



ANALYSIS

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1993, No. 13

An Act to abolish estate duty

[1 April 1993]

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

1. Short Title and commencement—(1) This Act may be cited as the Estate Duty Abolition Act 1993.

(2) Except as provided in section 7 (2) of this Act, this Act shall be deemed to have come into force on the 17th day of December 1992.

2. This Act to be an Inland Revenue Act—This Act is hereby declared to be one of the Inland Revenue Acts within the meaning of the Inland Revenue Department Act 1974, and the First Schedule to that Act is hereby accordingly amended by adding a reference to this Act.

3. Estate duty abolished in respect of deaths occurring on or after 17 December 1992—No estate duty shall be payable under the Estate and Gift Duties Act 1968 in respect of the estate of any person who dies on or after the 17th day of December 1992.

4. Interpretation—Section 2 of the Estate and Gift Duties Act 1968 is hereby amended by adding to the definition of the

term “deceased person” the words “and before the 17th day of December 1992”.

5. Limitation on imposition of estate duty—Section 3 of the Estate and Gift Duties Act 1968 is hereby amended by adding the words “and before the 17th day of December 1992”.

6. Gift duty to remain payable in case of death occurring on or after 17 December 1992—Nothing in section 42 of the Estate and Gift Duties Act 1968 shall apply to provide any relief from gift duty, or any entitlement to a refund of or in respect of any gift duty, where the donor dies on or after the 17th day of December 1992; and—

- (a) Notwithstanding subsection (1) (a) of the said section 42, no gift duty paid before the donor’s death in respect of property included in any such donor’s dutiable estate (or that would have been so included but for the proviso to section 6 (1) of the Estate and Gift Duties Act 1968) shall be treated as constituting or having constituted a debt owing by the Crown to the administrator or any other person; and
- (b) To the extent that the amount of any such duty (including any sum referred to in subsection (1) (b) of the said section 42) has been refunded to the administrator or other person entitled thereto before the date on which this Act receives the Royal assent, that amount shall, for the purposes of the Estate and Gift Duties Act 1968, be treated as if it were an amount of gift duty due and payable on the date of the refund by—
 - (i) The administrator of the estate, where the amount was refunded to the administrator and the estate still has an administrator after the date of the said Royal assent; or
 - (ii) The person or persons entitled to the estate, in any case where there is no administrator after that date or the Commissioner considers that the administrator, by virtue of any distributions or otherwise, is not in a position to pay the amount (with the appropriate liability of such persons to be determined in accordance with section 54 of the Estate and Gift Duties Act 1968, where more than one person is so entitled); and

- (c) Notwithstanding subsection (1) (c) of the said section 42, any gift duty unpaid at the date of death of the donor shall be deemed not to have ceased to be payable.

7. Custody and release of administration by Commissioner—(1) Section 43 (1) of the Estate and Gift Duties Act 1968 is hereby amended by inserting, after the words “Every administration”, the words “(other than an administration granted in respect of the estate of a person who dies on or after the 17th day of December 1992)”.

(2) This section shall come into force on the date on which this Act receives the Royal assent.

8. Notice of payments, etc., without change of ownership to be given to Commissioner—Section 45 of the Estate and Gift Duties Act 1968 is hereby amended by adding, as subsection (2), the following subsection:

“(2) Where a person dies on or after the 17th day of December 1992, nothing in subsection (1) of this section applies in relation to any payment of money, transfer of property, or entry in a register, of any change of ownership of property effected as a consequence of the death of that person.”

9. Refund of estate duty, penalty, and interest paid in excess—Section 60 of the Estate and Gift Duties Act 1968 is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Where any estate duty, penalty on estate duty, or interest on estate duty is paid to the Commissioner in respect of the estate of any person who dies on or after the 17th day of December 1992, the Commissioner shall refund that estate duty, penalty on estate duty, or interest on estate duty.”

10. Testamentary annuities charged on property—Section 148 (1) of the Income Tax Act 1976 is hereby amended by omitting the words “and that also forms part of the succession of that person in that estate for the purposes of the Estate and Gift Duties Act 1968”.