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c 8 The Succession Duty Amendment Act, 1977

Ontario

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CHAPTER 8

An Act to amend The Succession Duty Act*Assented to July 12th, 1977*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *bb* of subsection 1 of section 7 of *The Succession Duty Act*, being chapter 449 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1975, chapter 14, section 1, is repealed. s. 7 (1) (bb), repealed
- (2) Clause *cc* of subsection 5 of the said section 7, as re-enacted by the Statutes of Ontario, 1975, chapter 14, section 1, is repealed. s. 7 (5) (cc), repealed
- (3) Clause *b* of subsection 7 of the said section 7, as enacted by the Statutes of Ontario, 1975, chapter 14, section 1, is repealed and the following substituted therefor: s. 7 (7) (b), re-enacted
- (b) \$300,000.
- (4) Subclause *i* of clause *c* of subsection 8 of the said section 7, as amended by the Statutes of Ontario, 1975, chapter 14, section 1, is further amended by striking out “\$250,000” in the amendment of 1975 and inserting in lieu thereof “\$300,000”. s. 7 (8) (c) (i), amended
2. The said Act is amended by adding thereto the following section: s. 7a, enacted

7a.— (1) Where,

Application

(a) subsections 5, 5.1 and 5.2 of section 70 of the *Income Tax Act* (Canada) are applicable in respect of a deceased; and 1970-71, c. 63 (Can.)

(b) the executor so elects,

the provisions of this section apply.

Rules that apply where election made under subs. 1

(2) Where an executor has made a valid election under subsection 1 in the form and manner and at the times prescribed by the regulations, in computing the duty payable by a beneficiary under this Act, the following rules shall apply:

1. Allowance shall not be made under subsection 6 of section 3 for the amount of any tax on deemed dispositions of the deceased.
2. The amount of duty otherwise payable by each beneficiary under this Act shall be reduced by the lesser of,

(a) that proportion of the amount of tax on deemed dispositions of the deceased that,

(i) the elected dutiable value of all property situate in Ontario that passes on the death of the deceased to or for the benefit of the beneficiary, plus the elected dutiable value of all transmissions to the beneficiary, plus the elected dutiable value of all dispositions to the beneficiary that do not come within clause *g* of subsection 1 of section 5, bears to,

(ii) the elected aggregate value; and

(b) the amount of duty otherwise payable by the beneficiary under this Act.

(3) For the purposes of this section, elected aggregate value and elected dutiable value shall be computed in the manner prescribed by the regulations.

(4) In this section,

(a) "duty otherwise payable" means the duty levied on a beneficiary and on property passing on the death of the deceased to or for the benefit of that beneficiary determined in accordance with this Act as though paragraph 2 of subsection 2 did not apply;

(b) "tax on deemed dispositions of the deceased" means the prescribed proportion of tax payable under *The Income Tax Act*, being chapter 217 of the Revised Statutes of Ontario, 1970, and the *Income Tax Act* (Canada) in respect of the deceased for

How elected aggregate value computed

Interpretation

the taxation year, determined in accordance with those Acts, in which the deceased died, minus an amount equal to the amount of any payment deemed by subsection 6 of section 164 of the *Income Tax Act* (Canada) to have been made.

Property
of 68 (Can)

3. Section 10 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 20, section 4 is further amended by adding thereto the following subsection:

s. 10
amended

(6a) Notwithstanding anything in this Act, any person or class of persons prescribed by the Minister by regulation may, without the consent of the Minister deliver, assign, transfer or pay or permit the delivery, assignment, transfer or payment of, any property or class of property prescribed by the Minister by regulation that is

Where
no consent
necessary

(a) property in which the deceased had at the time of his death any beneficial interest, or

(b) property passing on the death of the deceased

and that passes on the death of the deceased to or for the benefit of any person or class of persons prescribed by the Minister by regulation.

4. Section 13 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 109, section 5, is repealed and the following substituted therefor:

s. 13
repealed

13—1) Every person,

Filing
return

(a) who is the executor, or one of the executors of, the deceased acting in the administration of his estate, or

(b) to whom or for whose benefit any property situate in Ontario passes on the death of the deceased or to whom there is a transmission or to whom a disposition is made, any of which property disposition or transmission is not included in a return made under this section by a person described in clause a or c, or

(c) who, not being an executor of the deceased is acting in the administration of the estate of the deceased

shall, within six months after the death of the deceased or within such further period as may be allowed by the Minister

make and file with the Minister a return, in such form and containing such information as is prescribed by the Minister by regulation, setting forth,

- (d) an inventory of all the property passing on the death of the deceased and of all dispositions made by the deceased of which he has knowledge, and such inventory shall show the value of such property and dispositions; and
- (e) the names of all persons to whom or for whose benefit any property passes on the death of the deceased or to whom there is a transmission or to whom any disposition is made, their places of residence and the degree of relationship in which they stand to the deceased.

Additional
information

(2) Where the Minister considers it necessary, he may in writing demand from any person a statement or information or a return verified by affidavit or in the form of an affidavit deposing the facts known to the deponent concerning any matter or information relating to subsection 1 specified by the Minister in such demand.

Penalty

(3) Every person in Ontario who makes default in complying with subsection 1 or 2 may be required to pay to the Treasurer as a penalty the sum of \$10 for each day during which the default continues.

s. 14 (2),
amended

5. Subsection 2 of section 14 of the said Act is amended by striking out "an affidavit purporting to be the affidavit required by subsection 1 or 2" in the eighth and ninth lines and inserting in lieu thereof "a return purporting to be the return required by subsection 1".

s. 44,
amended

- 6.—(1) Section 44 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 20, section 8, is further amended by striking out clause *a* and by adding thereto the following clauses:

- (g) prescribing the form and manner and the times at which an election under section 7*a* shall be made;
- (h) prescribing the terms and conditions and providing for the method of the calculations for the purposes of section 7*a*.

s. 44
amended

- (2) The said section 44 is further amended by adding thereto the following subsections:

(2) The Minister may make regulations, Regulations
by Minister

(a) prescribing, defining or determining anything that the Minister is permitted or required by this Act to prescribe, define or determine;

(b) prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

(3) A regulation made under subsection 1 or 2 may be made effective retroactively to a date not earlier than the 20th day of April, 1977. Regulation
may be
retroactive

7.—(1) Subsection 4 of section 50 of *The Registry Act*, being chapter 409 of the Revised Statutes of Ontario, 1970, is amended by striking out "discharge of mortgage" in the third and fourth lines. R.S.O. 1970,
c. 409,
s. 50 (4),
amended

(2) The said section 50, as amended by the Statutes of Ontario, 1972, chapter 133, section 20, is further amended by adding thereto the following subsection: s. 50,
amended

(4a) Notwithstanding subsection 4, the consent of the Minister of Revenue is not required to be attached to or endorsed on any deed, grant, conveyance, mortgage, assignment of mortgage or other instrument purporting to convey, transfer or assign any property that is property prescribed by the Minister of Revenue by regulations made under *The Succession Duty Act* to be property that may be conveyed, transferred or assigned without the consent of the Minister of Revenue. Where
consent
of Minister
not required

(3) Subsection 9 of the said section 50 is repealed and the following substituted therefor: s. 50 (9),
re-enacted

(9) Subsections 4 to 7 do not apply where the deceased person died prior to the 1st day of January, 1950. Application
of subss. 4-7

8.—(1) Subsection 1 of section 140 of *The Land Titles Act*, being chapter 234 of the Revised Statutes of Ontario, 1970, is amended by striking out "and, in the case of the death of the registered owner of a charge where no such entry is being applied for but a cessation of the charge is tendered for registration, such cessation shall not be registered until the above consent is attached thereto or endorsed thereon" in the tenth, eleventh, twelfth, thirteenth and fourteenth lines. R.S.O. 1970,
c. 234,
s. 140 (1),
amended

s. 140,
amended

(2) The said section 140 is amended by adding thereto the following subsection:

Where consent
of Minister
not required

(1a) Notwithstanding subsection 1, the consent of the Minister of Revenue is not required to be attached to or endorsed on the application for transmission of interest or application for entry in respect of any land, charge or interest that is prescribed by the Minister of Revenue by regulations made under *The Succession Duty Act* to be land or a charge or interest that may be conveyed, transferred or assigned without the consent of the Minister of Revenue.

R.S.O. 1970,
c. 449

s. 140 (2),
re-enacted

(3) Subsection 2 of the said section 140 is repealed and the following substituted therefor:

Saving

(2) Subsections 1 and 1a do not apply where the death of the registered owner occurred prior to the 1st day of January, 1950.

Commence-
ment

9.— (1) This Act, except sections 1, 2, 3, 4, 5 and 6, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1, 2, 3, 4, 5 and 6, shall be deemed to have come into force on the 20th day of April, 1977 and apply in respect of deceased persons dying on and after that date.

Short title

10. The short title of this Act is *The Succession Duty Amendment Act, 1977*.