

ESTATE AND GIFT DUTIES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Estate and Gift Duties Act 1955.

Clause 1 relates to the Short Title to the Bill.

Clause 2 provides that the exemption from estate duty under *clause 3* shall extend to approved superannuation schemes for the self employed. It repeals the special provisions for exemption that have hitherto applied to certain superannuation schemes, including those under the National Provident Fund Act 1950; and makes provision for one rule in all cases.

Clause 3 rewrites the provisions now contained in section 5 (2) (e) of the principal Act, as substituted by section 3 of the Estate and Gift Duties Amendment Act 1957, so as to impose a limit of £500 a year to the superannuation benefits in respect of which a widow is entitled to exemption from estate duty.

Clause 4 increases the amount for which a widow can claim exemption in her husband's estate, and extends the scope of her exemption and of the exemptions of widowers and children. Where the value of the estate does not exceed £7,500 the value of the widow's succession will not attract estate duty. Where the value of the estate does not exceed £30,000, the duty on the widow's succession up to the value of £7,500 will be remitted. Thereafter the concession will be tapered off £1 in £4 as the value of the estate exceeds £30,000, so that it disappears when the estate is £60,000 in value.

Clause 5: The case of *Ward and Others v. Commissioner of Inland Revenue* [1956] N.Z.L.R. 367 has directed attention to the operation of section 5 (1) (j) of the Estate and Gift Duties Act 1955, which brings into the dutiable estate of a deceased person property comprised in a disposition which was made by him and under which he retained an interest during his lifetime. The clause provides that, in calculating the value of the property for estate duty purposes, there shall be deducted—

- (a) The value of any improvements made to the property after the date of the disposition, otherwise than by or at the expense of the deceased;
- (b) The amount of any consideration paid in the lifetime of the deceased plus interest at 5 per cent thereon; and for this purpose the payment of a life annuity or other life benefit is a consideration to the extent to which the aggregate payments exceed the aggregate income of the property;
- (c) The value of any consideration payable to the deceased or in satisfaction of a debt of the deceased.

Hon. Mr Nordmeyer

ESTATE AND GIFT DUTIES AMENDMENT

ANALYSIS

Title	3. Exemption of superannuation benefits of widow and infant children			
1. Short Title		4. Exemption for successions of widow, widower, and infant children		
2. Interpretation			5. Dutiable estate	

A BILL INTITULED

An Act to amend the Estate and Gift Duties Act 1955

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title**—This Act may be cited as the Estate and Gift Duties Amendment Act 1959, and shall be read together with and deemed part of the Estate and Gift Duties Act 1955 (hereinafter referred to as the principal Act).

10 2. **Interpretation**—(1) Subsection one of section two of the principal Act is hereby amended by repealing the definition of the term “superannuation fund”, and substituting the following definition:

“Superannuation fund” means—

15 “(a) Any fund out of which pensions are payable under the Superannuation Act 1956:

“(b) The National Provident Fund:

20 “(c) Any superannuation fund established for the benefit of the employees of any employer and approved for the time being by the Commissioner for the purposes of this Act:

“(d) Any other superannuation fund established for the benefit of contributors thereto otherwise than as employees of any employer and approved for the time being by the Commissioner for the purposes of the Land and Income Tax Act 1954:” 5

(2) Subsection one of section two of the principal Act is hereby consequentially amended by repealing the definition of the term “contributor”, and substituting the following definition:

“‘Contributor’, in relation to a superannuation fund, 10 means a person by or in respect of whom contributions were made to the superannuation fund:”.

(3) The Superannuation Act 1956 is hereby consequentially amended by repealing subsection two of section forty-five, subsection two of section forty-six, subsection fourteen of section 15 forty-eight, subsection two of section seventy-nine, and subsection two of section eighty-seven.

(4) The National Provident Fund Act 1950 is hereby consequentially amended by repealing subsections two and three of section seventy-five. 20

3. Exemption of superannuation benefits of widow and infant children—(1) Subsection two of section five of the principal Act is hereby amended by repealing paragraph (e) (as substituted by section three of the Estate and Gift Duties Amendment Act 1957) and substituting the following paragraphs: 25

“(e) Where the deceased was a contributor to a superannuation fund and in accordance with its rules a pension is payable from that fund to his widow for the rest of her life or during her widowhood, that 30 pension shall not be deemed to be included in the dutiable estate of the deceased unless its amount exceeds five hundred pounds a year, in which case it shall not be deemed to be included in the dutiable estate to the extent of five hundred pounds a year: 35

“Provided that where two or more such pensions are payable to a widow the amount so exempted in respect of each pension shall, where necessary, be reduced so that the total amount exempted in respect of all such pensions does not exceed five hundred pounds a year: 40

5 “Provided also that, where the deceased 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 paragraph shall prevent the value of that pension or additional pension from forming part of his dutiable estate:

10 “(f) Where the deceased was a contributor to a superannuation fund and in accordance with its rules a pension is payable from that fund to or for the benefit of an infant child of the deceased until that child attains an age not greater than twenty-one years, that pension shall not be deemed to be included in the dutiable estate of the deceased.”

15 (2) Section three of the Estate and Gift Duties Amendment Act 1957 is hereby consequentially repealed.

4. Exemption for successions of widow, widower, and infant children—(1) Section seventeen of the principal Act is hereby
20 amended as follows:

(a) By omitting, from the definition of the term “maximum allowance” in subsection one, the words “the difference between the amount of the final balance of the estate and twelve thousand pounds”, and substituting the words “one-quarter of the difference between the amount of the final balance of the estate and sixty thousand pounds”:

25 (b) By omitting from subsection two the words “twelve thousand pounds”, and substituting the words “sixty thousand pounds”:

30 (c) By inserting in subsection two, after the words “the value of that succession”, the words “or the amount of seven thousand five hundred pounds (whichever is the less)”:

35 (d) By omitting from subsection two A (as inserted by section four of the Estate and Gift Duties Amendment Act 1957) the words “twelve thousand pounds”, and substituting the words “sixty thousand pounds”:

40 (e) By omitting from subsection three the words “twelve thousand pounds”, and substituting the words “sixty thousand pounds”.

(2) Section eighteen of the principal Act is hereby amended—

(a) By omitting, from subsection one and also from subsection two, the words “five thousand pounds”, and substituting in each case the words “seven thousand five hundred pounds”:

(b) By omitting from subsection four the words “and shall only be made where it exceeds the deduction allowed by that section”.

(3) This section shall be deemed to have come into force on the ninth day of July, nineteen hundred and fifty-nine, and shall apply to the estates of all persons dying on or after that date.

5. Dutiable estate—Section five of the principal Act is hereby amended by adding to subsection three the following paragraphs:

“(c) Where, after the date of any settlement or trust or disposition of property made by the deceased, improvements are made, otherwise than by or at the expense of the deceased, to any land comprised in the settlement or trust or disposition of property, the value of the land for the purposes of paragraph (j) shall be reduced by the value of those improvements as at the date of death of the deceased:

“(d) Where any settlement or trust or disposition of property was made by the deceased for a consideration in money or money’s worth paid, or payable at the date of death of the deceased, either to the deceased for his own use and benefit, or to any other person in satisfaction of a debt incurred by the deceased for full consideration in money or money’s worth wholly for his own use and benefit, the value of the property comprised in the settlement or trust or disposition of property shall for the purposes of paragraph (j) be reduced by—

“(i) The amount of any such consideration so paid together with interest at the rate of five per cent per annum on so much thereof and for such period as, in the opinion of the Commissioner, is in all the circumstances reasonable; and

“(ii) An amount equal to the value as at the date of death of the deceased of any such consideration so payable:

5 “Provided that no such reduction shall be made
in respect of any consideration by way of a benefit
to the deceased for the term of his life or of the life
of any other person, or for any period determined
10 by reference to the death of the deceased or of any
other person, except to the extent to which the
aggregate of the amounts paid in respect of that
benefit exceeds the aggregate of the income from
the property for the period from the date of the
15 settlement or trust or disposition of property
until the date of death of the deceased; and in
this proviso, the expression ‘the aggregate of the
income from the property’ means such amount as,
in the opinion of the Commissioner, is in all the
circumstances equal to a reasonable return from
the property.”