



## ANALYSIS

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1979, No. 24

**An Act to amend the Estate and Gift Duties Act 1968**

[19 October 1979]

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

**1. Short Title, commencement, etc.**—(1) This Act may be cited as the Estate and Gift Duties Amendment Act 1979, and shall be read together with and deemed part of the Estate and Gift Duties Act 1968 (hereinafter referred to as the principal Act).

(2) Except as otherwise provided in this Act, this Act shall be deemed to have come into force on the 21st day of June 1979, and shall apply to the estates of all persons dying on or after that day.

**2. Repeal of provisions relating to orphan infant children—**(1) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “orphan infant child” (as inserted by section 2 (1) of the Estate and Gift Duties Amendment Act 1974).

(2) Section 38A of the principal Act (as inserted by section 7 (1) of the Estate and Gift Duties Amendment Act 1974) is hereby repealed.

(3) Section 91 (1) of the principal Act is hereby amended by omitting from paragraph (a) of the definition of the term “discretion” (as amended by section 2 (2) of the Estate and Gift Duties Amendment Act 1974) the words “or of the term ‘orphan infant child’”.

(4) Sections 2 and 7 of the Estate and Gift Duties Amendment Act 1974 are hereby consequentially repealed.

**3. Amendment to method of calculating allowance for charitable succession—**(1) Section 2 (2) of the principal Act is hereby amended by inserting, after the definition of the term “allowable debt”, the following definition:

“‘Charitable allowance’ means an amount equal to—

“(a) The value of the charitable succession of any charitable successor or, where there is more than one, the value of the aggregate of all the charitable successions of the charitable successors; or

“(b) \$25,000—  
whichever is the less.”

(2) Section 4 (2) of the principal Act (as added by section 5 of the Estate and Gift Duties Amendment Act 1972) is hereby repealed.

(3) The principal Act is hereby amended by repealing section 5 (as substituted by section 4 of the Estate and Gift Duties Amendment Act 1976), and substituting the following section:

“5. Final balance—The final balance shall be the total value of the dutiable estate, less—

“(a) The allowable debts; and

“(b) The matrimonial home allowance; and

“(c) The charitable allowance.”

(4) Section 39A of the principal Act (as inserted by section 6 (1) of the Estate and Gift Duties Amendment Act 1972) is hereby repealed.

(5) Section 40 (2) of the principal Act is hereby amended by omitting from item c (as amended by section 6 (2) (b) of the Estate and Gift Duties Amendment Act 1972) the words “less any deductions made under sections 36 to 39A of this Act”.

(6) Sections 5 and 6 of the Estate and Gift Duties Amendment Act 1972 and section 4 of the Estate and Gift Duties Amendment Act 1976 are hereby consequentially repealed.

**4. Decrease in rates of estate duty—**(1) The principal Act is hereby amended by repealing the First Schedule (as substituted by section 3 (1) of the Estate and Gift Duties Amendment Act 1976), and substituting the First Schedule set out in the First Schedule to this Act.

(2) Section 3 of the Estate and Gift Duties Amendment Act 1976 and the First Schedule to that Act are hereby consequentially repealed.

**5. Repeal of reliefs for wife, husband, infant children, and deceased servicemen—**(1) The principal Act is hereby amended by repealing the following provisions:

(a) Section 36 (as amended by section 5 (1) of the Estate and Gift Duties Amendment Act 1974):

(b) Section 37 (as amended by section 6 (1) of the Estate and Gift Duties Amendment Act 1974):

(c) Section 38:

(d) Section 39 (as amended by section 7 (2) of the Estate and Gift Duties Amendment Act 1974).

(2) Sections 5 and 6 of the Estate and Gift Duties Amendment Act 1974 are hereby consequentially repealed.

**6. Consequential amendments—**(1) Section 6 (1) of the principal Act is hereby amended by omitting from the proviso the expression “36 to 41”, and substituting the expression “40 and 41”.

(2) Section 35c of the principal Act (as inserted by section 3 of the Estate and Gift Duties Amendment Act 1971, and amended by section 6 (2) (a) of the Estate and Gift Duties Amendment Act 1972) is hereby amended by omitting the words “For the purposes of calculating reliefs under sections 36 to 39A and section 41 of this Act ,”, and substituting the words “For the purpose of calculating any relief under section 41 of this Act,”.

**7. Relief from successive estate duties**—(1) Section 41 of the principal Act is hereby amended—

(a) By omitting from item c in subsection (3) the expression “36 to 41”, and substituting the expression “40 and 41”:

(b) By omitting from item c in subsection (4) the words “sections 36 to 40”, and substituting the words “section 40”.

(2) Section 41 (6) of the principal Act is hereby repealed.

(3) For the purposes of section 41 of the principal Act, in relation to the estate of a deceased predecessor who has died before the commencement of this Act, the reference in subsection (3) of that section (as amended by subsection (1) of this section) to deductions made under sections 40 and 41 of the principal Act shall be read as a reference to deductions made under sections 36 to 41 of the principal Act (before the repeal of sections 36 to 39A of that Act by this Act).

**8. Increase in amount before notice of payments, etc., without administration to be given to Commissioner**—

(1) Section 45 of the principal Act (as amended by section 7 of the Estate and Gift Duties Amendment Act 1976) is hereby amended by omitting the expression “\$1,000”, and substituting the expression “\$4,000”.

(2) Section 7 of the Estate and Gift Duties Amendment Act 1976 is hereby consequentially repealed.

**9. Proportion of estate duty also recoverable from successors**—The proviso to section 54 (1) of the principal Act is hereby repealed.

**10. Decrease in rates of gift duty**—(1) The principal Act is hereby amended by repealing the Third Schedule (as substituted by section 8 (1) of the Estate and Gift Duties Amendment Act 1976), and substituting the Third Schedule set out in the Second Schedule to this Act.

(2) The rates of gift duty in the Third Schedule (as substituted by subsection (1) of this section) shall apply to all dutiable gifts made on or after the 22nd day of June 1979:

Provided that, in ascertaining the rate of gift duty in respect of a dutiable gift made before the commencement of this Act, the value of any dutiable gift or dutiable gifts made after the commencement of this Act shall not be taken

into account unless the value of the dutiable gift made before the commencement of this section of this Act, together with the value of all dutiable gifts made at the same time or within 12 months subsequently or previously (whether before or after the commencement of this section of this Act) exceeds \$15,000.

(3) Section 8 of the Estate and Gift Duties Amendment Act 1976 and the Second Schedule to that Act are hereby consequentially repealed.

**11. Increase in exemption for small gifts**—(1) Section 71 of the principal Act (as amended by section 8 (1) of the Estate and Gift Duties Amendment Act 1974) is hereby amended by omitting the expression “\$400”, and substituting the expression “\$1,000”.

(2) Subsection (1) of this section shall apply—

(a) For the purposes of gift duty under the principal Act, to all gifts made on or after the 1st day of January 1979; and

(b) For the purposes of estate duty under the principal Act, to all gifts, made at any time whether before or after the commencement of this Act, by a donor who dies on or after the commencement of this Act.

(3) Section 8 of the Estate and Gift Duties Amendment Act 1974 is hereby consequentially repealed.

**12. Increase in amount of gift before gift statement to be delivered to Commissioner**—(1) Section 79 (1) of the principal Act (as amended by section 9 of the Estate and Gift Duties Amendment Act 1976) is hereby amended by omitting the expression “\$4,000” from both places where it occurs, and substituting in each case the expression “\$8,000”.

(2) Section 80 (1) of the principal Act (as amended by section 10 of the Estate and Gift Duties Amendment Act 1976) is hereby amended by omitting the expression “\$4,000”, and substituting the expression “\$8,000”.

(3) Sections 9 and 10 of the Estate and Gift Duties Amendment Act 1976 are hereby consequentially repealed.

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## SCHEDULES

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Section 4

### FIRST SCHEDULE

NEW FIRST SCHEDULE TO PRINCIPAL ACT

Section 4

### "FIRST SCHEDULE

SCALE OF RATES OF ESTATE DUTY

#### PART A

*To Apply to the Estates of all Persons Dying on or After the 21st day of June 1979 until the expiry of the 31st day of March 1980*

Final Balance of Estate	Rate NOTE: 'Excess' means excess of the final balance in complete dollars
Not Exceeding \$100,000 .....	Nil.
Not Exceeding Exceeding \$100,000 — \$250,000	35 percent of excess over \$100,000.
Exceeding \$250,000	\$52,500 plus 40 percent of excess over \$250,000.

#### PART B

*To Apply to the Estates of all Persons Dying on or After the 1st day of April 1980 until the expiry of the 31st day of March 1981*

Final Balance of Estate	Rate NOTE: 'Excess' means excess of the final balance in complete dollars
Not Exceeding \$150,000 .....	Nil.
Not Exceeding Exceeding \$150,000 — \$250,000	35 percent of excess over \$150,000.
Exceeding \$250,000	\$35,000 plus 40 percent of excess over \$250,000.

#### PART C

*To Apply to the Estates of all Persons Dying on or After the 1st day of April 1981 until the expiry of the 31st day of March 1982*

Final Balance of Estate	Rate NOTE: 'Excess' means excess of the final balance in complete dollars
Not Exceeding \$200,000 .....	Nil.
Not Exceeding Exceeding \$200,000 — \$250,000	35 percent of excess over \$200,000.
Exceeding \$250,000	\$17,500 plus 40 percent of excess over \$250,000.

FIRST SCHEDULE—*continued*

## PART D

To Apply to the Estates of all Persons Dying on or After the 1st day of April 1982

Final Balance of Estate	Rate NOTE: 'Excess' means excess of the final balance in complete dollars
Not Exceeding \$250,000 .....	Nil.
Exceeding \$250,000	40 percent of excess over \$250,000."

## SECOND SCHEDULE

Section 10

## NEW THIRD SCHEDULE TO PRINCIPAL ACT

## "THIRD SCHEDULE

Section 62

## SCALE OF RATES OF GIFT DUTY

Value of Item 'b' in section 62	Rate NOTE: 'Excess' means excess of the value in complete dollars
Not Exceeding \$15,000 .....	Nil.
Exceeding \$15,000 — Not Exceeding \$20,000	5 percent on excess over \$15,000.
Exceeding \$20,000 — Not Exceeding \$30,000	\$250 plus 10 percent of excess over \$20,000.
Exceeding \$30,000 — Not Exceeding \$40,000	\$1,250 plus 20 percent of excess over \$30,000.
Exceeding \$40,000	\$3,250 plus 25 percent of excess over \$40,000."

This Act is administered in the Inland Revenue Department.