1973

c 165 The Gift Tax Amendment Act, 1973

Ontario
CHAPTER 165

An Act to amend The Gift Tax Act, 1972

Assented to December 17th, 1973
Session Prorogued March 5th, 1974

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

1.—(1) Subparagraph i of paragraph 4 of section 1 of The Gift Tax Act, 1972, being chapter 12 of the Statutes of Ontario, 1972, is amended by striking out “and” in the ninth line and inserting in lieu thereof “or”.

(2) Paragraph 16 of the said section 1 is amended by striking out “a corporation” in the first line and inserting in lieu thereof “the corporation of a district, metropolitan or regional municipality or”.

2.—(1) Clause b of section 10 of the said Act is repealed and the following substituted therefor:

(b) a testamentary gift or a gift made by the donor during his lifetime under which,

(i) the donor is entitled to receive all the income from the donated property and from property substituted therefor and all income from the reinvestment of any income or gains therefrom that arise before his death, and

(ii) no person other than 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 donated property or any property substituted therefor, or receive or otherwise obtain the use of any of the income referred to in subclause i.

(2) The said section 10 is amended by adding thereto the following clause:
(h) absolute and indefeasible gifts, except gifts made by the creation of a settlement or by the transfer of property to a trust, of farming assets in Ontario given by a donor who is resident in Ontario and whose chief occupation is farming, or who is the spouse of an individual who is resident in Ontario and whose chief occupation is farming, to a person or persons resident in Ontario and connected with the donor by blood relationship, marriage or adoption to be used by such person or persons, or by such person or persons together with the donor or the spouse of the donor, in farming in Ontario, but no gifts are exempt from tax by virtue of this clause,

(i) to the extent that the value of all such gifts of farming assets in Ontario, after making allowance for any other exemption or deduction permitted by this Act, that are made in the same year exceeds $50,000, or

(ii) if the donor, at any time prior to the first day of January of the year in which any gift described in this clause of farming assets in Ontario is made, has made a gift the whole or any part of the value of which was exempt from tax by virtue of this clause.

(3) The said section 10 is further amended by adding thereto the following subsection:

(2) For the purpose of clause h of subsection 1, the expressions "farming" and "farming assets" have the meaning given to them in section 17a of The Succession Duty Act.

3. Subsection 1 of section 11 of the said Act is amended by striking out "taxable" in the fifteenth line.

4. Clause b of section 12 of the said Act is repealed and the following substituted therefor:

(b) the total of all gift taxes paid on or in respect of that real property under the laws in force in the place in which the real property is situated.

5. Schedule II to the said Act is repealed and the following substituted therefor:
FORMULA FOR CALCULATING AMOUNT OF CONSIDERATION
FOR PURPOSES OF CLAUSE b OF SUBSECTION 4 OF SECTION 7

\[ Y - (\text{multiplier} \times .05 \times y) = (\text{multiplier} \times \text{annuity}) \]

\[ = (\text{multiplier} \times .05 \times \text{value of property disposed of}) \]

In this formula,

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

(b) annuity is the annual amount 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 male person disposes of property of value of $80,000.00 under an arrangement to receive an annuity of $6,000.00 for his life. The disposition took place when he was 85 years of age. If the present value of an annuity of one dollar per year for a male person aged 85 is 3.52 the formula can be expressed as follows:

\[ y - (3.52 \times .05 \times y) = (3.52 \times 6000) - (3.52 \times .05 \times 80,000) \]

\[ y - (.1760y) = (21120 - 14080) \]

\[ .8240 y = 7040 \]

\[ y = 7040 / .8240 \]

\[ y = 8,543.69 \]

The consideration paid for the property disposed of is $8,543.69.

6.-(1) This Act, except subsection 1 of section 1, subsections 2 and 3 of section 2 and section 5, comes into force on the day it receives Royal Assent.

(2) Subsection 1 of section 1 and section 5 shall be deemed to have come into force on the 1st day of January, 1972.

(3) Subsections 2 and 3 of section 2 shall be deemed to have come into force on the 13th day of April, 1973.

7. This Act may be cited as The Gift Tax Amendment Act, 1973.