



ANALYSIS

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1996, No. 62

An Act to amend the Estate and Gift Duties Act 1968

[26 July 1996]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title, application, and commencement—

(1) This Act may be cited as the Estate and Gift Duties Amendment Act 1996, and shall be read together with and deemed part of the Estate and Gift Duties Act 1968 (in this Act referred to as the principal Act).

(2) Except as provided in subsections (3) and (4) of this section, and subject to section 6 of this Act, the provisions of this Act shall apply with respect to tax obligations, liabilities, and rights that are to be performed under or arise with respect to all dutiable gifts made on or after the 1st day of April 1997.

(3) Except as provided in subsection (4) of this section, sections 3, 8, and 9 of this Act come into force on the 1st day of October 1996.

(4) Where—

(a) A provision of this Act amends, inserts, or repeals a provision (“the relevant provision”) of the principal Act; and

(b) The relevant provision is referred to in, or necessary for the purposes of, another provision (“the other provision”) of the principal Act; and

(c) The other provision—

(i) Is amended, inserted, or repealed by this Act; and

(ii) Has an application date that is not the same as the general application date for the relevant provision,—

the relevant provision shall, for all purposes in regard to the other provision, have the same application date as the other provision.

2. Interpretation—(1) Section 2 (1) of the principal Act is amended by inserting, after the definition of “infant of the deceased”, the following definition:

“ ‘Interest on gift duty’ means interest payable in accordance with Part VII of the Tax Administration Act 1994 on unpaid or overpaid gift duty:”.

(2) Section 2 (1) is further amended by inserting, after the definition of “orphan infant child”, the following definition:

“ ‘Penalty on gift duty’ means a late payment penalty computed and payable in respect of unpaid gift duty in accordance with section 139B of the Tax Administration Act 1994:”.

3. Assessment of gift duty—Section 82 of the principal Act is amended by repealing subsection (7), and substituting the following subsection:

“(7) Except as provided by Part VIIIA of the Tax Administration Act 1994 (which applies in relation to challenges to assessments of tax)—

“(a) No assessment or amended assessment of gift duty, penalty on gift duty, or interest on gift duty shall be disputed in any court or in any proceedings (including proceedings before a Taxation Review Authority); and

“(b) Every assessment or amended assessment referred to in paragraph (a) of this subsection shall be final and conclusive in favour of the Crown.”

4. Penalty on unpaid gift duty—Section 83 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

“(1) A penalty on gift duty is payable in respect of any gift duty that is not paid within 6 months after the making of the dutiable gift.”

5. Interest on unpaid gift duty—Section 84 of the principal Act is amended by repealing subsections (1) and (2).

6. Remission of penalty and interest on gift duty—(1) Section 88 of the principal Act is repealed.

(2) This section comes into force on the 1st day of April 1997.

7. Refund of gift duty, penalty, and interest paid in excess—Section 89 of the principal Act is amended—

(a) By omitting from subsection (1) the words “section 88 of this Act”, and substituting the words “Part XI of the Tax Administration Act 1994”;

(b) By omitting from subsection (2) the words “at the rate of 5 per cent per annum from the date of payment”, and substituting the words “computed and payable in accordance with Part VII of the Tax Administration Act 1994”.

8. Repeal of Part VII—objections—(1) Part VII of the principal Act is repealed.

(2) Notwithstanding subsection (1) of this section, Part VII of the principal Act continues to apply as if it had not been repealed to every notice of assessment or reassessment—

(a) Issued by the Commissioner under the principal Act before the 1st day of April 1996; or

(b) Referred to in section 90A(2) of the principal Act (as inserted by section 9 of this Act).

(3) The Commissioner may, with the written agreement of a person who has been assessed for a tax liability under this Act, specify that a notice of assessment or reassessment—

(a) Issued before the 1st day of October 1996, is to be treated as if it had been issued after that date (in which case the provisions of Parts IVA and VIIIA of the Tax Administration Act 1994 apply to the notice); or

(b) Issued on or after the 1st day of October 1996, is to be treated as if it had been issued before that date (in which case the provisions of Part VII of the principal Act continue to apply to the notice).

9. Application of Parts IVA and VIIIA of Tax Administration Act 1994—The principal Act is amended by inserting, after section 90, the following section:

“90A. (1) Parts IVA and VIIIA of the Tax Administration Act 1994 apply with respect to every notice of assessment or reassessment issued by the Commissioner under this Act on or after the 1st day of October 1996.

“(2) Subsection (1) of this section does not apply to any notice of reassessment issued by the Commissioner under this Act on or after the 1st day of October 1996, if, before that date, the person who has been assessed has made a competent objection to a notice of assessment that precedes the notice of reassessment.”

10. Application of Part IX of Tax Administration Act 1994—The principal Act is amended by repealing section 95, and substituting the following section:

“95. Part IX of the Tax Administration Act 1994 applies with respect to offences committed in relation to this Act on or after the 1st day of October 1996.”

11. Duty recoverable by Commissioner in official name—Section 97 of the principal Act is repealed.

This Act is administered in the Inland Revenue Department.
