1972

c 12 The Gift Tax Act, 1972

Ontario
CHAPTER 12

An Act to impose a Gift Tax

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. In this Act,
   1. "aggregate taxable value" in relation to gifts made by a donor in a year, means the aggregate of the taxable value of each gift made by him in the year whether or not he was a resident of Ontario at the time he made the gifts;
   2. "amount" means any money, right or thing expressed,
      i. in the case of money in terms of the amount of money, or
      ii. in the case of a right or thing, in terms of the value in terms of money of the right or thing;
   3. "assessment" includes a reassessment;
   4. "charitable organization" means,
      i. an organization that, at the time a gift of which it is the donee is made, or within two years thereafter, is a registered Canadian charitable organization as that expression is defined in clause c of subsection 8 of section 110 of the Income Tax Act (Canada) other than a trust R.S.C. 1970, c.1-5 exempt from tax under Part I of that Act by clause f or h of subsection 1 of section 149 of that Act, and
      ii. an organization that, at the time a gift of which it is the donee is made, or within two years thereafter, is prescribed as a charitable organization under the regulations;
5. "common law wife" means a woman who establishes to the satisfaction of the Minister that she had, for a number of years immediately prior to the making of a gift by a donor with whom she was residing, been publicly represented by the donor as his wife, and "common law husband" has a corresponding meaning;

6. "co-operating province" means another province of Canada that has been prescribed as a co-operating province under the regulations;

7. "corporation controlled by an individual" means a corporation that, at the time in respect of which the expression is being applied, was controlled, whether directly or indirectly and whether through holding a majority of the shares of the corporation or of any other corporation or in any other manner whatever, by the individual or by any other person on behalf of the individual;

8. "disposition" includes any arrangement or ordering in the nature of a disposition, whether by one transaction or a number of transactions effected for the purpose, or in any other manner whatever;

9. "donee" means any person who receives or has received the benefit of a gift, including a gift deemed, for the purposes of this Act, to have been made;

10. "donor" means any individual who makes or has made a gift, including a gift deemed, for the purposes of this Act, to have been made;

11. "general power" includes any power or authority enabling the holder thereof either alone, or jointly with or with the consent of, any other person, to appoint, appropriate or dispose of property as he sees fit, whether exercisable by instrument inter vivos or by will, or both but does not include,

i. any power exercisable in a fiduciary capacity under a disposition not made by him except to the extent that, having regard to the fiduciary restrictions imposed upon him under the disposition, it is reasonable to regard the holder of the power as capable of conferring the property or any part thereof upon himself for his own benefit, or
ii. any power exercisable as a mortgagee, or

iii. any power exercisable jointly with, or with the consent of, any other person,

(A) who has a substantial interest in the property to which the power relates, and

(B) whose interest in that property would be adversely affected by the exercise of the power in favour of the first-mentioned holder;

12. "gift" includes a transfer, assignment or other disposition of property, whether situated within or outside Ontario, by way of gift and, without limiting the generality of the foregoing, includes,

i. the creation of a trust of, or an interest in, property by way of gift, and

ii. a transaction or transactions whereby a person disposes of property directly or indirectly by way of gift;

13. "individual" means a person other than a corporation;

14. "interest in expectancy" includes an estate or interest in remainder or reversion and any other future interest whether vested or contingent, but does not include a reversion expectant on the determination of a lease;

15. "Minister" means the Minister of Revenue;

16. "municipality" means a corporation of a county, city, town, village, township or improvement district and includes a local board thereof and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes;

17. "prescribed" in the case of a form or the information to be given on a form, means prescribed by the Minister, and, in any other case means prescribed by the regulations;

18. "property" means property of every description whatever, whether real or personal, movable or immovable, or corporeal or incorporeal, and, without
restricting the generality of the foregoing, includes any estate or interest in any such property, a right of any kind whatever and a chose in action;

19. “real property” includes any estate, interest or right to or in land, but does not include a mortgage secured by real property;

20. “regulations” means regulations made under this Act;

21. “resident” means a person who resides in Ontario at the time of the making or receiving of a gift in respect of which the residence of the person is material, but, where a person has more than one place of residence at that time, he shall not be regarded as residing within Ontario unless his principal residence is within Ontario, and “resident” where used in reference to a resident of another province, state or country, has a corresponding meaning in respect of that other province, state or country;

22. “settlement” includes,

   i. any trust, whether expressed in writing or otherwise, in favour of any person, and, if contained in a deed or other instrument effecting the settlement, whether or not the deed or other instrument was made for valuable consideration as between the settlor and any other person, and

   ii. any deed or other instrument under or by virtue of which a usufruct or substitution is created or any real property stands limited to any person by way of succession;

23. “shareholder” includes any person who is entitled to receive payment of a dividend from or in respect of a share in the capital stock of a corporation;

24. “spouse” includes a common law wife or common law husband;

25. “tax” means tax payable under this Act;

26. “taxable value”, in relation to a gift, means,

   i. in the case of a gift that is exempt from tax, nil, and
ii. in any other case, the value of the gift minus any deductions therefrom permitted under this Act;

27. "value",

i. in relation to any income, right, annuity, term of years, life or other similar estate or interest in expectancy, means the value thereof, before any allowance or deduction is made for or on account of income tax, ascertained in a manner and in accordance with rules and standards, including standards as to mortality and interest, prescribed by the regulations, and

ii. in relation to any other property, means the fair market value of the property, computed in each case as of the date on which the gift comprising the income, right, annuity, term of years, life or other similar estate, interest in expectancy or property is made without regard to any increase or decrease in the value after that date;

28. "year" means the calendar year.

2. --(1) For the purposes of this Act,

(a) persons are connected by blood relationship if one is a lineal descendant of the other or one is the brother or sister of the other;

(b) persons are connected by marriage if one is married to the other or to a person who is connected by blood relationship to the other; and

(c) persons are connected by adoption if one has been adopted as the child of the other or as the child of a person who is so connected by blood relationship (otherwise than as a brother or sister) to the other.

(2) A reference in this Act to "the part of any tax payable or tax otherwise payable that is applicable to any particular gift the taxable value of which is included in the aggregate taxable value of gifts made by the donor in a year" shall be construed as a reference to that part of the total tax payable by the donor on or in respect of gifts made in that year that bears the same proportion to the total
Reference to tax otherwise payable

(3) A reference in any provision of this Act to "tax otherwise payable" shall be construed as meaning the tax payable under this Act without giving effect or having regard to the provision in which the reference occurs.

Reference to property substituted

(4) For the purposes of this Act, a reference to "property substituted for any other property" refers to property acquired by one or more transactions effecting one or more substitutions.

Arm's length

(5) For the purposes of this Act, persons shall be deemed to be dealing at arm's length when each stands upon the strict letter of his rights and conducts his business in a formal manner without trusting to the other's fairness or integrity and without being subject to the other's control or overmastering influence.

Deemed gifts

3. For the purposes of this Act, a person shall be deemed to make a gift in a taxation year where, in the year and otherwise than by his will, he,

(a) transfers or settles property, except a right under a marriage contract, to or upon any person,

(i) in consideration of marriage, or

(ii) on account or in satisfaction of, an obligation assumed by him in consideration of marriage; or

(b) disposes of property to any person, other than property disposed of to a corporation licensed or otherwise authorized under the laws of Canada or a province of Canada to carry on in Canada an annuities business, under an arrangement made in the ordinary course of a business carried on by that corporation, under an arrangement or understanding whereby the person to whom the disposition is made undertakes to purchase or provide for or for the use or benefit of the individual an annuity or other periodic payment for life or any other period determinable by reference to death; or

(c) exercises, whether partially or completely, any general power of which he was the donee or other holder; or
(d) confers a benefit by disposing of a right to restore to himself or to reclaim any property; or

(e) directs or concurs in the payment or transfer of property to another person as a benefit that the individual desired to have conferred on that other person to the extent that, for the purposes of the Income Tax Act (Canada), the payment or transfer would, by virtue of subsection 2 of section 56 of that Act, have been included in the income of the individual for that year if the payment or transfer of the property had been made to the individual; or

(f) disposes of any right to income, or other benefit retained in property which has previously been disposed of by him by gift inter vivos or in property substituted for any of the property comprising the gift.

4.—(1) A debt or other right that, by virtue of the operation of any statute or law limiting the time for bringing action thereon, became unenforceable by a person as against any other person or property of any other person with whom, at the time the debt or right became unenforceable, he was not dealing at arm's length, shall, to the extent of the value of the debt or right immediately before becoming unenforceable, determined without reference to the effect of the statute or law, be deemed to be property disposed of by the first-mentioned person under a disposition operating as an immediate gift made to that other person at the time the debt or right became unenforceable, unless the debt or right is paid, honoured or acknowledged before, or within ninety days after, the date on which any assessment of tax in respect thereof is sent under section 23.

(2) For the purposes of this Act,

(a) the artificial creation by an individual or with his consent of a debt or other right enforceable against him personally or against property of which he was or might be competent to dispose, or to charge or burden for his own benefit, shall be deemed to be a gift made by that individual at the time of the creation of the debt or right, and, the value of the gift is the value of the benefit conferred by the creation of the debt or right; and

(b) the extinguishment by an individual or with his consent, of a debt or other right enforceable by him shall be deemed to be a gift made by that individual
immediately prior to the extinguishment of the debt or right, and, the value of the gift is the value of the benefit conferred by the extinguishment of the debt or right.

(3) For the purposes of this Act, where an individual allows his rights to purchase shares in a corporation controlled, whether directly or indirectly and whether through holding a majority of shares of the corporation or any other corporation or in any other manner whatever, by him, or by one or more persons connected with him by blood relationship, marriage or adoption, or by him and such one or more persons, or by any other person on his or their behalf, to expire and thereby allows his interest in or control of the corporation to be reduced, the individual shall be deemed to have made a gift, to the extent that the value of his interest in or control of the corporation was reduced, to the other shareholders pro rata on the basis of their holdings of shares after the expiry of the right to purchase shares.

5.—(1) For the purposes of this Act, where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatever is that an individual confers a benefit on another person, the individual shall be deemed to have made a gift to that other person equal to the amount of the benefit conferred notwithstanding the form or legal effect of the transactions or that one or more other persons were also parties thereto, and whether or not there was an intention to avoid or evade taxes under this Act.

(2) Where it is established that a sale, exchange or other transaction was entered into by persons dealing at arm's length, bona fide and not pursuant to, or as part of, any other transaction and not to effect payment, in whole or in part, of an existing or future obligation, no party thereto shall be regarded, for the purpose of subsection 1, as having conferred a benefit on a party with whom he was so dealing.

(3) For the purposes of this Act, a gift made by a corporation controlled by an individual to or for the benefit of a person connected with the individual by blood relationship, marriage or adoption shall be deemed to be a gift made by the individual, and he shall be deemed to be the donor of the gift and, in relation to the gift, any act or thing done or effected by the corporation shall be deemed to have been done or effected, in all respects as though the corporation were the individual.
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, with or without interest, at a time in the future, the value of the promise or covenant to pay shall be discounted at a rate of interest prescribed in the regulations.

7.—(1) An individual shall not be deemed to have made a gift in a taxation year by reason only of his having made, in that year, a marriage contract.

(2) An amount paid by an individual to his spouse who is living apart from the individual, or his former spouse, as or toward the maintenance of the spouse or former spouse shall be deemed not to be a gift to the spouse or former spouse if the amount is not excessive, having regard to the legal and moral obligations of a person to his spouse or former spouse, notwithstanding that the individual was not under any legal obligation to pay the amount.

(3) Where property is acquired pursuant to a purchase made from an individual by a purchaser with whom the individual was not dealing at arm's length, for a consideration in money or money's worth paid or agreed to be paid to the individual for his own use or benefit, the individual shall be deemed not to have made a gift of that property to the purchaser unless the purchase was made otherwise than for full consideration in money or money's worth paid or agreed to be paid to the individual for his own use or benefit, in which case he shall be deemed to have made a gift of the property acquired to the extent that the value of the property so acquired exceeds the amount of the consideration actually so paid or agreed to be paid.

(4) For the purposes of subsection 3, where any property has been disposed of by an individual under an arrangement or understanding described in clause b of section 3, the property shall be deemed to have been acquired pursuant to a purchase made from the individual for a consideration in money or money's worth paid or agreed to be paid to the individual for own use or benefit, but

(a) if the yearly amount of the annuity or other periodic payment referred to in clause b of section 3 does not exceed 5 per cent of the value of the property so disposed of, the amount of the consideration shall be deemed to be nil; and

(b) if the yearly amount of the annuity or other periodic payment exceeds 5 per cent of the value of the
property disposed of, the amount of the consideration shall be deemed to be that amount which is calculated in accordance with the formula set out in Schedule II.

8. — (1) Subject as herein otherwise provided, where a donor who is a resident makes gifts in any year, he shall pay tax in respect of the gifts made in that year calculated in accordance with Schedule I on the basis of the aggregate taxable value of gifts made by him in that year.

(2) Subject as herein otherwise provided, where a donor who is not a resident makes gifts in any year of real property situated within Ontario, tax calculated in accordance with Schedule I on the basis of the aggregate taxable value of gifts made in that year shall be paid on the subject-matter of the gifts.

9. Each donor liable to pay tax under subsection 1 of section 8, and each donor of gifts of real property on which tax is payable under subsection 2 of section 8, shall pay the tax to the Treasurer of Ontario.

10. The following gifts are exempt from tax under this Act,

(a) a donatio mortis causa;

(b) a testamentary gift or a gift made so that no person except the donor is entitled before the death of the donor to possess for his own benefit or for the benefit of any other person other than the donor any of the property or any property substituted for any of the property comprising the gift, or receive or otherwise obtain the use of any of the income therefrom;

(c) an absolute and indefeasible gift to the Crown in right of Canada;

(d) an absolute and indefeasible gift to the Crown in right of a province of Canada;

(e) an absolute and indefeasible gift to a municipality in Canada;

(f) an absolute and indefeasible gift to a charitable organization;

(g) an absolute and indefeasible gift, except a gift made by the creation of a settlement or the transfer of property to a trust, made by the donor to his spouse.

11. — (1) In computing the taxable value of a gift, except a gift made by the creation of a settlement or the transfer of
property to a trust, made by a donor in a year to a donee who is an individual, there may be deducted in the case of gifts made to persons, other than the spouse of the donor, the lesser of,

(a) the value of the gift; or

(b) the amount, if any, by which two thousand dollars exceeds the value of all other gifts, except gifts that are exempt from tax under this Act and gifts made by the creation of a settlement or the transfer of property to a trust, made by the donor to the donee in the year and before the time when the gift was made,

but in any year not more than an aggregate of $10,000 may be deducted under this section from the taxable value of gifts made by the donor in that year.

(2) Where, in any year, an individual made a gift by the creation of, or the transfer of property to, a trust, and

(a) there is only one beneficiary under the trust, other than persons who may receive, use, or enjoy any of the properties subject to the trust or any of the income therefrom only in the event of the death of that beneficiary before attaining such age, not exceeding forty years, as is specified in the instrument creating the trust; and

(b) that beneficiary was an individual who was living at the time when the gift was made,

the gift shall be deemed, for the purposes of subsection 1 only, not to be a gift made by the creation of, or the transfer of property to, a trust, and shall be deemed to be a gift to that beneficiary.

12. Where in any year a resident makes a gift of real property that is not situated within the Province of Ontario there shall be deducted from the tax otherwise payable by him on that property the lesser of,

(a) any tax otherwise payable under this Act on that real property; or

(b) the amount of any gift tax payable on that real property under the laws of the jurisdiction in which the real property is situated.
13.—(1) For the purposes of this Act, in determining the value of a gift of any income right, annuity, term of years, life or other similar estate or interest in expectancy, no allowance or deduction shall be made for or on account of income tax that may be or become payable on or in respect thereof.

(2) Where a gift includes securities, or any business or any interest in any business, in valuing the security or the business or the interest in the business for the purposes of this Act, the fact that tax under the Income Tax Act (Canada) or any similar tax may be or become payable by reason of, or in respect of, the payment or distribution of any accumulated surplus or other property shall not be taken into consideration unless, and to the extent only that, the payment or distribution is necessary and made for the purpose of raising money to pay tax under this Act.

14.—(1) For the purposes of this Act, except as hereinafter otherwise provided, the value of any security that is listed on a stock exchange, or in the case of any security not so listed, on which a price or quotation is obtainable from a recognized financial journal or financial report or from a registered broker, shall be deemed to be the closing price or quotation of that security on the day as of which the value is required to be computed, or, if there was no closing price or quotation on that day, on the last preceding day on which there was a closing price or quotation.

(2) Subsection 1 does not apply in determining the value of any security on which no closing price or quotation is obtainable as provided in subsection 1, or in determining the value of,

(a) any share in or in the capital stock of; or

(b) any other security in the nature of an interest in or right to any of the proceeds, profits, capital assets or other assets of,

any corporation, association, partnership or syndicate that, immediately prior to the making of a gift in respect of which the value is material, was controlled, whether through holding a majority of the shares thereof or other voting interest therein or in any other manner whatever, by the donor, by the donor and one or more persons connected with him by blood relationship, marriage or adoption, or by any other person on his or their behalf.

(3) In this section, "security" includes a bond, debenture, guaranteed investment, share, stock, debenture stock, syn-
dicate unit, right to subscribe for or purchase shares or stocks and right to royalties, but does not include a mortgage or hypothec.

15.—(1) Where, immediately before the making of a gift, the shares of a corporation, by a donor, there belonged to the donor and one or more persons connected with him by blood relationship, marriage or adoption, or deemed to be connected with him by virtue of subsection 2, shares in the capital stock of the corporation sufficient in number to control the corporation, under such circumstances that the shares in the capital stock of the corporation that belonged to the donor alone were not sufficient in number to control the corporation, the value of the shares comprising the gift shall, unless it is established that the donor and such one or more other persons were persons dealing with each other at arm’s length, be determined, for the purposes of this Act, as though each share comprising the gift formed part of a group of shares that, immediately before the making of the gift, belonged to the donor and were sufficient in number to control the corporation.

(2) For the purposes of subsection 1, a corporation, herein-after in this subsection called “the first corporation”, that, immediately before the making of a gift, was controlled, whether directly or indirectly and whether through holding a majority of the shares of the first corporation or of any other corporation, or in any other manner whatever,

(a) by the donor; or

(b) by one or more persons connected with the donor by blood relationship, marriage or adoption; or

(c) by any other corporation that was, immediately before the making of the gift, controlled, whether directly or indirectly and whether through holding a majority of the shares of that other corporation or any other corporation, or in any other manner whatever, by the donor or by one or more persons connected with him by blood relationship, marriage or adoption, or by the donor and such one or more other persons or by any other person on his or their behalf; or

(d) by the donor and such one or more other persons and corporations described in clause c, or by the donor and any combination of such persons and corporations, or by any other person for or on his or their behalf,
and any subsidiary controlled corporation, as that expression is defined in subsection 1 of section 248 of the Income Tax Act (Canada), of the first corporation, shall be deemed to be a person connected with the donor.

16.—(1) Where, at the time of the making of a gift by a donor of a debt that was owing to the donor at that time, the debt was owing to him,

(a) by any person connected with him by blood relationship, marriage or adoption; or

(b) by any corporation that, at that time, was controlled, whether directly or indirectly and whether through holding a majority of the shares of the corporation or of any other corporation or in any other manner whatever, by the donor, by one or more persons connected with him by blood relationship, marriage or adoption, by the donor and such one or more other persons, or by any other person on his or their behalf,

the value of the debt shall, unless it is established that at the time of the creation of the debt the donor and the debtor were persons dealing with each other at arm's length, be determined for the purposes of this Act as though the amount thereof outstanding at the time of the making of the gift had, at that time, become due and payable to him.

(2) In this section, "debt" means a debt of any kind whatever, whether secured or unsecured, and whether under seal or otherwise, and includes a bill of exchange or promissory note, whether negotiable or otherwise.

17. The value of a gift deemed to be made under section 3 shall be deemed to be,

(a) in the case of clause a of section 3, the value of the property transferred or settled at the time of the transfer or settlement;

(b) in the case of clause c of section 3, the value, at the time of the exercise of the general power, of the benefit obtained by persons other than the grantor or the holder of the general power as a consequence of its exercise;

(c) in the case of clause d of section 3, the value of the benefit referred to in that clause at the time of the disposition;
(d) in the case of clause e of section 3, the amount or value of the payment or transfer to the extent referred to in that clause; and

(e) in the case of clause f of section 3, the value, at the time of the disposition of the right to income or other benefit, of the property, including any property substituted for any of the property comprising the gift previously disposed of, minus the amount, if any, of the consideration received by him in respect of the disposition of the right to income or other benefit.

18.—(1) Every donor who makes a gift in any year other than,

(a) a gift exempt from tax under section 10; or

(b) a gift made to an individual having a value of less than $2,000 if the aggregate value of gifts made to individuals by the donor in the year does not exceed $10,000,

shall, without any demand therefor, file with the Minister on or before the 30th day of April in the next succeeding year a return in the prescribed form.

(2) Whether or not he is liable to pay any tax under this Act in respect of any gift, and whether or not a return has been filed under subsection 1, every person shall, on demand by registered letter from the Minister, file a return in the prescribed form with the Minister, within such time as is specified in the demand.

19. A return required under section 18 shall be in a form prescribed by the Minister and shall contain the information prescribed by the Minister.

20. Every person filing a return with the Minister under this Act shall, in the return, estimate to the best of his knowledge and ability the amount of any tax payable under this Act on or in respect of gifts made by him in the year to which the return relates.

21.—(1) The Minister may, for any reason satisfactory to him, extend for such reasonable time as is specified by him, the time for filing any return required under this Act to be filed with him.

(2) Where the Minister refuses to extend the time for filing a return required to be filed by any person under this Act, or the person required to file a return under this Act is not satisfied with an extension of time granted by the Minister under subsection 1, the person required to file the return may apply to a judge of the Supreme Court to extend
Failure to file return: The time or to extend further the time, as the case may be, for filing the return, and the judge may, as he thinks reasonable,

(a) refuse to extend the time, or extend further the time, for filing the return; or

(b) extend the time, or extend further the time, for filing the return for such period as he may fix.

Notice of assessment: (3) Every person required to file a return under section 18 who fails to file the return within the time fixed or allowed for the filing of the return is liable to a penalty, to be assessed by the Minister, not exceeding $10 for each day during which the failure continues.

Assessment: 22.-(1) The Minister shall examine each return filed with him and assess the amount of tax, interest and penalties, if any, payable under this Act on or in respect of the gifts to which the return relates.

Assessment where no return filed: (2) Notwithstanding that a return has not been filed by a donor in respect of gifts made by him in any year, the Minister may assess the amount of tax, interest and penalty, if any, payable under this Act on or in respect of gifts made by the donor in that year.

Notice of assessment: 23.—(1) After making an assessment under section 22, the Minister shall send a notice of assessment to the donor, and, if a donee is liable to pay any tax on or in respect of any gift to which the assessment relates, to the donee.

Notice to one donee: (2) Where the Minister sends a notice of assessment to one donee in respect of the tax payable on or in respect of a gift made jointly to two or more donees, the Minister shall be conclusively deemed to have sent a notice of assessment to each of the donees to whom the gift was made.

Effect of assessment: 24. Liability for tax under this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

Reassessment: 25.—(1) The Minister may, at any time, assess tax, interest or penalties payable under this Act on or in respect of gifts made by a donor in any year, or notify in writing any person by whom any return is filed that no tax is payable on or in respect of gifts made by a donor in any year, and may,

(a) at any time, if the person by whom any return is filed,

(i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud in filing,
any return or in supplying any information under this Act, or

(ii) has filed with the Minister a waiver in prescribed form either before or within four years after the day of mailing of the notice of an original assessment or of a notification that no tax is payable under this Act on or in respect of gifts made by the donor in that year; and

(b) in any other case within four years after the day of mailing the notice of the original assessment or of a notification that no tax is payable on or in respect of gifts made by a donor in that year,

reassess or make additional assessments, or assess tax, interest or penalties under this Act, as the circumstances require.

(2) Notwithstanding subsection 1, for the purposes of any reassessment, additional assessment, or assessment of tax, interest and penalties payable under this Act that is made under subsection 1 after the expiration of four years from the day referred to in subclause ii of clause a of subsection 1, there shall not be included in computing the aggregate taxable value of gifts made by a donor, or in computing the value of a gift to a donee, any amount that was not included for the purposes of an assessment of tax, interest and penalties that was made before the expiration of four years from that day and,

(a) in respect of which the person liable to pay the tax, interest and penalties establishes that the failure so to include it did not result from any misrepresentation that is attributable to his neglect, carelessness or wilful default, or from any fraud committed by him, in filing a return or supplying any information under this Act; or

(b) that the person establishes cannot reasonably be regarded as relating to a matter specified in a waiver filed by him with the Minister within the time referred to in subclause ii of clause a of subsection 1.

26. The Minister is not bound by a return or information supplied by or on behalf of any person and may, notwithstanding any returns or information supplied, or if no return has been filed, make the assessment contemplated under this Act.

27. An assessment shall, subject to being varied or vacated on an objection or appeal, if any, in accordance with this Act,
and subject to reassessment, be conclusively deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

28. — (1) Where a donor or donee objects to an assessment of the tax payable on or in respect of any gift made by a donor, he may, within ninety days after the day of mailing the notice of assessment sent by the Minister under section 23, serve on the Minister a notice of objection to the assessment in duplicate and in prescribed form, setting out the reasons for the objection and all facts relevant thereto.

(2) A notice of objection under this section shall be served by registered mail addressed to the Minister.

(3) Upon receiving a notice of objection, the Minister shall with all due dispatch reconsider the assessment to which the objection is made and vacate, confirm or vary the assessment or reassess, and the Minister shall thereupon, by registered mail, notify the person by whom the objection was taken of his action.

29. A reassessment made by the Minister under section 28 is not invalid by reason only of not having been made within four years from the day of mailing of a notice of an original assessment or of a notification described in section 25.

30. — (1) Where a person has, under section 28, served on the Minister a notice of objection to an assessment, he may, after,

(a) the Minister has confirmed or varied the assessment or reassessed; or

(b) 180 days have elapsed after service of the notice of objection and the Minister has not notified him that he has vacated, confirmed or varied the assessment or has reassessed,

appeal the assessment or reassessment to the Supreme Court by way of originating notice of motion.

(2) Subject to section 32, no appeal under subsection 1 shall be instituted by any person after ninety days from the day notice was mailed to that person by the Minister under subsection 3 of section 28.

(3) On an appeal under subsection 1, the court or a judge may set aside or vary the assessment in respect of which the appeal is instituted.
31. An assessment shall not be set aside or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observance of any directory provision of this Act.

32.—(1) Where no objection to an assessment under section 28, or appeal to the Supreme Court under section 30, has been made or instituted within the time limited by section 28 or 30, as the case may be, for doing so, an application may be made to a judge of the Supreme Court, with notice to the Minister, for an order extending the time within which a notice of objection may be served or an appeal instituted, and the judge may, if in his opinion the circumstances of the case are such that it is just and equitable to do so, make an order extending the time and may impose such terms and conditions as he deems just.

(2) An application made under subsection 1 shall set out the reasons why it was not possible to serve the notice of objection or institute the appeal within the time otherwise limited by this Act for so doing.

(3) No order shall be made under subsection 1 unless, (a) the application is made within one year of the expiration of the time for the extension of which the application is made;

(b) a judge of the Supreme Court has not previously made an order extending the time; and

(c) the judge hearing the application is satisfied that,

(i) but for the circumstances mentioned in subsection 1, an objection or appeal would have been made or instituted within the time limited,

(ii) the application was made as soon as circumstances permitted, and

(iii) there are reasonable grounds for objecting to or appealing from the assessment.

33. Liability to pay any tax within the time specified in this Act for payment thereof is not affected by the fact that an objection to or appeal from any assessment by the Minister is outstanding.

34.—(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 for tax
Effect of payment by donee

(1) Made by him in a year, in this section referred to as the "donor's tax for that year", each donee who received gifts from the donor in that year and who is a resident of Ontario at the time the gift was made is liable to pay to the Treasurer of Ontario within thirty days after the day of mailing a notice of assessment of the donor's tax for that year, tax in an amount that bears the same proportion to the donor's tax for that year as,

(a) the taxable value of all gifts made to the donee in that year by the donor;

bears to

(b) the sum of the donor's tax for that year and the aggregate taxable value of gifts made by the donor in that year, in this section referred to as the "donor's aggregate for that year".

(2) Where a donee makes a payment on account of the tax payable by him in respect of a gift made to him in a year, the liability of the donor of the gift for tax payable on or in respect of gifts made by him in that year is discharged by the amount that bears the same proportion to the payment made by the donee for that year as,

(a) the donor's aggregate for that year;

bears to

(b) the aggregate taxable value of gifts made by the donor in that year.

(3) Where a donor makes a payment on account of the donor's tax in that year, the liability of the donee of a gift made by the donor in that year for tax payable on or in respect of the gift is discharged by an amount that bears the same proportion to the amount determined under subsection 4 as,

(a) the amount of the liability, immediately before the payment, of the donee for tax on or in respect of all gifts made to him by the donor in that year;

bears to

(b) the aggregate of the liabilities, immediately before the payment, of all donees for tax on or in respect of all gifts made to them by the donor in that year.

(4) For the purposes of subsection 3, the amount determined under this subsection is an amount that bears the same proportion to the payment referred to in subsection 3 as,
(a) the aggregate taxable value of all gifts made by the donor in the year;

bears to

(b) the donor's aggregate for that year.

(5) For the purposes of this section, a payment made on account of a person's liability for tax shall, to the extent of the lesser of,

(a) the amount of the payment; or

(b) that person's liability for tax at the time of payment,

be deemed to be a payment on account of tax and not on account of interest or penalties in respect thereof.

(6) Where, for the purposes of calculating the taxable value of gifts made by a donor in a year, the donor has or is entitled, by virtue of subsection 1 of section 11, to deduct an aggregate of $10,000, in determining the taxable value of a gift of the class described in subsection 1 of section 11 for the purpose of calculating the liability of the donee of the gift under subsection 1,

(a) the $10,000 deduction minus any deduction mentioned therein, shall be apportioned pro rata among the donees of gifts of the class described in subsection 1 of section 11 made by the donor in that year on the basis of the total value of those gifts made to each donee except that not more than $2,000 shall be apportioned to the gifts made to any one donee under this clause; and

(b) the taxable value of those gifts received by each donee shall be determined as the value of the gifts less the portion of the deduction apportioned to that donee.

35.—(1) Where a donor makes a gift by the creation of, or the transfer of property to, a trust, the trustee thereof shall not pay, deliver, transfer or assign any property to the beneficiaries of the trust under the trust unless,

(a) he deducts therefrom any tax, interest and penalties payable on or in respect of the property; or

(b) he collects from the donor or the beneficiary any tax, interest and penalties payable on or in respect of the property; or
(c) he is satisfied from evidence produced to him that any tax, interest and penalties payable on or in respect of the property have been paid; or

(d) the Minister has consented in writing to the trustee paying, delivering, transferring or assigning the property to the beneficiaries.

(2) Every trustee who has deducted or collected tax, interest and penalties under subsection 1 shall forthwith remit the tax, interest and penalties to the Treasurer of Ontario, and for the purposes of the deduction, collection and remitting of the tax, interest and penalties, the trustee is a public officer within the meaning of The Financial Administration Act.

(3) Every trustee who fails to comply with subsection 1 or 2 is guilty of an offence and liable, on summary conviction, to a fine equal to the amount of tax, interest and penalties payable on or in respect of the property paid, delivered, transferred or assigned or of the money he failed to remit, as the case may be.

(4) No person is guilty of an offence under subsection 3 if he has deducted or collected, and remitted, an amount set out in a notice of assessment of tax, interest and penalties payable on or in respect of the property paid, delivered, transferred or assigned, sent by the Minister under section 23.

(5) Where a donor makes a gift by the creation of, or the transfer of property to, a trust, the trustee is not liable for any tax payable on or in respect of the property by reason of his position of trustee, but nothing in this subsection exempts the trustee who is a beneficiary of the trust from payment of tax, interest and penalties payable by him as donee or from complying with subsections 1 and 2.

(6) No action lies against a trustee for deducting and remitting any amount under the authority of, or in compliance with, this section.

36.—(1) Unless the Minister demands payment of the tax at an earlier time under section 45, tax payable on or in respect of gifts made by a donor in a year is payable on or before the 30th day of April in the next following year.

(2) Penalties assessed under this Act are payable thirty days after the date on which the notice of assessment therefor is sent by the Minister under section 23.

(3) Interest on tax payable under this Act is payable as it accrues.
37. Notwithstanding the provisions of this Act respecting the time within which payment of tax, interest and penalties shall be made, where the Minister is satisfied that payment of tax, interest and penalties cannot, without undue hardship or excessive sacrifice, be made within the time within which payment thereof is required to be made, the Minister may defer the time for payment thereof, or any part thereof, for such period, on such terms and on payment of such interest, not exceeding 5 per cent per annum, as to him seems equitable and proper.

38. Where tax or a penalty is not paid within the time specified in this Act for payment thereof, interest at a rate prescribed by the regulations, calculated from the time when the payment became due and compounded annually, shall be paid by the person liable to pay the tax on the amount of tax from time to time unpaid.

39. Every person who wilfully, in any manner, evades or attempts to evade payment of tax payable is liable to a penalty to be assessed by the Minister of 25 per cent of the amount of tax evaded or sought to be evaded.

40. Every person who, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, has made, or has participated in, assented to or acquiesced in the making of, a statement or omission in a return of information, statement or answer filed or made as required by or under this Act, or the regulations, as a result of which the tax that would have been payable if the tax had been assessed on the basis of the information provided in the return, statement or answer is less than the tax payable, is liable to a penalty to be assessed by the Minister of 25 per cent of the amount by which the tax that would so have been payable is less than the tax payable in addition to any tax, interest or penalty otherwise provided in this Act.

41. Where a person is liable to a penalty under section 40 in respect of any statement or omission in a return, or in any statement or answer filed or made as required by or under this Act or the regulations, he is not liable to any penalty under section 39 in respect of the same statement or omission.

42.—(1) The Minister, upon proof to his satisfaction that an overpayment of tax has been made by any person,

(a) may, at any time, whether or not application has been made by that person; and
(b) shall, if application therefor has been made in writing within four years after the later of,

(i) the day the overpayment arose, or

(ii) the day on or before which payment of the tax in respect of which the overpayment arose was required to be made,

refund the amount of the overpayment.

(2) Where an amount in respect of an overpayment is refunded, interest at the rate of 3 per cent per annum shall be paid or applied thereon for the period commencing with the latest of,

(a) the day the overpayment arose; or

(b) the day on or before which the payment of the tax in respect of which the overpayment arose was required to be made; or

(c) the day on which the time fixed under subsection 1 of section 18 for filing a return relating to the tax expired,

and ending with the day the refund was made.

(3) Where, by any decision of the Minister under section 28, or any decision of the Supreme Court, it is finally determined that the amount payable by any person as tax is less than the amount assessed by the assessment to which the objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment of tax, the interest payable under subsection 2 on the amount of that overpayment shall be computed at the rate prescribed in the regulation for the purpose of section 38 instead of 3 per cent per annum.

(4) In this section, "overpayment" means the aggregate of all amounts paid by a person as tax or as interest or penalties, less the aggregate of all amounts payable by that person as tax, interest or penalties, or any amount so paid where no amount is so payable.

43. All tax, interest, penalties, costs and other amounts payable under this Act are debts due to Her Majesty in right of Ontario and are recoverable as such in any court of competent jurisdiction or in any other manner provided under this Act.
44. The Minister may issue a warrant, directed to the sheriff of any county or district in which any property of a person liable to pay tax, penalty or interest under this Act, is located or situate, for the amount of the tax, penalty or interest or any of them owing by the person, together with interest thereon from the date of issue of the warrant and the costs, expenses and bonding of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

45.—(1) Where the Minister has reason to suspect that a person by whom tax, interest or penalties are payable or will become payable is about to leave Ontario, or that a property person outside Ontario by whom tax, interest or penalties are payable or will become payable is about to remove or cause to be removed from Ontario, property comprising a gift, the Minister may, before the day otherwise fixed for payment, by notice served on, or sent by registered mail addressed to that person, demand payment of the tax, interest and penalties payable or that will become payable by that person, and the same is payable forthwith notwithstanding any other provision of this Act.

(2) Where a person fails to pay tax, interest or penalties demanded under subsection 1 as required, the Minister may direct that the property other than real property of that person be seized.

(3) Property seized under subsection 2 shall be kept for a period of twenty days or such further period, not exceeding thirty days, as may be specified by the Minister, at the cost and charges of the owner, and, if the owner does not pay the tax, interest and penalties payable by him, together with such costs and charges as are incurred in the seizure and keeping of the property, within that period or extended period the property seized shall, unless otherwise ordered by the Minister, be sold by public auction.

(4) Except in the case of perishable goods, notice of the sale, setting forth the time and place thereof together with a general description of the property to be sold, shall, at a reasonable time before the goods are sold, be published at least once in one or more newspapers of general local circulation.

(5) Any surplus resulting from a sale under this section after deduction of the tax, interest and penalties owing and all costs and charges incurred in the seizing, keeping and sale of the property shall, as soon as possible after the sale, be paid to the owner of the property seized.
(6) Any property of any person in default that would be exempt from seizure under a writ of execution issued out of a court in Ontario is exempt from seizure and sale under this section.

46. Any amount payable as tax, interest or penalties under this Act by any person is a lien in favour of the Crown against all property, other than real property, owned by that person, and the lien may be enforced by seizure and sale in the manner prescribed in section 45.

47.—(1) Where tax, interest or penalties are payable by any person under this Act, the Minister may file or cause to be filed in the proper registry office or office of land titles, as the case may be, a certificate of lien in prescribed form against real property of which that person is the registered owner setting out a description of the real property and the amount of tax, interest and penalties owing by that person, and, upon the certificate being filed, the interest of that person in the land described therein is subject to a lien in favour of the Crown for the amount owing, subject to any other interests or encumbrances filed prior thereto, and the lien may be enforced in the same manner as a judgment of the Supreme Court in respect of which a certificate of judgment has been filed.

(2) Upon application therefor made to the Minister, in any case where subsequent to the filing of any certificate of lien under subsection 1, the lien is discharged or withdrawn, whether by payment in full of the amount thereof or in any other manner, the Minister shall issue to the person by whom the application is made a certificate of discharge or withdrawal of the lien.

48. The Minister may, if he considers it advisable in a particular case, accept security for payment of tax, interest or penalties under this Act by way of a mortgage or other charge on property of the person by whom the tax, interest or penalties are payable, or on property of any other person, in the form of a guarantee from any other person or in any other form prescribed by the regulations.

49. The Minister may appoint or retain any person to make or assist in the making of any evaluation required for the purposes of this Act, and may fix and authorize the payment of the compensation to be paid to the person in respect thereof.

50. Any officer or servant employed in connection with the administration or enforcement of this Act, if he is designated
by the Lieutenant Governor for the purpose, may, in the course of his employment, administer oaths and take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act or the regulations, and every officer or servant so designated has for those purposes all the powers of a commissioner under *The Commissioners for Taking Affidavits Act.*

51.—(1) Any person so authorized in writing by the Minister, for any purpose relating to the administration or enforcement of this Act, may, at any reasonable time, enter any premises or place and inspect and examine any property, including any books, records, writing or other documents, kept therein and,

(a) require the owner, occupier or person in charge of the premises or place to give him all reasonable assistance in connection with his inspection or examination and to answer all proper questions relating to the inspection or examination, and, for that purpose, require the owner, occupier or person in charge of the premises or place to attend at the premises or place with him; and

(b) if, during the course of the inspection or examination, it appears to him that an offence under this Act has been committed, seize and take away any books, records, writings or other documents and retain them until their production in any court proceedings is required.

(2) The Minister may, for any purpose relating to the administration or enforcement of this Act, by registered letter or by demand served on the person, require a person, within such reasonable time as is stipulated in the letter or demand,

(a) to provide any information or additional information, or to submit any return or supplementary return to the Minister; or

(b) to produce to the Minister any book, record, writing or other document.

(3) The Minister may, for any purpose relating to the administration or enforcement of this Act, authorize any person, whether or not he is an officer employed under the Minister, to make such inquiry as the Minister deems necessary with reference to anything relating to the administration or enforcement of this Act.
(4) Where any book, record, writing or other document is seized, inspected, examined or produced in accordance with this section, the person by whom it is seized, inspected or examined or to whom it is produced, or any officer employed under the Minister, may make or cause to be made one or more copies thereof and shall, upon request by the person from whom the original document was seized or by whom it was produced, in any case where a copy thereof has been made pursuant to this section, send a copy thereof to the person or, if no copy thereof has been made pursuant to this section, allow the person at any reasonable time to have access to the document so seized or produced, and a document purporting to be certified by the Minister or a person so authorized by him to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way.

(5) No person shall hinder, molest or interfere with any person doing anything that he is authorized by or pursuant to this section to do, or prevent or attempt to prevent any person doing any such thing, and notwithstanding any other Act or law, every person shall, unless he is unable to do so, do everything he is required by or under this section to do.

(6) For the purpose of any inquiry made under subsection 3, the person authorized to make the inquiry has all the powers of a commission under Part II of The Public Inquiries Act, 1971, which Part applies as if such inquiry were an inquiry under that Act.

52.—(1) Except as authorized by this section, no official or authorized person shall,

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

(2) Notwithstanding any other Act, but subject to subsection 3, no official or authorized person shall be required, in connection with any legal proceedings,

(a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or
(b) to produce any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

(3) Subsections 1 and 2 do not apply in respect of,

(a) criminal proceedings under any Act of the Parliament of Canada; or

(b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or

(c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax.

(4) An official or authorized person may, in the course of his duties in connection with the administration or enforcement of this Act,

(a) communicate or allow to be communicated to an official or authorized person employed by the Government of Ontario in the administration and enforcement of any laws relating to the raising of revenues for provincial purposes and information obtained by or on behalf of the Minister for the purposes of this Act; and

(b) allow an official or authorized person employed by the Government of Ontario in the administration or enforcement of any laws relating to the raising of revenues for provincial purposes to inspect or have access to any book, record, writing, return or other document obtained by or on behalf of the Minister for the purposes of this Act.

(5) Notwithstanding anything in this Act, the Minister may permit a copy of any book, record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to,

(a) the person from whom the book, record, writing, return or other document was obtained; or

(b) any person,

(i) for the purposes of any objection or appeal that has been or may be taken by that person under this Act arising out of any assessment of tax, interest or penalties under this Act in respect
of property comprising a gift in connection with which the book, record, writing, return or other document was obtained, or

(ii) by whom any amount payable under this Act on or in respect of the gift is payable or has been paid,

or the legal representative of any person mentioned in clause \(a\) or \(b\) or the agent of any such person authorized in writing in that behalf.

(6) Notwithstanding anything in this Act, the Minister may permit information or a copy of any book, record, writing, return or other document obtained by him or on his behalf for the purposes of this Act to be given to

\((a)\) a minister of the Government of Canada or any officer or employee employed under a minister of the Government of Canada for the purposes of administration of any Act of the Parliament of Canada imposing any tax or duty; or

\((b)\) a minister of the government of any province of Canada or officer or employee employed under that minister, for the purposes of administering and enforcing an Act of the Legislature of that province imposing any tax or duty,

if the minister of the Government of Canada or the minister of the government of another province, as the case may be, is permitted to give to the Minister information or copies of any book, record, writing, return or other document obtained by or on behalf of the minister of the Government of Canada, or the minister of the government of that other province, as the case may be, in the administration or enforcement of that Act for the purposes of the administration of this Act.

53. The provisions of section 47 of *The Income Tax Act* relating to procedure, evidence and other matters provided therein are applicable *mutatis mutandis* to this Act.

54.—(1) With the approval of the Lieutenant Governor in Council, the Minister may enter into agreements with the Government of Canada and the government of any other province of Canada,

\((a)\) respecting the administration of this Act and the collection of tax, interest and penalties under this Act by the Government of Canada and officials thereof
and the remitting of tax, interest and penalties so collected to the Treasurer of Ontario and the remuneration to be paid to the Government of Canada with respect thereto;

(b) respecting the obtaining of information and copies of books, records, writings, returns and other documents relating to gifts and the valuation of property from other sources and the release of information and copies of books, records, writings, returns and other documents obtained by or on behalf of the Minister for the purposes of this Act to the Government of Canada or the governments of other provinces of Canada or both;

(c) respecting reciprocal arrangements whereby notwithstanding the other provisions of this Act the Minister will allow a reduction of or deduction from the tax, interest and penalties payable under this Act to the extent of any corresponding reduction of or deduction from gift tax, interest and penalties payable under the laws of the reciprocating province in respect of certain classes of property and certain classes of donors or donees.

(2) Where an agreement is entered into under subsection 1 between the Minister and the Government of Canada respecting the administration and collection of tax, interest and penalties, the minister of the Government of Canada who under the agreement is authorized to act for the Government of Canada in the administration of this Act and the collection of tax, interest and penalties may employ and exercise all the powers and perform all the duties of the Minister under this Act.

(3) Where an agreement is entered into under subsection 1 between the Minister and the Government of Canada respecting the administration of this Act and the collection of tax, interest and penalties, the deputy of the minister of the Government of Canada who, under the agreement, is authorized to act for the Government of Canada in the administration of this Act and the collection of tax, interest and penalties, may,

(a) employ and exercise all the powers and perform all the duties of the Minister that the minister of the Government of Canada mentioned in subsection 2 may employ, exercise or perform under this Act; and

(b) designate officers of his department to carry out such functions, duties and powers as are similar to those that are exercised by them on his behalf under
laws enacted by the Parliament of Canada imposing tax and delegating those functions, duties and powers to those officers of his department.

55.—(1) Every person who,

(a) makes, or assents to or acquiesces in the making of a false or deceptive statement in a return, certificate, statement or answer filed or made as required by or under this Act or the regulations;

(b) to evade payment of any amount of tax, interest, or penalties under this Act, destroys, alters, mutilates, hides or otherwise disposes of any book, record or other document;

(c) makes, or assents to or acquiesces in the making of, a false or deceptive entry in, or omits or assents to or acquiesces in the omission to enter a material particular in, any book, record or other document;

(d) wilfully, in any manner, evades or attempts to evade compliance with this Act or the payment of tax, interest or penalties payable under this Act; or

(e) conspires with any person to commit an offence described in clauses a to d inclusive,

is guilty of an offence and on summary conviction is liable, in addition to any penalty otherwise provided in this Act, except section 56, to a fine of not less than $100 and not more than $10,000 or to imprisonment for a term not exceeding two years, or to both.

(2) Where a person has been convicted under this section of wilfully, in any manner, evading or attempting to evade the payment of tax, he is not liable to pay a penalty under section 39 or 40 for the same evasion or attempt unless he was assessed for that penalty or that penalty was demanded from him before the information or complaint giving rise to the conviction was laid or made.

56. Every person who fails to comply with or contravenes any provision of this Act or the regulations is guilty of an offence and, if no other penalty is provided therefor, is liable on summary conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding six months, or to both.

57. Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated
in the commission of the offence is a party to and guilty of the offence and liable, on summary conviction, to the penalty provided for the offence whether or not the corporation has been or is prosecuted for or convicted of the offence.

58.—(1) The Lieutenant Governor in Council may make Regulations

(a) prescribing anything that by this Act is to be prescribed or is to be determined or regulated by regulation;

(b) prescribing the nature of the evidence required to establish facts relevant to assessments under this Act;

(c) authorizing any designated officers or classes of officers to exercise powers or perform duties of the Minister under this Act;

(d) requiring any class of persons to make information returns respecting any class of information required in connection with assessments under this Act, or to supply a copy of the information return or of a prescribed portion thereof to a person or persons in respect of whose liability under this Act the information return or portion thereof relates.

(2) A regulation made under subsection 1 may be made effective retroactively to a date not earlier than the 1st day of January, 1972.

59. Subject as otherwise provided herein, this Act applies,

(a) to and in respect of gifts made after the 31st day of December, 1971; and

(b) to and in respect of donors and donees of gifts made after the 31st day of December, 1971.

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

61. This Act may be cited as The Gift Tax Act, 1972.
SCHEDULE I

Calculation of Tax on Basis of Aggregate Taxable Value

1. Where the aggregate taxable value of gifts made in the year does not exceed $25,000, the tax is 15 per cent of that aggregate taxable value.

2. Where the aggregate taxable value of gifts made in the year exceeds $25,000 but does not exceed $50,000, the tax is $3,750 plus 20 per cent of the amount by which that aggregate taxable value exceeds $25,000.

3. Where the aggregate taxable value of gifts made in the year exceeds $50,000 but does not exceed $75,000, the tax is $8,750 plus 25 per cent of the amount by which that aggregate taxable value exceeds $50,000.

4. Where the aggregate taxable value of gifts made in the year exceeds $75,000 but does not exceed $100,000, the tax is $15,000 plus 30 per cent of the amount by which that aggregate taxable value exceeds $75,000.

5. Where the aggregate taxable value of gifts made in the year exceeds $100,000 but does not exceed $125,000, the tax is $22,500 plus 35 per cent of the amount by which that aggregate taxable value exceeds $100,000.

6. Where the aggregate taxable value of gifts made in the year exceeds $125,000 but does not exceed $150,000, the tax is $31,250 plus 40 per cent of the amount by which that aggregate taxable value exceeds $125,000.

7. Where the aggregate taxable value of gifts made in the year exceeds $150,000 but does not exceed $200,000, the tax is $41,250 plus 45 per cent of the amount by which that aggregate taxable value exceeds $150,000.

8. Where the aggregate taxable value of gifts made in the year exceeds $200,000, the tax is $63,750 plus 50 per cent of the amount by which that aggregate taxable value exceeds $200,000.

SCHEDULE II

Formula for calculating amount of consideration for purposes of clause b of subsection 4 of section 7

\[ Y - (\text{multiplier} \times 0.05 \times y) = (\text{multiplier} \times \text{annuity}) - (\text{multiplier} \times 0.05 \times \text{value of property disposed of}) \]

In this formula,

(a) \( y \) is the amount of consideration referred to in clause b of subsection 4 of section 7;

(b) \( \text{annuity} \) is the annual value of the annuity or periodic payment referred to in clause b of section 3;

(c) the value of the property disposed of is the value of the property disposed of under the arrangement or understanding referred to in clause b of section 3; and
(d) the multiplier is the present value, as determined in accordance with
the regulations, of an annuity of one dollar per year on the life of a
person of the same sex as the donor and of the same age as the
donor was at the time the property was disposed of under the
arrangement or understanding referred to in clause b of section 3.

(Note: Example A person disposes of property of value of $80,000 under
an arrangement to receive an annuity of $6,000 for life. The dis-
position took place when he was 8.5 years of age. If the present
value of an annuity of one dollar per year for a person aged 85 and
of the same sex as the deceased is 4.12 the formula can be expressed
as follows:

\[ y - (4.12 \times .05 \times y) = (4.12 \times 6000) - (4.12 \times .05 \times 80,000) \]

\[ y - (.2060 y) = (24720 - 16480) \]

\[ .7940 y = 8240 \]

\[ y = 10,377.83 \]

This consideration paid for the property disposed of is $10,377.83.)