NEW ZEALAND

ANALYSIS

Title.
1. Short Title and commencement.
2. Annuities and other interests purchased or provided by deceased.
3. Beneficial interest may arise under a contract not enforceable by the person who benefits.
4. Relief from successive death duties.
5. Reducing period before death for which a reservation must be given up to escape duty on a settlement.
6. Section 5 (4) of principal Act amended.
7. Section 7 of principal Act amended.
8. Simple interest on deficient or overpaid duty when contingency determined.
9. Power to remit interest on deficient duty when contingency determined.
10. Disposition of property by means of resolution passed by a company.
11. Extending exemption of small gifts.
12. Penalty for late payment of gift duty.
13. Compromise of claim for duty by Commissioner.
14. Section 70 of principal Act (as to valuation of land) amended.
15. Extending time for claiming refunds of duty paid in excess.
16. Gift duty and Maori succession duty not to be denoted by adhesive stamps.
17. Authorizing Commissioner to refund excess duty under Family Protection Act 1908.
18. Commissioner may destroy records after fifty years.

1953, No. 55

Title.

AN ACT to amend the Death Duties Act 1921.

[*23 November 1953*

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

Short Title and commencement.

See Reprint of Statutes, Vol. VII, p. 354

1. (1) This Act may be cited as the Death Duties Amendment Act 1953, and shall be read together with and deemed part of the Death Duties Act 1921 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the first day of January, nineteen hundred and fifty-four.

2. (1) For the purposes of paragraph (*g*) of subsection one of section five of the principal Act the following provisions of this section shall apply.

Annuities and other interests purchased or provided by deceased.

(2) Where an annuity or other interest was purchased or provided partly by the deceased and partly by any other person, so much of that annuity or other interest as was purchased or provided by the deceased shall be deemed to be an annuity or other interest to which paragraph (*g*) applies.

(3) The deceased shall be deemed to have purchased or provided the proportion of any annuity or other interest that is equivalent to the proportion contributed by the deceased of the total amount in money or money's worth contributed towards purchasing or providing the annuity or other interest.

(4) This section shall apply to the estates of all persons dying after the commencement of this Act.

3. (1) Where the deceased has entered into a contract for a benefit to a person who is not a party to the contract, and the contract is enforceable by the administrator of the estate of the deceased, then, notwithstanding that the contract is not enforceable by the person for whose benefit the contract was made,—

Beneficial interest may arise under a contract not enforceable by the person who benefits.

(*a*) The benefit shall be deemed to be a beneficial interest for the purposes of paragraph (*g*) of subsection one of section five of the principal Act:

(*b*) The person for whose benefit the contract was made shall, for the purposes of paragraph (*f*) of subsection one of section sixteen of the principal Act, be deemed to become beneficially entitled to the benefit.

(2) This section shall apply to the estates of all persons dying after the commencement of this Act.

4. (1) For the purposes of this section—

Relief from successive death duties.

Cf. Finance Act 1914 (ch. 10), s. 15 (U.K.), Halsbury's Statutes, 2nd Ed., Vol. 9, p. 412

"Deceased successor" means a person dying after the commencement of this Act who has become entitled to any property as a successor to a predecessor:

"Predecessor", in relation to a deceased successor, means a person who has died (whether before or after the commencement of this Act) within five years before the death of the deceased successor:

"Successor" means a successor within the meaning of the principal Act.

(2) Where the Commissioner is satisfied that the dutiable estate of a deceased successor includes any property identified as being or representing property to which the deceased successor has become entitled as a successor to a predecessor, the Commissioner shall reduce the net amount of the death duties payable in the estate of the deceased successor in respect of that property as follows:

(*a*) If the deceased successor has died within one year after the death of the predecessor, by fifty per cent:

(*b*) If the deceased successor has died within two years after the death of the predecessor, by forty per cent:

(*c*) If the deceased successor has died within three years after the death of the predecessor, by thirty per cent:

(*d*) If the deceased successor has died within four years after the death of the predecessor, by twenty per cent:

(*e*) If the deceased successor has died within five years after the death of the predecessor, by ten per cent:

Provided that where the net amount of the death duties payable in the estate of the deceased successor in respect of that property (before making any reduction under this section) exceeds the net amount of the death duties payable in the estate of the predecessor in respect of that property or the property that it represents (after making any reduction under this section if applicable), the reduction to be made under this section shall be the appropriate percentage of the last mentioned amount.

Reducing period before death for which a reservation must be given up to escape duty on a settlement.

5. (1) Section five of the principal Act is hereby amended by omitting from subsection three the words "ten years", and substituting the words "three years".

(2) Section sixteen of the principal Act is hereby amended by omitting from subsection three the words "ten years", and substituting the words "three years".

6. Section five of the principal Act is hereby amended by inserting in subsection four, before the words " this section ", the words " paragraph (*j*) of subsection one of ".

Section 5 (4) of principal Act amended.

7. Section seven of the principal Act is hereby amended by omitting the words " forming part of his dutiable estate ".

Section 7 of principal Act amended.

8. (1) Section twenty-one of the principal Act is hereby amended as follows:

Simple interest on deficient or overpaid duty when contingency determined.

(*a*) By omitting from subsection four the words " compound interest thereon computed with annual rests ", and substituting the words " interest thereon ":

(*b*) By omitting from subsection five the words " compound interest thereon computed with annual rests ", and substituting the words " interest thereon ".

(2) This section shall apply to the estates of all persons dying after the commencement of this Act and to all gifts made after the commencement of this Act.

9. Section twenty-one of the principal Act is hereby amended by adding to subsection five the following additional proviso:

Power to remit interest on deficient duty when contingency determined.

" Provided also that the Minister, or the Commissioner acting with the general or special authority of the Minister, may, if he thinks fit, reduce, remit, or refund the interest payable on any deficiency of succession duty under this subsection where he is satisfied that the payment or retention of the interest would create a hardship; but no such refund shall be made unless application therefor is received by the Commissioner within six months after the payment of the interest."

10. (1) Without restricting the generality of paragraph (*f*) of section thirty-nine of the principal Act, it is hereby declared that for the purposes of that paragraph the passing by a company of a resolution which, by the extinguishment or alteration of the rights attaching to any shares or debentures of the company, results directly or indirectly in the estate of any shareholder or debenture holder of the company being increased in value at the expense of the estate of any other shareholder or debenture holder shall be deemed

Disposition of property by means of resolution passed by a company.

to be a transaction entered into by that other shareholder or debenture holder if he could have prevented the passing of the resolution by voting against it or otherwise.

(2) This section shall apply to all gifts made after the commencement of this Act.

Extending exemption of small gifts.

11. Section forty-four of the principal Act is hereby amended by omitting from paragraph (*a*) of subsection one the words " twenty pounds ", and substituting the words " fifty pounds ".

Penalty for late payment of gift duty.

12. (1) If the full amount of gift duty on any gift made before or after the commencement of this Act (not including any deficient duty payable by virtue of a reassessment under section forty-seven of the principal Act) is not paid within one year after the making of the gift or within one year after the commencement of this Act, whichever period is the later to expire, there shall be added by way of penalty a further sum equal to ten per cent of the duty so unpaid, and the additional sum shall, except for the purposes of section sixty of the principal Act and section nine of the Finance Act (No. 2) 1942, be deemed to be gift duty and shall be chargeable and recoverable accordingly.

1942, No. 14

(2) The said penalty shall be in addition to and not in substitution for any fine to which the donor or any other person is liable under the principal Act.

(3) This section is in substitution for section fifty-eight of the principal Act, and that section is hereby accordingly repealed.

Compromise of claim for duty by Commissioner.

1952, No. 33

13. (1) Section sixty-eight of the principal Act (as amended by subsection two of section twenty of the Inland Revenue Department Act 1952) is hereby further amended by omitting from subsection one the words " with the consent of the Minister of Finance ".

(2) In section sixty-eight of the principal Act the term " Commissioner " does not include a District Commissioner of Stamp Duties.

Section 70 of principal Act (as to valuation of land) amended.

14. Section seventy of the principal Act is hereby amended by omitting from subsection one the words " forming part of the dutiable estate of the deceased, or being the subject-matter of a gift ".

15. (1) The principal Act is hereby amended by repealing section seventy-five (as amended by section three of the Death Duties Amendment Act 1926 and by subsection one of section eighteen of the Finance Act (No. 3) 1944), and substituting the following section:

Extending time for claiming refunds of duty paid in excess.

See Reprint of Statutes, Vol. VII, p. 400

1944, No. 31

"75. At any time within six years after the payment of any duty, or if application for a refund is made in writing within that period, the Commissioner may, on proof to his satisfaction that the duty has been paid in excess, order that the amount overpaid be returned to the person entitled thereto."

(2) Section thirty-two of the principal Act is hereby amended by omitting from subsection four (as amended by section seventeen of the Finance Act (No. 3) 1944 and by section sixteen of the Finance Act (No. 2) 1947) the words "unless application therefor, supported by evidence of payment of the duty in the other country, is made in writing within three years after the payment of duty in New Zealand or within such extended period not exceeding one year as the Commissioner thinks fit to allow on the application of the administrator made before the expiration of the said period of three years", and substituting the words "unless application therefor, supported by evidence of payment of the duty in the other country, is made in writing within six years after the payment of duty in New Zealand".

1947, No. 45

(3) Section seventy-four of the principal Act is hereby amended by omitting from subsection two the words "three years", and substituting the words "six years".

(4) The following enactments are hereby consequentially repealed:

(*a*) Section three of the Death Duties Amendment Act 1926:

(*b*) Section seventeen and subsection one of section eighteen of the Finance Act (No. 3) 1944:

(*c*) Section sixteen of the Finance Act (No. 2) 1947.

16. (1) Section seventy-nine of the principal Act is hereby repealed.

Gift duty and Maori succession duty not to be denoted by adhesive stamps.

(2) The following enactments are hereby consequentially repealed:

(*a*) Section twelve of the Finance Act (No. 2) 1945:

1945, No. 45

(*b*) Section twenty-three of the Finance Act 1947.

1947, No. 6

1939, No. 10

(3) Section five of the Adhesive Stamps Act 1939 is hereby consequentially amended by omitting from paragraph (*b*) the words " or the Death Duties Act 1921 ".

Authorizing Commissioner to refund excess duty under Family Protection Act 1908.

See Reprint of Statutes, Vol. III, p. 302

1952, No. 33

17. Section thirty-four of the Family Protection Act 1908 is hereby amended by omitting from subsection two (as amended by subsection two of section twenty of the Inland Revenue Department Act 1952) the words " Minister of Finance ", and substituting the words " Commissioner of Inland Revenue or a District Commissioner of Stamp Duties ".

Commissioner may destroy records after fifty years.

18. At any time after the expiration of fifty years from the date of the death of any deceased or from the date of the making of any gift the Commissioner may, at his discretion, destroy any statement or other document or record delivered to him or kept by him with respect to death duty in the estate of that deceased or, as the case may be, with respect to gift duty on that gift.