



DECEASED PERSONS' ESTATES DUTIES

No. 79 of 1976

ANALYSIS

1. Short title, and citation.
2. Interpretation.
3. Imposition of duties.
4. Moneys from friendly societies; Gifts for charitable objects to be exempt.
5. "Classified" and "recorded" property by National Trust.
6. Rebate to primary producers.
7. The Second Schedule.

AN ACT to amend the Deceased Persons' Estates Duties Act 1931.

[30 November 1976]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Deceased Persons' Estates Duties Act 1976*. Short title, and citation.

(2) The *Deceased Persons' Estates Duties Act 1931*, as subsequently amended, is in this Act referred to as the Principal Act.

Interpretation.

2 Section 3 of the Principal Act is amended by inserting at the end of subsection (1) thereof the following definition:—

“ ‘ spouse ’ in relation to a deceased person includes a person who, for the continuous period of 5 years immediately preceding the death of the deceased person, being of the opposite sex to that person, lived with the deceased person as if in a conjugal relationship.”.

Imposition of duties.

3 Section 4 of the Principal Act is amended by adding at the end thereof the following subsection:—

“(6) Notwithstanding the provisions of the *Deceased Persons' Estates Duties Act 1976*, when the aggregated value of an estate after making the statutory allowances under this Act but without any other allowance or deduction does not exceed \$100 000, the duty payable shall not in any case be greater than if the *Deceased Persons' Estates Duties Act 1976* had not been enacted.”.

Moneys from friendly societies; Gifts for charitable objects to be exempt.

4 Section 7 of the Principal Act is amended—

- (a) by inserting the word “ and ” at the end of paragraph (a) of subsection (1);
- (b) by omitting paragraphs (c) and (d) of that subsection; and
- (c) by omitting subsections (4) and (4A) and substituting the following subsections:—

“(4) Notwithstanding subsection (3), the provisions of this section shall apply in relation to a devise, bequest, legacy, settlement, or gift to any institution, society, or body not within this State if the Minister has determined the institution, society, or body the subject of the devise, bequest, legacy, settlement, or gift to be of national benefit and if the Governor, on the recommendation of the Minister, has proclaimed that institution, society, or body to be an institution, society, or body for the purposes of this section.

“(4A) The Governor may proclaim an institution, society, or body not within this State to be an institution, society, or body to which this section applies.”.

5 The Principal Act is amended by inserting, after section 7, the following section:—

“ 7AA—(1) Subject to this Act, in ascertaining the net value of the estate of a deceased person for the purposes of this Act an allowance shall be made in respect of property forming part of his estate being property that has been listed by the National Trust as ‘classified’ or ‘recorded’ to the extent—

“ Classified ”
and
“ recorded ”
property by
National
Trust.

(a) where the property is listed as ‘classified’, 50%; or

(b) where the property is listed as ‘recorded’, 25%,

of the actual value of the property so listed but only to the extent that the property so ‘classified’ or ‘recorded’ was occupied by the deceased person at the time of his death and the curtilage occupied with that property.

“(2) Subsection (1) is of application only if—

(a) the property is listed as ‘classified’ or ‘recorded’ at the time of the death of the deceased person;

(b) the deceased person has owned and occupied the property as his usual residence for a period of 5 years immediately preceding his death; and

(c) the beneficiary or any one of the beneficiaries of the property under the will or on the intestacy of the deceased person continues as owner of the property for a period of 5 years after the property vests in him.

“(3) If at any time within 5 years after the vesting in the beneficiary or beneficiaries of property referred to in this section the Commissioner is not satisfied that the beneficiaries have or, as the case may be, any one of the beneficiaries, has continued as the owner of the property, he may re-assess the property in accordance with this Act apart from this section and recover the amount of duty payable on that re-assessment from the estate of the deceased person or, if that is not practicable, from the beneficiary who is or, in the case of more than one beneficiary, from the beneficiaries who are, by force of this section liable and, where there is more than one beneficiary, jointly and severally liable, to pay the duty so re-assessed.

“(4) The provisions of section 32 apply to enable the Commissioner to determine whether a beneficiary referred to in this section has at any time within 5 years of property vesting in him divested himself of his interest in that property.”.

6 The Principal Act is amended by inserting, after section 7A, the following section:—

Rebate to primary producers.

“ 7B—(1) Subject to this section, a rebate of duty calculated in accordance with this section shall be allowable in any case where the dutiable estate of a deceased person consists of or includes rural property that is situated in this State, the value of such rural property comprising at least half of the total value of the deceased person's estate, being property in which the estate of the deceased person at the time of his death was other than by way of shareholding in a pastoral company or a proprietary family company.

“(2) Before a rebate under this section is allowed, the Commissioner must be satisfied—

- (a) that the deceased person was at the time of his death domiciled in this State; and
- (b) that for the period of 5 years immediately preceding the death of the deceased person at least one third of his gross income was derived from the carrying on of primary production on the rural property in relation to which the application is made,

and that the beneficiary or all the beneficiaries are the spouse and the child or children, or the spouse or the child or children, of the deceased person.

“(3) The amount of a rebate allowable under this section shall be determined in accordance with the following scale, that is to say:—

Net value of estate	Rebate of tax applicable to duty attributable to rural property content of total estate
\$150 000 or less	75%.
Over \$150 000 but not exceeding \$250 000	75% less 0.75% for every \$1 000 by which the net value (adjusted to nearest \$1 000) exceeds \$150 000.
Over \$250 000	Nil.

“(4) If, at any time within 5 years of rural property vesting in the beneficiary or beneficiaries being property in respect of which a rebate has been allowed under this section, the Commissioner is not satisfied that the beneficiary or any of the beneficiaries is or are occupying the rural property for the purpose of primary production, he may re-assess the rural property after withdrawing the rebate allowed and recover the amount of duty payable on that re-assess-

(1) of 7AA
(1) are made ans

ment from the estate of the deceased person or, if that is not practicable, from the beneficiary who is or the beneficiaries who are by force of this section liable and, where there is more than one beneficiary, jointly and severally liable, to pay the duty so re-assessed.

“(5) The provisions of section 32 apply to enable the Commissioner to determine whether a deceased person did, for a period of at least 5 years immediately preceding his death, derive at least one third of his gross income from the carrying on of primary production on the rural property in relation to which the application for a rebate under this section is made.

“(6) In this section—

- ‘ net value ’ means the net value of an estate determined for the purpose of calculating duty in the same manner as for the purpose of section 5A;
- ‘ forestry ’ means the planting or tending in a plantation or forest of trees intended for felling;
- ‘ primary production ’ means production resulting directly from the cultivation of land or the maintenance of animals or poultry for the purpose of selling them or their bodily produce including natural increase, and includes the manufacture of dairy produce by the person who produced the raw material used in that manufacture, and forestry;
- ‘ rural property ’ includes land, livestock, farm produce, plant, machinery and equipment used wholly and exclusively for the purpose of carrying on the business of primary production.”.

7—(1) The Second Schedule to the Principal Act is amended by ^{The Second Schedule.} omitting Part II and substituting the following Part:—

“ Part II

“ Rates of duty

“ 3 Where the property passes to the spouse of the person upon whose death duty is payable, duty is payable in accordance with the following scale:—

Where the aggregated value of the estate after making the statutory allowances under this Act but without any other allowance or deduction—	Amount of duty
Does not exceed \$100 000	No duty is payable.
Exceeds \$100 000 but does not exceed \$150 000	32% of the excess over \$100 000.
Exceeds \$150 000 but does not exceed \$200 000	\$16 000 plus 43% of the excess over \$150 000.
Exceeds \$200 000 but does not exceed \$250 000	\$37 500 plus 55% of the excess over \$200 000.
Exceeds \$250 000	26% of the total value of the estate.

“ 4 Where the property passes to a child of the person upon whose death duty is payable (being a child who is under the age of 18 years at the time of that person's death) duty is payable in accordance with the following scale:—

Where the aggregated value of the estate after making the statutory allowances under this Act but without any other allowance or deduction—	Amount of duty
Does not exceed \$50 000	No duty is payable.
Exceeds \$50 000 but does not exceed \$75 000	20% of the excess over \$50 000.
Exceeds \$75 000 but does not exceed \$100 000	\$5 000 plus 30% of the excess over \$75 000.
Exceeds \$100 000 but does not exceed \$150 000	\$12 500 plus 35% of the excess over \$100 000.
Exceeds \$150 000 but does not exceed \$200 000	\$30 000 plus 44% of the excess over \$150 000.
Exceeds \$200 000	26% of the total value of the estate.

“ 5 Where the property passes to—

- (a) a child of the person upon whose death duty is payable (being a person who has attained the age of 18 years at the time of that death); or
- (b) a descendant or ancestor of the person upon whose death duty is payable,

duty is payable in accordance with the following scale:—

Where the aggregated value of the estate after making the statutory allowances under this Act but without any other allowance or deduction—	Amount of duty
Does not exceed \$15 000	No duty is payable.
Exceeds \$15 000 but does not exceed \$25 000	12½% of the excess over \$15 000.
Exceeds \$25 000 but does not exceed \$50 000	\$1 250 plus 16% of the excess over \$25 000.
Exceeds \$50 000 but does not exceed \$75 000	\$5 250 plus 19% of the excess over \$50 000.
Exceeds \$75 000 but does not exceed \$100 000	\$10 000 plus 27% of the excess over \$75 000.
Exceeds \$100 000 but does not exceed \$150 000	\$16 750 plus 32½% of the excess over \$100 000.
Exceeds \$150 000 but does not exceed \$200 000	\$33 000 plus 40% of the excess over \$150 000.
Exceeds \$200 000	26½% of the total value of the estate.

“ 6 Where the property passes to—

- (a) a brother or sister of the person upon whose death duty is payable;
 (b) a child or other descendant of a brother or sister of that person; or
 (c) any other collateral relation (not beyond the third degree) of that person,

duty is payable in accordance with the following scale:—

Where the aggregated value of the estate after making the statutory allowances under this Act but without any other allowance or deduction—	Amount of duty
Does not exceed \$8 000	No duty is payable.
Exceeds \$8 000 but does not exceed \$15 000	15% of the excess over \$8 000.
Exceeds \$15 000 but does not exceed \$25 000	\$1 050 plus 17½% of the excess over \$15 000.
Exceeds \$25 000 but does not exceed \$50 000	\$2 800 plus 18¼% of the excess over \$25 000.
Exceeds \$50 000 but does not exceed \$75 000	\$7 500 plus 22½% of the excess over \$50 000.
Exceeds \$75 000 but does not exceed \$100 000	\$13 125 plus 28½% of the excess over \$75 000.
Exceeds \$100 000 but does not exceed \$150 000	\$20 250 plus 33½% of the excess over \$100 000.
Exceeds \$150 000 but does not exceed \$200 000	\$37 000 plus 40% of the excess over \$150 000.
Exceeds \$200 000	28½% of the total value of the estate.

“ 7 Where the property passes to a person other than a person mentioned in paragraph 3, 4, 5, or 6 of this Schedule, duty is payable in accordance with the following scale:—

Where the aggregated value of the estate after making the statutory allowances under this Act but without any other allowance or deduction—	Amount of duty
Does not exceed \$4 000	No duty is payable.
Exceeds \$4 000 but does not exceed \$10 000	15% of the excess over \$4 000.
Exceeds \$10 000 but does not exceed \$25 000	\$900 plus 20% of the excess over \$10 000.
Exceeds \$25 000 but does not exceed \$50 000	\$3 900 plus 22¼% of the excess over \$25 000.
Exceeds \$50 000 but does not exceed \$75 000	\$9 500 plus 25% of the excess over \$50 000.
Exceeds \$75 000 but does not exceed \$100 000	\$15 750 plus 31% of the excess over \$75 000.
Exceeds \$100 000 but does not exceed \$150 000	\$23 500 plus 35% of the excess over \$100 000.
Exceeds \$150 000 but does not exceed \$200 000	\$41 000 plus 40% of the excess over \$150 000.
Exceeds \$200 000	30½% of the total value of the estate.”

(2) The repeal of Part II of the Second Schedule to the Principal Act effected by this Act shall not exclude the operation of that Part in respect of the estate of any person who shall have died before the commencement of this Act or in respect of any estate the subject of any settlement made by any person who shall have so died.