

## ESTATE DUTY ASSESSMENT.

### No. 60 of 1957.

#### An Act to amend the *Estate Duty Assessment Act* 1914-1956.

[Assented to 20th November, 1957.]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title  
and citation .

1.—(1.) This Act may be cited as the *Estate Duty Assessment Act* 1957.

(2.) The *Estate Duty Assessment Act* 1914-1956\* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Estate Duty Assessment Act* 1914-1957.

Commence-  
ment.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

3. Section two of the Principal Act is repealed and the following section inserted in its stead:—

Parts.

“ 2. This Act is divided into Parts, as follows:—

Part I.—Introductory (Sections 1-3).

Part II.—Administration (Sections 4-7).

Part III.—Estate Duty (Sections 8-9).

Part IV.—Returns and Assessments (Sections 10-23).

Part V.—Objections and Appeals (Sections 24-28c).

Part VI.—Collection and Recovery of Duty (Sections 29-41).

Part VII.—Miscellaneous (Sections 42-50).”

Definitions.

4. Section three of the Principal Act is amended—

(a) by inserting after the definition of “ Administrator ” the following definition:—

“ ‘ Adopted child ’, in relation to a person, means a person adopted by the first-mentioned person—

(a) under the law of a State or Territory of the Commonwealth relating to the adoption of children; or

(b) under the law of any other place relating to the adoption of children, if the validity of the adoption would be recognized under the law of any State or Territory of the Commonwealth;”;

and

\* Act No. 22, 1914, as amended by No. 29, 1916; No. 34, 1922; No. 47, 1928; No. 12, 1940; No. 18, 1942; No. 16, 1947; No. 80, 1950; Nos. 1 and 52, 1953; and No. 94, 1956.

(b) by inserting after the definition of “ Board of Review ” the following definition:—

“ ‘ Children ’, in relation to a person, includes an adopted child, a step-child or an ex-nuptial child of that person;”.

5. Section eight of the Principal Act is amended by omitting sub-section (5.) and inserting in its stead the following sub-section:—

Duty on estates.

“ (5.) Duty shall not be assessed or payable upon so much of the estate as is devised or bequeathed or passes by gift *inter vivos* or settlement—

(a) for religious, scientific or public educational purposes in Australia;

(b) to or for the benefit of any of the following institutions in Australia:—

(i) a public hospital;

(ii) a hospital which is carried on by a society or association otherwise than for the purposes of profit or gain to the individual members of that society or association;

(iii) a public benevolent institution;

(iv) a public library;

(v) the Australian Council for Educational Research; or

(vi) the National Trust of Australia (New South Wales), the National Trust of Australia (Victoria) or the National Trust of South Australia; or

(c) for the establishment and maintenance of a fund, or to a fund established and maintained—

(i) for the purpose of providing money for the benefit of an institution referred to in the last preceding paragraph; or

(ii) for the purpose of providing money for the relief of persons in necessitous circumstances in Australia.”.

6. After section eight of the Principal Act the following section is inserted:—

“ 8A.—(1.) Subject to this section, where—

Quick succession rebates.

(a) duty is payable, or has been paid, upon the value of the estate of a deceased person (in this section referred to as ‘ the predecessor ’); and

- (b) a person (in this section referred to as 'the successor') who succeeded to the whole, or a part, of the estate of the predecessor dies within five years after the death of the predecessor,

a rebate of duty in accordance with this section shall be allowed in respect of the estate of the successor.

"(2.) The amount of the rebate allowable is the prescribed percentage of the amount ascertained by multiplying the lesser of—

- (a) the average rate of duty applicable to the estate of the predecessor; and
- (b) the average rate of duty applicable to the estate of the successor,

by the number of whole pounds in the lesser of—

- (c) the value for duty of the first succession; and
- (d) the value for duty of the estate of the successor.

"(3.) The prescribed percentage for the purposes of this section is—

- (a) where the successor dies not later than one year after the death of the predecessor—fifty per centum;
- (b) where the successor dies later than one year, but not later than two years, after the death of the predecessor—forty per centum;
- (c) where the successor dies later than two years, but not later than three years, after the death of the predecessor—thirty per centum;
- (d) where the successor dies later than three years, but not later than four years, after the death of the predecessor—twenty per centum; or
- (e) where the successor dies later than four years, but not later than five years, after the death of the predecessor—ten per centum.

"(4.) For the purposes of this section, a person shall be deemed to have succeeded to the whole, or a part, of the estate of a deceased person if—

- (a) the estate, or that part of the estate, passed from the deceased person to or in trust for that person—
  - (i) under the will or on the intestacy of the deceased person; or
  - (ii) by a gift *inter vivos*, settlement, agreement, surrender or right of survivorship referred to in sub-section (4.) of the last preceding section;

- (b) the estate, or that part of the estate, consisted of moneys payable to or in trust for that person under a policy of assurance referred to in paragraph (f) of sub-section (4.) of the last preceding section; or
- (c) the estate, or that part of the estate, consisted of real or personal property in respect of which the deceased person exercised by his will a general power of appointment in favour of that person,

and not otherwise.

“(5.) In this section—

- (a) ‘the first succession’ means the estate, or the part of the estate, of the predecessor to which the successor succeeded, excluding any life interest, annuity or other interest or benefit that terminated during the life, or upon the death, of the successor;
- (b) the average rate of duty applicable to an estate shall be ascertained by dividing the net amount of duty payable in respect of that estate by the number of whole pounds in the value for duty of that estate;
- (c) the net amount of duty payable in respect of the estate of the predecessor shall be deemed to be the duty payable in respect of that estate (excluding any additional duty payable under section thirty-one or section forty-seven A of this Act) after the making or allowance of any deductions under sub-section (6.) or sub-section (7.) of the last preceding section, any rebates under this section and any credit for foreign duty under the *Estate Duty Convention (United States of America) Act 1953* applicable in respect of the estate;
- (d) the net amount of duty payable in respect of the estate of the successor shall be deemed to be the duty payable in respect of that estate (excluding any additional duty payable under section thirty-one or section forty-seven A of this Act) after the making or allowance of any deductions under sub-section (6.) or sub-section (7.) of the last preceding section and any credit for foreign duty under the *Estate Duty Convention (United States of America) Act 1953* applicable in respect of the estate; and
- (e) the value for duty of the first succession, where the first succession consisted of part only of the estate of the predecessor, shall be deemed to be so much of the value for duty of that estate as, in the opinion of the Commissioner, was attributable to that part of that estate.

“(6.) The allowance of a rebate under this section shall be deemed to form part of an assessment under this Act.”.

**Apportionment  
of duty among  
beneficiaries.**

7. Section thirty-five of the Principal Act is amended by omitting from the proviso the words “widow or” and inserting in their stead the words “widow or widower,”.

**Application of  
amendments.**

8. The amendments made by sections four, five and six of this Act apply in relation to assessments in respect of the estates of persons who die on or after the date of commencement of this Act.

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