

GIFT DUTY ASSESSMENT.

No. 17 of 1942.

An Act to amend the *Gift Duty Assessment Act 1941*.

[Assented to 3rd June, 1942.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

- Short title and citation.** **1.**—(1.) This Act may be cited as the *Gift Duty Assessment Act 1942*.
 (2.) The *Gift Duty Assessment Act 1941** is in this Act referred to as the Principal Act.
 (3.) The Principal Act, as amended by this Act, may be cited as the *Gift Duty Assessment Act 1941-1942*.
- Commencement.** **2.** This Act shall be deemed to have come into operation on the twenty-ninth day of October, One thousand nine hundred and forty-one.
- Definitions.** **3.** Section four of the Principal Act is amended by omitting from paragraph (e) of the definition of "disposition of property" the words " (including any judgment or order of any Court made in default of the exercise of the power by the donee thereof) ".
- Officers to observe secrecy.** **4.** Section ten of the Principal Act is amended—
 (a) by omitting from paragraph (c) of sub-section (4.) the word " and " ; and

* Act No. 52, 1941.

(b) by inserting in sub-section (4.), after paragraph (c), the following paragraph:—

“(ca) the Authority administering any State Act, or law of any country outside Australia, relating to Gift Duty, if that Authority is authorized by law to afford similar information to the Commissioner; and”.

5. Section twelve of the Principal Act is amended by adding at the end of sub-section (3.) the following proviso:—

When gift deemed to be made.

“Provided that this sub-section shall not operate to make subject to gift duty any gift of property where the Commissioner is satisfied that the donor had, prior to the commencement of this Act, done everything which it was necessary and possible for him to do to divest himself of the property.”.

6. Section fourteen of the Principal Act is amended—

Exemptions.

(a) by omitting from paragraph (a) the words “to a fund established” and inserting in their stead the words “as or to a fund”;

(b) by omitting from paragraph (a) the words “or pensions” and inserting in their stead the words “, pensions or other personal benefits”;

(c) by inserting in paragraph (b), after the word “employer” (first occurring), the words “(or by the trustee of a fund established by an employer for the purpose of making payments of the nature referred to in this paragraph)”;

(d) by inserting in paragraph (d), after the words “gift to”, the words “, or wholly for the benefit of,”.

7. Section fifteen of the Principal Act is amended by omitting the words “that property is also included in the estate of a deceased person” and inserting in their stead the words “the donor dies and that property is also included in his estate”.

Rebate where estate duty payable.

8. Section eighteen of the Principal Act is amended

Value of gift.

(a) by inserting at the end of paragraph (b) the word “and”;

(b) by omitting from paragraph (c) the word “and” (last occurring);

(c) by omitting paragraph (d); and

(d) by adding at the end thereof the following sub-sections:—

“(2.) Where the Commissioner is of the opinion that it is necessary that the following provisions should apply for the purpose of computing the value of a gift for the purposes of this Act, the following provisions shall apply:—

(a) The value of shares or stock in any company, whether incorporated in Australia or elsewhere, shall be determined upon the assumption that, on the date when the gift was made, the memorandum and articles of association or rules of the company satisfied the requirements prescribed by the Committee or governing

authority of the Stock Exchange at the place where the share or stock register is situate, for the purpose of enabling that company to be placed on the current official list of that Stock Exchange ;

- (b) No regard shall, in determining the value of any such shares or stock, be had to any provision in the memorandum or articles of association or rules of the company whereby or whereunder the value of the shares or stock of a deceased or other member is to be determined ; and
- (c) Where a gift includes any shares or stock in any company the shares or stock of which are not or is not quoted in the official list of any Stock Exchange, the Commissioner may, in his discretion, notwithstanding anything contained in the last two preceding paragraphs, adopt as the value of any such shares or stock such sum as the holder thereof would receive in the event of the company being voluntarily wound up on the date when the gift was made.

“(3.) Any Board or Court having jurisdiction to determine, for the purposes of this Act, the value of any shares or stock to which the last preceding sub-section applies, may substitute its own opinion for, or use its own discretion in lieu of, any opinion or discretion of the Commissioner under that sub-section.”.

Objections
and appeals.

9. Section thirty-one of the Principal Act is amended by adding at the end of sub-section (1.) the following proviso :—

“ Provided that where the assessment is an amended assessment, the objector shall have no further right of objection than he would have had if the amendment had not been made, except to the extent to which by reason of the amendment a fresh liability in respect of any particular is imposed on him or an existing liability in respect of any particular is increased.”.