evolved out of the extensive experimentation with the limited liability form during the late-nineteenth century, eventually securing full legal recognition in the 1907 Companies Act. It is also noticeable that over the course of the twentieth century the number of private companies registered significantly outnumbered the public company form (Harris, 2013; 346), reflecting the value placed on limited liability by what were primarily firms owned and managed by either a family or small syndicate. This popularity is reflected in the analysis by Brudno (1958), who recorded that in 1955 there were 283,000 private companies, compared to 11,000 public companies, demonstrating how this sector continued to feature prominently in the business scene.

It is consequently unclear from this literature whether ED was influencing the patterns of business ownership, given the continued importance of the private company form up to the 1950s. Although Cheffins and Bank (2007) discussed the impact of taxation as a whole on corporate ownership and noted the practice of having a public flotation of shares to avoid death duties, in general their focus was on blockholder exit and the rise of institutional investors. This again neglects what was the key issue relating to ED, in that as unlisted businesses had no access to an agreed list price for their shares, they might have refrained from growing their businesses in order to avoid the potentially high Estate Duty Office valuation of their shares. As we shall see later, this became the central point of debate after the 1940 Finance Act materially altered the ways in which assets were valued, creating the impression of a bias against the private company form.

Although the business history literature fails to provide decisive answers to these questions, one should remember that the legal profession generated texts, which outline the practicalities of ED and offer interpretations to assist those affected. The most well known of these was *Dymond's Death Duties* which was published by the Solicitors' Law Stationery Society. Although the book had no official authority, as its author was a solicitor with the Estate Duty Office (the office responsible for the valuation of estates), it clearly carried considerable weight. Other practitioner guides (Grundy, 1956; Stanford, 1957) were also

produced in the 1950s, indicating that there was a market for this type of textbook amongst family firms that needed advice, especially with regard to planning for the imposition of ED. For example, Stanford (1957; 35) concluded that not only did 'heavy death taxes raise problems of cash realisation on the death of the principal owner', but also warned businesspeople that valuations were 'mere guesswork'. Another source was written by an American law professor (Brudno, 1958; 235), who while not specifically mentioning ED, was also sceptical about the valuation methods employed by the Estate Duty Office and claimed that it 'would not be surprising if closely held corporations were destroyed by the death tax'. These sources demonstrate that practitioner guides have proved more useful in interpreting the impact of ED than the academic literature, creating an opportunity to contribute to this debate by evaluating the creation and evolution of this tax.

The emergence of ED

When ED was first introduced in 1894, the government's primary aim was to simplify what was a confused system, with no less than five separate death duties converted into a single tax. Although Legacy and Succession duties still continued to operate until 1949, it was intended that ED would standardise the rate of taxation. In addition, the Chancellor of the Exchequer, Sir William Harcourt, was also concerned with redistribution, by taxing those who inherited wealth that they had not created. A key feature of the 1894 debates was also a switch in emphasis relating to the way that land was taxed, in that agricultural interests were no longer going to enjoy a protected position, even though the sector was suffering from rampant price reductions. Whilst Succession Duty had brought taxation to real property (defined as land, property, etc), it was only taxed at its annual rental value, rather than its capital value. A recurring theme in the parliamentary debates was the subject of valuation, which would rely on finding a market valuation. Some expressed the concern that it would be difficult to find a fair valuation, citing the argument that there was 'almost no limit to the divergence of honest opinion' on this matter (Hansard, 24 April 1894). In spite of these reservations, ED became law in 1894, albeit only after some governmental manoeuvring around the timing of the debates. The Bill had been moved to a second reading because it was being debated after midnight and the government promised a fuller discussion. When the session for the second reading of the Bill commenced, however, there was no paperwork and no agreed valuation method, prompting calls to postpone debate. The principal concerns of the Conservative opposition were twofold: the valuation system had not been developed, while as one critic noted: 'The worst of this Budget was its dishonesty. The Chancellor… had gone about, not to levy a tax, but to oppress a class. The whole of the Budget was marked by a pitiless animosity for all those who held property' (Hansard 10 May 1894). It would appear that as the government was planning a considerable increase in spending on the Royal Navy, the Chancellor rejected these arguments and forced the Bill through into legislation. As he noted when reporting back to his constituency, ED was working well and that 'we were obliged to call upon the rich in proportion to their wealth to contribute to the public exchequer' (*The Times*, July 6th 1895). The keenness of the Government to redistribute wealth is also evident when it is noted during the debates, "if it was possible to break up estates by means of increasing death duties he should not look forward with regret or dread to the change…"(Hansard, 7th May1894).

In forcing through the rationalisation of death duties, while Harcourt had clearly achieved one of his aims of simplifying the taxation system, in failing to provide an equitable valuation system he had created a legacy that dogged the Estate Duty Office into the 1950s. As one contributor to *The Times*' correspondence columns noted: 'There is hardly a sentence, indeed hardly a line… which is not capable of more than one interpretation…and alas, there are some paragraphs that, after consideration by some legal luminaries, have been given up as almost incapable of any interpretation at all' (22nd Sept 1894). Indeed, *The Times* printed many technical queries and responses that concurred with this view. The landed interest was especially antagonized by the 1894 Act, the Duke of Devonshire typifying the groundswell of opinion across the agricultural sector by arguing that it would not only stifle investment, but also fail in equalizing the tax burden, given the many other taxes that were imposed on land (*The Times* 4th September 1894). The Agricultural Commission also produced a report (*The Times*, 2nd June 1894) based on information provided by landed proprietors which detailed the significant decline in estate expenditure since 1872, while the Central & Associated Chambers of Agriculture reported results from their Local Taxation committee which endorsed the view that ED would only make things worse (*The* Times, Feb 6 1895).

Notably, however, when the Conservatives regained power in 1896 ED remained on the statute books and no changes to the valuation system were initiated. At the same time, in responding to both the report of the Royal Commission on Agricultural Depression and delegations from agricultural interests, in 1896 the Prime Minister, Arthur Balfour, proposed an Agricultural Land Rating Bill which would exempt agricultural land from half the local rates. Although the relief was initially only intended to continue until March 1902, successive governments extended the scheme, reflecting the state of agriculture by that time. While the Opposition claimed that this showed undue favouritism towards agricultural land (*The* Times, May 30th 1899), as we shall see later Parliament would continue to treat this sector favourably when considering the overall tax burden.

Table 1: Estate Duty rate changes, 1894-1972.

Tax Years	Top rate of tax
1894 – 1907	8%
1907-1909	10%
1909-1914	15%
1914-1919	20%
1919-1930	40%
1930-1939	50%
1939 – 1939	55%
1939-1940	60%
1940 – 1946	65%
1946-1949	75%
1949 onwards	80%
(dropped back to 75% in FA 1972)	

(*ex.inf.*HMRC)

Having made this point, however, as the top rate of ED remained relatively low until 1909 (see Table 1), apart from persistent complaints from the agricultural sector little controversy emerged over its implementation. Crucially, though, the initial rate of 8 per cent maximum only applied to estates worth over £1million, while those valued between £100-£500 were taxed at 1%, £100,000-£150,000 at 6 per cent, and 7 per cent on estates valued at £250,000-£500.

The 1909 Increase

The first noteworthy increase to ED was in Lloyd George's 1909 Budget (also called the People's Budget). The rationale for the change was based on yet another significant increase in naval expenditure, alongside the introduction of old age pensions. As the Liberal government elected in 1906 had already increased ED to 10%, there was considerable disquiet expressed in parliamentary debates about this move. Specifically, there were questions about: the need for a further increase so quickly after the 1907 move; a steepening of the gradient in scale affecting smaller and middle-sized estates, resulting in an alleged erosion of the country's capital; and once again the plight of agriculture was stressed. While the House of Lords rejected the People's Budget, in the subsequent constitutional debates this body lost its power of veto over Finance Bills, giving Lloyd George his victory. As one commentator in *The Times* lamented (3rd May 1909): 'It is seen also to be a vindictive budget…To take from the rich is all very well if they are allowed to make more money, but to take from the rich by methods that prevent them from replacing what is taken away.'

These criticisms highlight again how ED was regarded as an attack on inherited wealth, an accusation that resonated with many of those directly affected by this tax. Crucially, though, the biggest concern was the way in which estates were valued, returning to the point made earlier about the 'guesswork' involved. Concern was further extended by the abolition of an appeal process that the 1894 Act had initiated. As one commentator (Edward Carson) noted, not only was it questionable whether those who were tasked with valuing land possessed any qualifications to do this job, but the system also provided an example of the

disparities arising from valuations (*The Times*, 14th June 1909).[1] The Surveyors' Association and members of the Surveyors' Institution also contributed to this debate, arguing that the system was unjust and would cause hardship. They also led the movement to repeal the clause that had given Inland Revenue Commissioners the final say on appeals, noting that this was an 'undesirable and drastic change from current death duty practice' (*The* Times, 12th July 1909). While,after much debate in the chamber, it was eventually agreed that agricultural land would be excluded from increment and reversion duty. Lord Roseberry still felt compelled to state that the budget was a 'violent onslaught on land' (*The Times*, 11th September 1909). Similar comments were made throughout this period, alongside the protestations of Arthur Balfour that the proposal to raise death duties was 'in disregard of all the accepted canons of finance' (*The Times*, 14th September 1909). On the other hand, Sir Felix Schuster, a prominent financier and Liberal supporter, argued that the budget 'would make the landlords and the rich stump up.' (*The Times*, 0ct 5th 1909).

Once the People's Budget had finally worked its way through the constitutional crisis of the period 1909-11, there were countless debates, reports and commentary on the impact ED would have on land and agriculture, with the core issue continuing to be the valuation methods employed. One can also note from Table 1 that ED rates were raised, firstly in 1914 to pay for the war effort, and again in 1919 to repay wartime debts, by which time it had reached 40% on estates over £2million. When Winston Churchill became Chancellor in 1924, rather than reducing the death duties, he adjusted the bands in order to generate more income from ED. Table 2 provides the data on this adjustment, illustrating how smaller estates were now much more heavily taxed than in 1914, precipitating intense debate about ED in general, and especially its impact on an agricultural sector that was once again heavily depressed.

Table 2: Estate Duty Bands, 1919-25 and 1925-30.

1919-1925		1925-1930	
Principal Value£	*Rate*	*Principal Value £*	*Rate*
40,000< 50,000	10%	40,000 < 45,000 45,000 < 50,000	13% 14%
50,000 < 60,000 60,000 < 70,000	11% 12%	50,000 < 55,000 55,000 < 65,000	15% 16%
70,000 < 90,000	13%	65,000 < 75,000 75,000 < 85,000	17% 18%
90,000< 110,000	14%	85,000 < 100,000	19%
110,000<130,000	15%	100,000 < 120,000	20%
130,000 < 150,000	16%	120,000 < 140,000	21%
150,000 < 175,000	17%	140,000 < 170,000	22%
175,000< 200,000	18%	170,000 < 200,000	23%
200,000<225,000 225,000< 250,000	19% 20%	200,000 < 250,000	24%
250,000< 300,000 300,000< 350,000	21% 22%	250,000<350,000	25%
1million <1.25 m	30%	950,000 < 1.2 m	30%

Extracted from HM Revenue & Customs Scale of Estate Duty Rates

Preferential treatment of agriculture in 1925

While it was widely recognized that agriculture was struggling in a post-war world characterized by intense competition and falling prices, and in 1920 the government introduced an Act which provided extensive subsidies for the sector, in the following year these were withdrawn and a sense of crisis descended on

[1] This letter gave the example of one case in which one set of valuers had provided an estimate of up to £15,000, another had come up with the figure of up to £80,000, and at appeal the Commissioners agreed on £39,000.

landed interests. Known as 'The Great Betrayal' (Wetham, 1974), the repeal of the 1920 Act galvanized the agricultural sector into much more aggressive lobbying on ED and its valuation mechanisms. One of the most effective bodies was the Central Landowners' Association, which provided extensive evidence on the economics of farming and the closure of country homes, with the associated loss of employment. Several Dukes (including those of Portland, Bedford and Buccleuch) provided data on their loss-making agricultural estates (*The Times,* August 5th 1921). This culminated in a deputation of agricultural landowners meeting with the Chancellor, with the response that concessions on ED would be considered and the valuation system was to be overhauled (*The Times,* May 2nd 1922). As an interim measure, in 1923 the rateable value of agricultural land was reduced from 50% of the standard rate to just 25%. Nevertheless, the clamour for changes to ED continued, with further deputations from the Central Landowners' Association and Scottish Land and Property Federation visiting the Treasury in 1923. One of their key points was how agriculture was 'seriously prejudiced by the removal of capital urgently required for the development and equipment of the land' (*The Times*, May 9th 1923), while the basis of valuation was again cited as a major problem.
As the debate rumbled on into 1925, the government was coming under even greater pressure from agricultural lobbyists. The Colwyn Committee on National Debt and Taxation also heard evidence from the Central Landowners' and Land Agents' Society that drew attention to the disparity between taxable market value and the income-producing value of land. This would prove decisive, in that the government acceded that ED was negatively affecting agricultural business and that concessions should be considered to stop the flow of capital out of agriculture. The President of the Royal Agricultural Society of England, Charles Adeane, was especially successful in changing politicians' minds. As an advocate of agricultural improvement, he believed that ED was responsible, at least in part, for the agricultural depression, with landowners using their capital to keep the land going. Like many others, he requested an equitable system of taxing annual value so that the 'Exchequer get money without land being drained of capital' (*The Times,* May 9th 1925).

Given the state of British public finances in the early-1920s, however, and especially the need to repay wartime debts, the Treasury was reluctant to alter the rate of ED. On the other hand, government ministers recognized the challenges facing agriculture at that time, and having withdrawn the subsidies offered in 1920, there was a growing feeling that some support was needed. As we have already seen (see Table 2), in 1925 Winston Churchill as Chancellor had increased the rates of ED for smaller estates. At the same time, he also agreed to freeze the rates on agricultural estates at 1919 levels. This in effect provided the sector with a 45% discount on the rates that applied after 1925, a system that prevailed until 1949. Inevitably, this decision prompted questions of bias in favour of landed interests, contemporaries attacking Churchill for having given in to what were still the principal owners of wealth. Even though most recognized the importance of having a viable agricultural sector, those owning private businesses and subject to the new rates of ED not surprisingly felt that the system was working against them. Indeed, Churchill could be accused of hypocrisy, given his distaste of inherited wealth and public statement that 'the existing system of death duties is a certain corrective against the development of a race of idle rich' (Daunton 2002, p124) Nevertheless, the system remained unchanged until 1940, with the top rate of ED rising to 50% in 1930 in response to the acute economic crisis that hit the global economy.

1940 Finance Act

In evaluating the evolution of ED since its creation in 1894, it is clear that the crucial issue was how the Estate Duty Office struggled with the valuation of estates. With specific regard to private companies, the situation was complicated even further because of the difficulties in valuing unlisted shares. Although as a direct result of aggressive lobbying by landowners in the early-1920s a different scale for land valuations was introduced, those running private limited companies were consistently faced with an acute problem. Initially, under ED regulations all shares owned by the deceased were valued at market prices, with a vague notion based on the extent to which that person possessed a controlling interest in a business (namely, the holder had voting control in the five-year period before death). In coming to this valuation, however, it was clear that control had not been defined adequately, leading the Estate Duty Office to argue that tax was being evaded by families who argued that the deceased was not in control of the business. This confusion was tackled by the 1940 Finance Act, which introduced clearer definitions of what was meant by the word 'control' and a change in the way that shares in private companies were valued. The general principle of the

1894 Act was that estate duty was payable on the *principal value*, defined as the open market value at the time of death, which until later changes was also the method applied to shares. The 1940 Act introduced a series of sections to replace the original open market valuation for shares, relying on whether the individual had "controlled" the business. *Control* in this context was defined as control of voting power or other conditions akin to having control of the business. This left very little room for manoeuvre for individuals as this definition also applied to both ordinary and preference shares. The main problem rested within section 55, which stated that if the company had been under the control of less than five individuals and the deceased taxpayer had *controlled* the company within 5 years of his/her death, then the valuation of their shares would be the share percentage held as a proportion of the net assets of the company. In effect, this resulted in the valuation per share being higher than the previous market value basis, while the relative unmarketability of these shares was never fully considered. We shall see later that this prompted numerous appeals against valuations, exacerbating the stress experienced by those who were inheriting a company and hoping to run it as a viable operation.

As we noted earlier, however, there were more subtle factors at play linked with the attitudes to wealth-holding and the impact ED was having on the psyche of private company owners. In this context, it is important to emphasise that the attitudes towards inherited wealth were also changing from the 1920s. A future Chancellor of the Exchequer, Dr Dalton, noted in 1925 that death duties were:

> *a source of revenue which should be considerably developed. Inherited wealth is wholly unearned and, in excess of a moderate amount, it encourages idleness and thriftlessness in it recipients. It is therefore a peculiarly appropriate taxation…the prospect of heavy Death Duties will stimulate those who are waiting for a windfall of inherited wealth to work harder'* (quoted in *Economist*, 19 Jan. 1946; 101).

When later Dalton became Chancellor in the post-war Labour government, he also added:

> *It is leading a man into very great temptation to dangle before him the prospect ….of an enormous unearned increment of this fortune…he will be tempted to become lazy and thriftless, unambitious and unenterprising.* (Hansard 9 April 1946 Debates, vol 241, cc1803-1868)

We have also noted how Winston Churchill decried those who inherited unearned wealth, reflecting views that by the 1940s were commonplace amongst the electorate. It is also clear that these strongly-held views explain to a large extent why the wartime imposition of penal rates of Estate Duty were maintained after 1945 (see Table 1), while the Estate Duty Office continued to operate a valuation mechanism that to many contemporaries seemed to be at odds with market valuations.

With ED rates rising considerably after 1939, from 50% to 80% by 1949, the valuation methods imposed in 1940 come under intense scrutiny. Special concern was focused on the *assets method* that was used for valuing the interest of a shareholder for death-tax purposes, the 1940 Finance Act having switched valuation from market value to assessing asset values (including goodwill) in a tightly-controlled firm, after deducting liabilities. This effectively increased the net value of a company's assets, compared to the market value of its securities, thereby resulting in a much higher taxable value of the estate. Some legal professionals were even anticipating the disappearance of the private company through either liquidation or absorption by public companies as a direct result of ED (Rice, 1959). These issues also featured prominently in the public discussion about ED, with *The Times*' letters column acting as an effective forum for a combination of individuals, trade bodies, politicians and professional bodies representing accountants and lawyers. One of the earliest letters on the issue was submitted by a solicitor in February 1942, illustrating that under the rules prevailing prior to the 1940 Finance Act an estate would have been valued at £400, while under the new rules the ED Office levied a bill of £9,574 10 shillings (*The Times*, Feb 19 1942). This extreme difference, created by the high net asset value of the business, shows why the valuation methods were so feared after 1940, precipitating a wide debate about the principle of fairness.

The Times clearly offered a focal point for those bodies who prepared the reports and memoranda on behalf of their members, acting as a window into contemporary opinions and providing essential evidence relating to the impact of ED on private companies. Even parliamentarians were providing commentary in the press in this manner, two of whom, Sir Wavell Wakefield and George Odey, were also members of the Executive Council of the National Union of Manufacturers (NUM) and who clearly viewed this route as an opportunity to bring the plight of family manufacturing forms into the public domain. In July 1950 they appealed for

public help with the case for reducing the rate of ED by warning of the impact that it would have on manufacturing firms, and especially family firms which they claimed were at the heart of the national economy. This intervention prompted a flurry of activity involving the Institute of Directors, politicians such as Sir Alan Gomme-Duncan, the Institute of Bankers and a range of solicitors, all of whom were concerned about the impact of ED. The question was posed: "Is it wise to levy the excess Estate Duty produced by application of the special valuation provisions…. of the Finance Act 1940… at a cost of crippling and possibly causing the extinction of many of those nationally valuation and industrial units?' (Spears and Renwick, 1950). All of these critics demanded an inquiry into the impact of the Duty, noting how it created a disincentive for family firms to invest in their businesses for fear of increasing the asset valuation before the founder or principal shareholder died.

The Association of British Chambers of Commerce also sent a memorandum to the Chancellor of the Exchequer in February 1952, using *The Times* to outline publicly its principal arguments. Like many other commentators, this body highlighted how the valuation method required for shareholdings in private companies was penalizing them in comparison with public companies. The memo went on to warn that:

> *Payments of death duties are stated to be drying up the source of risk capital and the finance of family businesses [suggesting that] the overriding principle for determining values on death should in every case be the price which it is reasonable to assume the property would fetch if sold in the open market at the time of the owner's death.'* (*The Times*, 18 Feb 1952).

The President of what at the time was the Society of Incorporated Accountants and Auditors later the same year went on to refer specifically to the damaging section 55 of the 1940 Finance Act, warning that 'capital doing essential work is being withdrawn to meet estate duty' (*The Times*, 29 Dec 1952). The Society also commented in *The Economist* (May 1952) that there should be a focus on understanding business structures in order to preserve them, noting that 'family businesses are a vital part of the country's economy and should be preserved as a national asset'.

One of the most incisive contributions to this debate was provided by the Federation of British Industries (FBI), which at the Chancellor of the Exchequer's invitation submitted a memo on the same points raised by representatives of the accounting profession. This memo would also concentrate attention on the way that section 55 of the 1940 Finance Act had been implemented, given the unrealistically high valuations that had consequently emerged from the EDO. The FBI memo recommended that shareholdings in private companies ought more correctly to be valued on the going-concern basis, rather than the break-up basis. This would have the effect of bringing ED into line with the 1948 Companies Act, which specifically allowed a break-up basis of valuation to apply only where a 75% holding existed and suggested that these shares should be valued on the same basis as other wealth. Ilersic (1954), writing in *Accounting Research* (Vol.5, No.2, 1954) on behalf of what was then the Incorporated Accountant's Society, also focused on sections 46 to 55 of the 1940 Act, outlining why it did not make good economic sense for the Revenue to use the valuation method embedded in the 1940 Act. This supported the case made by the FBI and other professional bodies that the valuation methods were unfair.

Although in 1951 the government published a report in response to this groundswell of negative opinion, ministers did little to allay concerns. Indeed, the report was heavily criticized for the way in which commentators felt that it had manipulated the available data, because it appeared to show that the use of non-trade assets was not required to pay an ED. This prompted the NUM to commission the Economist Intelligence Unit (EIU) to analyse the Report's findings, the outcome of which was one of that period's most damning critiques of the tax (Fletcher 2016;2023). As an independent economic think tank, the importance of this Report cannot be underestimated, especially as they had access to a sector whose representative body had been petitioning the government to undertake an enquiry, warning ministers that concessions such as those applicable to agriculture were required. After criticizing the government's paper for its limited use of the available data, arguing that ministers had ignored 80% of those firms that could have been affected by ED. In addition, the EIU conducted a detailed study of the firms that could be bankrupted by ED, demonstrating that this was a real possibility for a significant number of the NUM's membership, based on a sampling exercise. Backing up this clamour for change was the Association of British Chambers of Commerce, which commented in February 1952 that 'the stability of the medium-sized family business is being seriously and increasingly undermined' (*The Times,* 18 Feb 1952). They also cautioned that this

resulted in inequitable treatment for these smaller concerns compared to public companies and that the high valuations resulted in protracted negotiations with the Revenue. A list of recommendations was provided in conclusion: lower the rate of tax and increase the exemption band; return to market value; the valuation should also take account of the overriding principle of realisable value; payment by instalments; and a right of appeal over valuations to an independent board.

While this debate was raging, and in response to the clamour for some relief from ED, the state-owned Industrial and Commercial Finance Corporation was asked by the Treasury to establish EDITH (Estate Duty Investment Trust), in the hope that small firms needing to raise money for their tax bill could turn to this institution in their hour of need. As Thomas (1978; 130) notes, EDITH was intended to hold minority interests in private companies, providing short-term support when an ED bill was due to be paid. However, as EDITH would only invest a minimum of £20,000, this resulted in most small private companies being ruled out of the scheme. Consequently, while one might regard EDITH as an imaginative creation, it provided little relief to those firms that needed it. It is also true to note that by May 1954 EDITH had still not managed an investment in a privately controlled company.

The failure of EDITH to alter attitudes towards ED seemed to contemporaries to demonstrate that the Treasury did not understand the needs of private companies. As well as commentary in *The Times*, there were also supportive reports in *The Economist* which highlighted the range of institutions that had submitted memoranda on ED to the Chancellor. Alongside the professional bodies noted above, the Engineering Industries Association, The Institute of Chartered Accountants of England and Wales (ICAEW), the Institute of Chartered Accountants of Scotland (ICAS) and the Institute of Taxation all provided detailed commentary on the failings of the 1940 Finance Act. An article in *The Economist* (9 Jan, 1954) summarises the critics' argument, claiming that 'the imposition of death duties stunts the growth of family businesses'. This revival of interest was prompted by the Chancellor's announcement at the end of the debate on the 1953 Finance Act that a review of death duties was to be initiated. At the heart of this debate was the valuation system, one commentator noting that 'gross overvaluations are the rule, and that many unfortunate taxpayers elect to pay rather than to face the risk of losing still more by litigation' (Wooley, 1953).

There was also a well-publicized court case, Re Holt (1953, SVC 204), on the issue of valuations. As the Inland Revenue had originally placed a value of £3 per share on the blockholding, and the Executors had produced a valuation of 11shillings and 3pence, there was clearly a major discrepancy. Although prior to the hearing the Revenue reduced their valuation to 25shillings per share and the Executors raised theirs to 17shillings 2pence, the plaintiffs felt that a court case was inevitable. Some references to Judge Danckwerts' ruling are instructive:

> *I have had the assistance of a number of experts on each side….and the frankest of them admitted that certain of the calculations were simply guesswork…their methods of calculation appear to me to be inevitably uncertain and controversial…[and] It is necessary to assume the prophetic vision of a prospective purchaser at the moment of the death of the deceased, and firmly to reject the wisdom which might be provided by the knowledge of subsequent events.*

The Judge concluded that a value of 19shillings per share should be used. However, if we consider that Holt died in March 1948 and the judgement was made in November 1953, it illustrates the time taken to resolve this issue. Not only would interest be accruing on any estate duty bill, but it might also have had a deleterious impact on the business as the family had diverted energies to wrangling with the Revenue when they could have been developing the business.

Ultimately, following this litany of publications and memoranda to the Treasury, the clamour was too loud and eventually the government stepped in to offer respite from these high valuations via the 1954 Finance Act. This introduced three concessions for controlling shareholders in family businesses (which were subject to Section 55): firstly, duty payable on *industrial hereditaments, plant and machinery* would be charged at 55% of the ruling rate of death duty; secondly, Section 55 of the 1940 Finance Act would not be applied if control or powers equivalent to control were lost on the death of the individual and if shares/debentures were sold within three years; and finally, the probate value could be superseded with the *arms length transaction* value. This marked a significant victory for those who had been lobbying on behalf of the private companies that had been adversely affected by ED and its valuation system. While the top rate of ED remained at 80%,

and it is interesting that few complained about this, at last a valuation system had been introduced that was widely acknowledged as being fair and more in line with a real understanding of the worth attached to assets and unquoted securities.

Conclusions

It is clear from this brief history of ED and the debates it stimulated between 1894 and 1954 highlights a variety of issues that add nuance to various historical themes. Firstly, the ways in which ED rates were summarily raised as an immediate response to specific circumstances substantiates the claims made by Daunton that successive British governments failed to develop a long-term fiscal strategy. Secondly, the introduction of a valuation system and its adaptation in 1940 demonstrates not only the complete failure of civil servants to understand how business operates, but also the specific challenges associated with running and financing a private company. Thirdly, given the support provided to agricultural interests in the early-1920s, one might argue that landed wealth continued to hold sway when fiscal policies were being considered. On the other hand, even though prominent politicians claimed that through the imposition of ED they were dealing with the worst iniquities associated with inherited wealth, one might regard these claims as rhetorical devices employed mainly to justify the imposition of additional taxes. Finally, as it took until 1954 to persuade the Treasury to alter a valuation system which all business interests regarded as unfair and inaccurate, successive governments were clearly not in listening mode. While further research and analysis is required before any of these conclusions are accepted, unravelling the debates surrounding this controversial tax provides fascinating insights into the British political, agricultural and industrial sectors, highlighting the need to study the impact of ED and enhance its prominence as a key feature of ways in which each of these evolved.

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