

1972

c 17 The Succession Duty Amendment Act, 1972

Ontario

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CHAPTER 17

An Act to amend The Succession Duty Act

*Assented to April 21st, 1972
Session Prorogued December 15th, 1972*

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

1. Section 1 of *The Succession Duty Act*, being chapter 449^{s. 1, amended} of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses:

(ia) "gift" includes a gift within the meaning of *The Gift Tax Act, 1972*, c. 12.

(va) "succession" means, as the case requires,

- (i) the property of the deceased to which the successor becomes beneficially entitled, or
- (ii) the acquisition by a successor of any property of the deceased by reason of the death of the deceased or a successor's becoming beneficially entitled to property of a deceased by reason of the death of the deceased;

(vb) "successor" in relation to any property of the deceased includes any person who, at any time before or on or after the death of the deceased became or becomes beneficially entitled to any property of the deceased,

- (i) by virtue of, or conditionally or contingently on, the death of the deceased, or
- (ii) by virtue of the exercise of any general power of which the deceased was the donee or other holder, or
- (iii) in any case, under any disposition made by the deceased during his lifetime, or

- (iv) by virtue of the application in respect of the death of the deceased of any law of Canada or a province of Canada providing for relief of dependants of deceased persons,

and includes,

- (v) any person beneficially entitled to any property of the deceased in default of the exercise of any general power of which the deceased was the donee or other holder,
- (vi) any person as the donee or other holder of any general power created by the deceased in respect of any property of the deceased, and
- (vii) any trustee, guardian, committee, curator or other similar representative of any person mentioned in this clause, in his capacity as trustee, guardian, committee, curator or other representative.

s. 3,
amended

2. Section 3 of the said Act is amended by adding thereto the following subsection:

Value of gift

- (7) Notwithstanding any other provision of this Act, the value of any property that comprises a gift made by the deceased prior to his death and that is part of the property of the deceased, shall be deemed to be the aggregate of its value otherwise determined under this Act and the amount of tax, if any, under Part IV of the *Income Tax Act* (Canada) as it was prior to the 1st day of January, 1972, or under *The Gift Tax Act, 1972*, or under an Act of any province of Canada imposing tax on gifts, that was paid by the deceased, or that was payable by him at the time of his death, in respect of the gift.

1970-71,
c. 63 (Can.)
1972, c. 12.

s. 5 (1) (g),
re-enacted

3. (1) Clause *g* of subsection 1 of section 5 of the said Act, as amended by the Statutes of Ontario, 1971 (2nd Session), chapter 3, section 1, is repealed and the following substituted therefor:

- (g) any disposition where actual and *bona fide* enjoyment and possession of the property in respect of which the disposition is made, was assumed more than five years before the date of death of the deceased by the person to whom the disposition is made, or by a trustee for such person, and thenceforward retained to the entire exclusion of the deceased or of any benefit to him whether voluntary or by contract or otherwise.

(2) Clause *ga* of subsection 1 of the said section 5, as enacted by the Statutes of Ontario, 1971 (2nd Session), chapter 3, section 1, is repealed. s. 5 (1) (*ga*), repealed

4. The said Act is amended by adding thereto the following section: s. 9a, enacted

9a. (1) Where any part of the property of a succession to a successor was a gift on which gift tax was payable under Part IV of the *Income Tax Act* (Canada) as it was before the 1st day of January, 1972, or under *The Gift Tax Act, 1972*, or under an Act of any other province of Canada imposing a tax on gifts, the duty otherwise payable on the succession shall be reduced by the lesser of, Reduction for gift tax 1970-71, c. 63 (Can.) 1972, c. 12.

(a) the duty payable on or in respect of the succession; or

(b) the gift tax paid or payable on or in respect of the gift.

(2) Where any part of the property of a succession to a successor was a gift on or in respect of which gift tax was paid under *The Gift Tax Act, 1972*, and the gift tax paid on or in respect of the gift exceeds the duty otherwise payable on or in respect of the succession, the Minister shall refund to the successor an amount equal to the difference between the gift tax paid on or in respect of the gift and the duty otherwise payable on or in respect of the succession. Refund where gift tax exceeds duty

5. This Act shall be deemed to have come into force on the 1st day of January, 1972. Commencement

6. This Act may be cited as *The Succession Duty Amendment Act, 1972*. Short title

