



ANNO DECIMO QUARTO

GEORGII V REGIS.

A.D. 1923.

No. 1576.

An Act to amend the Succession Duties Acts, 1893 to 1919, and for other purposes.

[Assented to, November 28th, 1923.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. (1) This Act may be cited as the "Succession Duties Act Short titles. Further Amendment Act, 1923."

(2) The Succession Duties Acts, 1893 to 1919, and this Act may be cited together as the "Succession Duties Acts, 1893 to 1923."

(3) The Succession Duties Act, 1893, is hereinafter referred to as No. 567 of 1893. "the principal Act."

2. This Act is incorporated with the other Acts mentioned in Incorporation with other Acts. section 1 of this Act, and those Acts and this Act shall be read as one Act.

Amendments.

3. Section 7 of the principal Act is amended by striking out the words "any place out of the said province in respect of property being out of the province" in the seventeenth and eighteenth lines thereof, and substituting in lieu thereof the words "any reciprocating State in respect of property within such State".

Amendment of principal Act, s. 7—

Duty paid on foreign property to be deducted only if property is in reciprocating State.

4. Section 8 of the principal Act is amended by adding at the end thereof the words "and shall become chargeable upon such property immediately upon the death of such deceased person".

Amendment of principal Act, s. 8—

Duty to be chargeable from date of death.

5. Section

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Amendment of
principal Act,
s. 18—

Duty paid on
foreign property to
be deducted only if
property is in
reciprocating State.

Amendment of
principal Act,
s. 27—

Payments with
intent to evade
duty.

Amendment of
principal Act—
Third Schedule.

Amendment of
1396, 1919, s. 11—

Method of calculat-
ing net present value
of property accruing
under non-
testamentary
disposition.

Amendment of 1396,
1919, s. 15.

Duty chargeable
on gifts otherwise
than by deed.

5. Section 18 of the principal Act is amended by striking out the words “any place out of the said province in respect of property being out of the province” in the nineteenth and twentieth lines thereof, and substituting in lieu thereof the words “any reciprocating State in respect of property within such State.”

6. Section 27 of the principal Act is amended by striking out the word “three” in the eleventh line of subsection (1) thereof, and also in the eleventh line of subsection (2) thereof, and substituting in each case in lieu of the word so struck out the word “twelve”.

7. The Third Schedule of the principal Act (as enacted by section 3 of the Succession Duties Act Amendment Act, 1915) is hereby repealed; and the Schedule to this Act headed “The First Schedule” is hereby enacted and substituted therefor.

8. Section 11 of the Succession Duties Act Further Amendment Act, 1919, is amended—

(a) by striking out the passage “sections 15 and 18” in the eleventh line thereof, and substituting in lieu thereof the passage “section 15”; and

(b) by adding at the end thereof the passage “and in respect of property accruing under any of the circumstances mentioned in section 18 of this Act as amended by section 10 of the Succession Duties Act Further Amendment Act, 1923, the net present value of such property at the date of the making of the disposition thereof”.

9. Section 15 of the Succession Duties Act Further Amendment Act, 1919, is amended by adding at the end of subsection (2) thereof the words “and shall become chargeable upon such property immediately upon the accruing of the increase of benefit, beneficial interest or property, as the case may be”.

10. Section 18 of the Succession Duties Act Further Amendment Act, 1919, is amended so as to read as follows:—

18. (1) Duty shall be chargeable according to the scale in the Third Schedule to the principal Act (as enacted by the Succession Duties Act Further Amendment Act, 1923) upon the net present value of any property hereafter given or accruing to any person under any conveyance, assignment, gift, delivery, transfer, or other non-testamentary disposition of property, whether in writing or otherwise, and whether by way of declaration of trust or otherwise, not being a deed of gift or settlement within the meaning of the principal Act, and not being before and in consideration of marriage, or for full consideration in money or money's worth wholly for the benefit of the person making such disposition, in the event of the death of such last-mentioned person within one year of the making of such disposition.

(2) The

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(2) The duty mentioned in subsection (1) of this section shall become chargeable immediately upon the death of the person dying as aforesaid.

(3) Duty shall be chargeable according to the scale in the said Third Schedule upon the net present value of any property disposed of in the manner mentioned in subsection (1) of this section immediately upon such disposition, and irrespective of the time of the death of the person making the same, if the person taking under such disposition does not immediately upon the disposition *bona fide* assume the beneficial interest and possession of such property and thenceforward retain such interest and possession to the entire exclusion of the person making such disposition, and without reservation to such person of any benefit from or interest in such property by contract or otherwise.

Duty chargeable where beneficial interest remains with donor.

(4) For the purposes of the said Third Schedule in its application to subsections (1) and (3) hereof, the conveyance, assignment, gift, delivery, transfer, or other non-testamentary disposition mentioned in the said subsections shall be deemed a deed of gift, and the person making the same shall be deemed the donor.

(5) The provisions of subsections (1) and (3) hereof shall not apply to gifts to any person not exceeding in the aggregate the sum of Fifty Pounds.

11. Section 19 of the Succession Duties Act Further Amendment Act, 1919, is amended—

Amendment of 1396, 1919—

(a) by inserting after the passage “ of section 15 ” in the eighth line thereof the words “ and in subsection (3) of section 18 (as amended by section 10 of the Succession Duties Act Further Amendment Act, 1923) ” ; and

Consequential amendment.

(b) by inserting after the words “ mentioned in ” in the eleventh line thereof the passage “ subsection (1) of ”

12. Section 25 of the Succession Duties Act Further Amendment Act, 1919, is amended by striking out the word “ chargeable ” in the first line thereof, and substituting in lieu thereof the word “ payable ”.

Amendment of 1396, 1919, s. 25—

Duty deemed a debt due to Crown when payable, not when chargeable.

13. Section 30 of the Succession Duties Act Further Amendment Act, 1919, is amended—

Amendment of 1396, 1919, s. 30—

(a) by striking out the word “ payable ” in the fourth line thereof, and substituting in lieu thereof the word “ chargeable ” ; and

Interest to be paid from date when duty first chargeable.

(b) by adding at the end thereof the following proviso :—

Provided that the Registrar may, in any case where the amount of duty has not been assessed within three months after the same became chargeable, postpone, for such period as he thinks fit, the date from which interest shall be charged.

Various

*Succession Duties Act Further Amendment Act.—1923.**Various Provisions.*

Interpretation of terms.

14. For the purposes of the principal Act and the Acts incorporated therewith, unless the context otherwise requires—

No. 557 of 1892.

“Foreign company” means any foreign company as defined by the Companies Act, 1892:

“Reciprocating State” means any State or country (including any part of His Majesty’s dominions) declared by proclamation for the time being in force to be a reciprocating State for the purposes of this Act.

Reciprocity in the deduction of duty paid in respect of foreign property.

15. (1) If at any time the Governor is satisfied that by the law of any other State or country (including any part of His Majesty’s dominions) no succession duties, probate duties, death duties, estate duties, or other duties of the same nature are charged or payable upon property situated or deemed to be situated in this State, or no such duties are charged or payable on any substantial part of such property, or provision is or will be made—

(a) for the deduction from succession duties, probate duties, death duties, estate duties, or other duties of the same nature, payable in such State or country in respect of property in this State of duty paid in this State in respect of the same property; or

(b) for exempting from any such duties as aforesaid property in this State;

or to the like effect or substantially the like effect, the Governor may, by proclamation, declare such State or country to be a reciprocating State for the purposes of this Act.

(2) If subsequently the Governor is satisfied that succession duties, probate duties, death duties, estate duties, or other duties of the same nature are charged or payable upon property situated or deemed to be situated in this State, or that such duties are charged or payable upon a substantial part of such property, or that any such provision as mentioned in subsection (1) of this section is no longer in force, or will not be made, or is not being given effect to in the reciprocating State, the Governor may, by proclamation, revoke the proclamation made with respect to such reciprocating State.

Gifts to same person within twelve months of death to be aggregated.

16. Where a person, within twelve months before his death, makes more than one deed of gift or other non-testamentary disposition of property in favor of the same person, the duty in respect of the property given or accruing to such last-mentioned person under such deeds of gift or dispositions shall be chargeable and payable on the aggregate amount of the net present value of the property so given or accruing.

17. In

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17. In estimating the net present value of any property for the purpose of ascertaining the amount of duty, no reduction shall be made in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time: Provided that where it is proved to the Registrar that the value of the property has been depreciated by reason of the death of the deceased, such depreciation shall be taken into account.

Value of property
how estimated.

Cf. U.K. 10 Edw. 7
c. 8, s. 60.

18. (1) Whenever after the passing of this Act a member of any foreign company carrying on business in this State dies, wheresoever such member may have been domiciled, there shall be chargeable and payable under and subject to the provisions of the principal Act and the Acts incorporated therewith, and, except as hereinafter provided, without any deduction or exemption whatever, a duty at the rate mentioned in the Second Schedule to this Act on the net present value of the shares or stock in the company held by such member at the time of his death:

Duty on shares in
foreign company on
death of
shareholders.

Cf. N.S.W. 30, 1901,
s. 10.

Provided that—

- i. the duty mentioned in this section shall not be payable where the net present value of the shares and stock in the company held by the member at the time of his death does not exceed One Thousand Pounds;
- ii. where the company carries on business outside South Australia, the duty payable by the company under this section shall bear the same proportion to the duty mentioned in the said Schedule as the net profits derived from any business carried on by such company in South Australia and from the sale at any place of the products of any such business bear to the aggregate net profits of such company derived from the whole of its business wheresoever carried on. For the purpose of this paragraph "net profits" means net profits for the last financial year ended prior to the death of the member on whose shares the duty is payable; and
- iii. where probate of the will or letters of administration of the estate of any member of the company have, in pursuance of the Administration and Probate Act, 1919, been granted or sealed in South Australia, and the duty payable in pursuance of the principal Act and the Acts incorporated therewith on the property in respect whereof such probate or letters of administration were granted has been duly paid, no duty in respect of shares or stock comprised in such property shall be payable under this section.

(2) Duty under this section shall be payable as aforesaid by the said company, and may be recovered by the Registrar at any time after the expiration of six months from the day on which probate or letters of administration of the estate of such member were notified to or lodged with the company, and not sooner, as a debt due to His Majesty.

Payment of duties.

(3) Any

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Duty deemed to be paid by company on behalf of member.

Cf. *ibid.*, s. 11.

(3) Any payment by the said company of any duty imposed by this section in respect of shares or stock in the company held by a member at the time of his death shall be deemed to be a payment on behalf of the estate of such member, and may be deducted by the company from any moneys payable by the company to the personal representative of such member in respect of such shares or stock, or recovered by action from such representative.

Company to deliver list of deceased members in respect of whose estate administration has been notified to company.

Cf. *ibid.*, s. 7.

19. (1) Whenever after the passing of this Act a member of any foreign company carrying on business in this State dies, and probate or letters of administration of the estate of such member are notified to or lodged with such company, such company, within six months from the day when the probate or letters of administration were notified to or lodged with the company, or such further time as the Registrar may allow, shall cause to be delivered to the Registrar a return giving the name and address of such member, the date when the probate or letters of administration were notified to or lodged with such company, and the number, description, and value of the shares in the said company held by such member at the time of his death, and shall pay the duty thereon.

(2) If any such list is not delivered in accordance with the provisions of this section, the company making default, and any attorney in this State of such company, shall be liable to a penalty not exceeding Fifty Pounds.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

TOM BRIDGES, Governor.

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SCHEDULES.

THE FIRST SCHEDULE.

DUTIES ON PROPERTY GIVEN OR ACCRUING TO ANY PERSON UNDER A SETTLEMENT This Act, s. 8.
OR DEED OF GIFT TO BE ASSESSED UPON THE NET PRESENT VALUE OF SUCH
PROPERTY.

1. Where the person taking the property is a widow, widower, descendant, or ancestor of the settlor or donor, and the net present value of the property is—

£500 and under	£700, a duty of $1\frac{1}{2}$ per centum.
£700 and under	£1,000, a duty of 2 per centum.
£1,000 and under	£2,000, a duty of 3 per centum.
£2,000 and under	£3,000, a duty of 4 per centum.
£3,000 and under	£5,000, a duty of $4\frac{1}{2}$ per centum.
£5,000 and under	£7,000, a duty of 5 per centum.
£7,000 and under	£10,000, a duty of $6\frac{1}{2}$ per centum.
£10,000 and under	£15,000, a duty of $7\frac{1}{2}$ per centum.
£15,000 and under	£30,000, a duty of 9 per centum.
£30,000 and under	£50,000, a duty of 10 per centum.
£50,000 and under	£75,000, a duty of 11 per centum.
£75,000 and under	£100,000, a duty of 12 per centum.
£100,000 and under	£150,000, a duty of 13 per centum.
£150,000 and under	£200,000, a duty of 15 per centum.
£200,000 and upwards,	a duty of $17\frac{1}{2}$ per centum.

Provided that where the person taking is the child under twenty-one years of age or the widow of the settlor or donor, the duty shall be taken at one-half the foregoing rates if the net present value of the whole of the property comprised in the settlement or deed of gift is under £2,000.

2. Where the person taking the property is a brother or sister, or a descendant of a brother or sister, or a person in any other degree of collateral consanguinity to the settlor or donor, and the net present value of the property is—

Under £200, a duty of 1 per centum.	
£200 and under	£300, a duty of $1\frac{1}{2}$ per centum.
£300 and under	£400, a duty of 2 per centum.
£400 and under	£700, a duty of 3 per centum.
£700 and under	£1,000, a duty of 4 per centum.
£1,000 and under	£2,000, a duty of 5 per centum.
£2,000 and under	£3,000, a duty of $6\frac{1}{2}$ per centum.
£3,000 and under	£5,000, a duty of $7\frac{1}{2}$ per centum.
£5,000 and under	£10,000, a duty of 9 per centum.
£10,000 and under	£15,000, a duty of 10 per centum.
£15,000 and under	£25,000, a duty of 12 per centum.
£25,000 and under	£50,000, a duty of 14 per centum.
£50,000 and upwards,	a duty of $17\frac{1}{2}$ per centum.

3. Where the net present value of the property taken by a stranger in blood to the settlor or donor is—

Under £10,000, a duty of 10 per centum.	
£10,000 and under £20,000, a duty of 15 per centum.	
£20,000 and upwards, a duty of 20 per centum.	

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THE SECOND SCHEDULE.

Where the net present value of the shares and stock in the company held by the deceased member at the time of his death is—

£1,000 and under	£2,000, a duty of 3 per centum.
£2,000 and under	£3,000, a duty of 4 per centum.
£3,000 and under	£5,000, a duty of $4\frac{1}{2}$ per centum.
£5,000 and under	£7,000, a duty of 5 per centum.
£7,000 and under	£10,000, a duty of $6\frac{1}{2}$ per centum.
£10,000 and under	£15,000, a duty of $7\frac{1}{2}$ per centum.
£15,000 and under	£30,000, a duty of 9 per centum.
£30,000 and under	£50,000, a duty of 10 per centum.
£50,000 and under	£75,000, a duty of 11 per centum.
£75,000 and under	£100,000, a duty of 12 per centum.
£100,000 and under	£150,000, a duty of 13 per centum.
£150,000 and under	£200,000, a duty of 15 per centum.
£200,000 and upwards,	a duty of $17\frac{1}{2}$ per centum.