1976

c 20 The Succession Duty Amendment Act, 1976

Ontario
CHAPTER 20

An Act to amend The Succession Duty Act

Assented to April 14th, 1976

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

1.—(1) Section 1 of The Succession Duty Act, being chapter 449 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 17, section 1, is further amended by adding thereto the following clause:

(ra) "registered home ownership savings plan" means a home ownership savings plan registered under the Income Tax Act (Canada).

(2) Clause w of the said section 1 is repealed and the following substituted therefor:

(w) "transmission" means,

(i) the passing on the death of any person domiciled in Ontario to any person resident or domiciled in Ontario at the date of death of the deceased of any real or personal property situate outside Ontario at the date of such death including such of the real or personal property deemed to pass on the death of the deceased under subclauses i to x, xiv and xv of clause r as is situate outside Ontario at such date, and

(ii) the amount of any increase in the value of the interest of any person who is resident or domiciled in Ontario at the date of death of any person dying domiciled in Ontario in the shares or securities of any corporation resident outside Ontario, where such an increase results, directly or indirectly,
(A) from the corporation's acquiring, or becoming beneficially entitled to, any property described in subclause i and by reason of the death of the deceased,

(B) from the cessation or extinguishment of any obligation or indebtedness of the corporation to the deceased as the result of his death, if such indebtedness or obligation is situate outside Ontario at his death, or

(C) from the passing on the death of the deceased of any property described in subclause i to the corporation.

2. Subsection 6 of section 3 of the said Act is amended by inserting after "benefit" in the fifth line "and" and by striking out "and for solicitor's fees for obtaining probate or letters of administration to an amount not exceeding $100" in the sixth and seventh lines.

3. Clause h of section 4 of the said Act is amended by striking out "or" at the end of subclause xi and by adding thereto the following subclauses:

(xii) any interest of the deceased in a registered home ownership savings plan, or

(xiv) any property that is situate in Ontario and that is loaned by the deceased to any religious, charitable or educational organization wholly exempt from duty under section 5 for religious, charitable or educational purposes.

4.- (1) Subsections 3 and 4 of section 10 of the said Act are repealed and the following substituted therefor:

(3) Notwithstanding anything in this Act, any insurance company may, without the consent of the Minister,

(a) make any payment to the spouse of the deceased; and

(b) make payment not exceeding $11,500 in the aggregate to any other person or persons,
due under any contract or contracts of insurance mentioned in subsection 1, and where any such payment exceeds $2,500, notice of such payment shall be transmitted forthwith to the Minister.

(4) Notwithstanding anything in this Act, any person may, without the consent of the Minister,

(a) make any payment to the spouse of the deceased; and

(b) make payment not exceeding $11,500 in the aggregate to any member or members of the family other than a spouse of the deceased,
due under any pension fund, plan or scheme of general application to employees of whom the deceased was one, and where any such payment is made, notice of such payment shall be transmitted forthwith to the Minister.

(2) Subsection 5 of the said section 10 is amended by striking out "$2,500" in the fifth line and inserting in lieu thereof "$5,000".

(3) Subsection 6 of the said section 10 is amended by striking out "$1,500" in the fifth line and inserting in lieu thereof "$5,000".

5. — (1) Clause a of subsection 5 of section 17a of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 109, section 6, is repealed and the following substituted therefor:

(a) farming ceases to be carried on by members of the family of the deceased or by a farming corporation; or

(2) Section 17a of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 109, section 6 and amended by the Statutes of Ontario, 1974, chapter 40, section 2 and 1975, chapter 14, section 2, is further amended by adding thereto the following subsection:

(12) Notwithstanding any provision of this Act to the contrary, where, on the death of a deceased person who died prior to the 8th day of April, 1975, any forgivable duty or interest theron remains owing on the tenth anniversary of the death of the deceased and otherwise than by operation of subsection 5 or 6, the amount of such forgivable
duty and interest thereon, if any, then owing is cancelled and discharged without further liability therefor.

6. Clause b of subsection 9 of section 17c of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 14, section 3, is repealed and the following substituted therefor:

(b) $75,000 minus any reduction allowed under subsection 11 of section 17a with respect to the shares of a small active business corporation or with respect to any of its assets.

7. Section 25 of the said Act is amended by adding thereto the following subsection:

(3) In determining any duty levied on any property or person under this Act, the Minister is not bound by any allocation, appropriation or distribution of such property or the extinguishment of any interest therein made or effected by any person after the date of death of the deceased, whether pursuant to a discretion conferred on such person by law, by the deceased or otherwise.

8. Section 44 of the said Act is amended by adding thereto the following clause:

(f) for determining the method of valuing, for the purposes of this Act, the entitlement of any person to any income, annuity or periodic payment, whether out of capital or income or both and whether for life or otherwise, where the amount of such income, annuity or periodic payment is arrived at by reference to the percentage or proportion that it represents or may represent of the value of any other right or thing, and any regulation made pursuant to this clause may be made effective as of a date prior to the filing of a regulation and not earlier than the 17th day of March, 1976.

9. This Act comes into force on the day it receives Royal Assent.

10. This Act may be cited as The Succession Duty Amendment Act, 1976.