1977

The Gift Tax Amendment Act 1977

Ontario
CHAPTER 17

An Act to amend The Gift Tax Act, 1972

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. Section 6 of The Gift Tax Act, 1972, being chapter 12, is repealed and the following substituted therefor:

6. For the purposes of this Act, where an individual makes a loan to, or disposes of property to, a person with whom he is not dealing at arm's length in consideration of a promise or covenant to pay money at a time in the future, at a rate of interest less than the rate of interest prescribed in the regulations, the value of the promise or covenant to pay shall be discounted at a rate of interest prescribed in the regulations.

2. Subsection 1 of section 10 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 165, section 2, 1975, chapter 15, section 1 and 1976, chapter 11, section 1, is further amended by adding thereto the following clause:

(ga) the value of any beneficial interest given by a donor to his spouse by way of a gift made by the creation of a settlement or the transfer of property to a trust, if such settlement or trust,

(i) is made in writing,

(ii) contains no provision by which any part of the settlement or trust can be revoked, altered or amended in any way by any person,

(iii) provides that, during the lifetime of the donor's spouse, all property or benefits received by the trustee or trustees as income of, or determined by the trustee or trustees
to be income of, such settlement or trust shall be held for or paid to only the donor’s spouse or such spouse’s executors or administrators, (iv) immediately, absolutely and indefeasibly vests the whole beneficial interest given by the donor only in persons who are alive at the time of the gift and whose interest in such settlement or trust cannot thereafter be divested by the occurrence of any event provided for in such settlement or trust, and (v) contains and is subject to no discretion exercisable by any person for or in favour of any object or person other than the donor’s spouse.

3. — (1) Subsection 1 of section 11 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 165, section 3, and 1975, chapter 15, section 2, is further amended by striking out “five” in the eighth line, as inserted by the amendment of 1975, and inserting in lieu thereof “ten” and by striking out “$25,000” in the fourteenth line, as inserted by the amendment of 1975, and inserting in lieu thereof “$50,000”.

(2) The said section 11 is amended by adding thereto the following subsection:

(3) In computing the taxable value of a gift with respect to any part of which exemption is conferred by clause ga of subsection 1 of section 10, that part of the value of the property given and to which exemption under clause ga of subsection 1 of section 10 does not extend shall be determined without regard to the effect thereon of any discretion that is contained in the settlement or trust described in clause ga of subsection 1 of section 10 or that may otherwise be exercised to make payments out of the property that is subject to such settlement or trust or to alter the interest of any person in such settlement or trust.

4. Clause b of subsection 1 of section 18 of the said Act, as re-enacted by the Statutes of Ontario, 1975, chapter 15, section 3, is repealed and the following substituted therefor:

(b) a gift made to an individual having a value of not more than $10,000 if the aggregate value of gifts made to individuals by the donor in the year does not exceed $50,000,
8.—(1) Subsection 6 of section 34 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 15, section 4, is further amended by striking out “$25,000” in the amendment of 1975 in the fourth line and in the amendment of 1975 in the eighth line and inserting in lieu thereof in each instance “$50,000” and by striking out “$5,000” in the amendment of 1975 in the thirteenth line and inserting in lieu thereof “$10,000”.

(2) The said section 34 is amended by adding thereto the following subsection:

(7) Notwithstanding subsection 1, where a donor fails to pay, as herein required, all or a portion of the tax payable by him on or in respect of gifts made by him in a year to a donee who is not a resident of Ontario at the time the gift was made, the property of such donee that is situated in Ontario at the time the gift was made, including any property in Ontario comprised in the gift to such donee, is liable for the payment to the Treasurer of Ontario of the same amount of tax as would be payable by the donee in accordance with this section if he were a resident of Ontario at the time the gift was made to him.

6. Subsection 1 of section 47 of the said Act is repealed and the following substituted therefor:

(1) Where tax, interest or penalties are payable by any person under this Act, or where any property is liable for the payment of any tax, interest or penalties payable under this Act, the Minister may file or cause to be filed in the proper land registry office a certificate of lien in prescribed form against real property belonging to such person, or against any real property liable for the payment of any tax, interest or penalties payable under this Act, and setting out a description of the real property and the amount of tax, interest or penalties for which such person or property is liable, and upon the certificate’s being filed, the real property described therein is, to the extent of the interest therein of any person liable to pay any tax, interest or penalties under this Act or whose property in Ontario is liable for the payment thereof, subject to a lien in favour of the Crown for the amount owing, and such lien has priority over all interests in such real property, except interests and encumbrances filed prior to the registration of the certificate and entitled to priority over the Crown.

(1a) Upon the filing of the certificate referred to in subsection 1, the Minister may deliver to the sheriff of the county or district where the real property against which the certi-
The short title of this Act is The Gift Tax Amendment Act, 1977.