

DEATH DUTIES AMENDMENT BILL

EXPLANATORY NOTE

1. *Clause 2* of this Bill modifies section 49 of the principal Act, which requires gift duty to be paid on the total value of a gift, notwithstanding that some benefit or advantage may be created or reserved in favour of the donor.

2. *Subclause (1)* provides that when an instrument creating or evidencing any such gift has been presented for stamping the Commissioner of Stamp Duties may, on application within six months of the date of the instrument, permit the parties to withdraw the instrument for the purpose of cancelling or altering it. On being satisfied that any such cancellation or alteration has been made, the Commissioner is to cancel or amend the assessment of gift duty accordingly.

3. *Subclause (2)* of *clause 2* prevents the payment of double gift duty on the amount of the benefit or advantage reserved to the donor, by providing that the gift duty on any further gift of the whole or a part of that benefit or advantage is to be reduced by a proportionate part of the gift duty paid on the original gift.

4. The purpose of *clause 3* is to exempt from death duty the value of any pension payable from a private superannuation fund to the widow of a deceased contributor. The exemption does not extend to any additional pension that may be payable by reason of an election by the contributor to accept a reduced pension in his lifetime.

5. Similar exemptions are already provided for in relation to the Government Superannuation Fund under sections 39 (3) and 72 (8) (c) of the Superannuation Act, 1947 (as enacted by sections 10 and 20 of the Superannuation Amendment Act, 1948); and clause 75 (3) of the National Provident Fund Bill makes similar provision in respect of the National Provident Fund.

6. The effect of *clause 4* of the Bill is to transfer from the Minister of Finance to the Commissioner of Stamp Duties the function of approving superannuation funds for the purposes of the exemption from gift duty and stamp duty of elections by contributors to accept reduced pensions in consideration of benefits for their dependants. The approval of superannuation funds for the purposes of this Bill is given to the Commissioner of Stamp Duties, and the Commissioner of Taxes is the approving authority for superannuation funds for the purposes of the Land and Income Tax Act, 1923.

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
21st November, 1950*

Hon. Mr. Bowden

DEATH DUTIES AMENDMENT

ANALYSIS

<p>Title.</p> <p>1. Short Title.</p> <p>2. Gift duty where benefit reserved to donor.</p>	}	<p>3. Exemption from death duties of pensions to widows of contributors to superannuation funds.</p> <p>4. Approval of superannuation funds for exemptions from gift duty and stamp duty.</p>
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A BILL INTITULED

	AN ACT to Amend the Death Duties Act, 1921.	Title.
5	BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—	
	1. This Act may be cited as the Death Duties Amendment Act, 1950, and shall be read together with and deemed part of the Death Duties Act, 1921 (hereinafter referred to as the principal Act).	Short Title. See Reprint of Statutes, Vol. VII, p. 354
10	2. (1) Section forty-nine of the principal Act is hereby amended by adding the following proviso:— “ Provided that—	Gift duty where benefit reserved to donor.
15	“(a) Notwithstanding the provisions of section fifty-four of this Act, where an instrument is presented to the Commissioner for stamping under the Stamp Duties Act, 1923, and is an instrument creating or evidencing a gift to which this section	See Reprint of Statutes, Vol. VII, p. 402

applies, the Commissioner may permit the instrument to be withdrawn for the purpose of cancelling or altering it, if application in writing in that behalf is made to him by the parties to the instrument within six months after the date of the instrument, or within such extended time as he thinks fit to allow: 5

“(b) On evidence to the satisfaction of the Commissioner being produced of any such cancellation or alteration, the gift shall be deemed not to have been made except to the extent to which the transaction as altered constitutes a gift, and the benefit or advantage shall be deemed not to have been created or reserved except to the extent to which the transaction as altered creates or reserves a benefit or advantage; and the Commissioner shall reassess the gift duty accordingly.” 10 15 20

(2) Where the donor of a gift to which section forty-nine of the principal Act applies (in this subsection referred to as the original gift) makes at any time after the passing of this Act a further gift of the whole or any part of the benefit or advantage created or reserved on the making of the original gift, there shall be deducted from the gift duty which would otherwise be payable in respect of the further gift (so far as that gift duty extends) an amount bearing the same proportion to the gift duty paid on the original gift as the value of the further gift bears to the value of the original gift, and only the residue (if any) of the gift duty on the further gift shall be payable: 25 30

Provided that the amount so deducted or, where there are two or more further gifts, the aggregate of the amounts so deducted shall not exceed an amount bearing to the gift duty paid on the original gift the same proportion as the value of the benefit or advantage as originally created or reserved bears to the value of the original gift. 35 40

Exemption from death duties of pensions to widows of contributors to superannuation funds.

3. (1) For the purposes of this section—
 “Contributor”, in relation to any superannuation fund, includes a former contributor:
 “Pension” includes any annuity, retiring allowance, or other periodical payment, by whatever name it is called: 45

5 “ Superannuation fund ” means any superannua-
tion fund established under the Local Autho-
rities Superannuation Act, 1908; and includes
any superannuation fund established for the
benefit of the employees of any employer and
approved for the time being by the Com-
missioner of Stamp Duties for the purposes of
this section.

See Reprint
of Statutes,
Vol. V, p. 433

10 (2) Where any contributor to a superannuation fund
dies after the passing of this Act, the value of any
pension payable from the fund to his widow for the rest
of her life or during her widowhood in accordance with
the rules of the fund shall not be deemed to form part
of his dutiable estate:

15 Provided that, where any contributor has made an
election to surrender the whole or any part of any
benefit from the fund in consideration of the payment
from the fund after his death of a pension or additional
pension to his widow, nothing in this section shall
20 prevent the value of that pension or additional pension
from forming part of his dutiable estate.

25 4. Section fourteen of the Finance Act, 1941, is
hereby amended by omitting from the definition of the
term “ superannuation fund ” in subsection one the
words “ Minister of Finance ”, and substituting the
words “ Commissioner of Stamp Duties ”.

Approval of
superannuation
funds for
exemptions
from gift
duty and
stamp duty.
1941, No. 4