

ESTATE AND GIFT DUTIES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Estate and Gift Duties Act 1968. *Clauses 2 to 6* give effect to the Budget announcement that charitable bequests of up to \$25,000 are to be exempt from estate duty, and *clause 7* makes a minor amendment to the Second Schedule to the principal Act.

Clause 1 relates to the Short Title and commencement. The amendments are deemed to have come into force on 22 June 1972 and apply to the estates of all persons dying on or after that date.

Clause 2 inserts in section 2 (2) of the principal Act definitions of the terms "charitable succession" and "charitable successor". A "charitable succession" means the succession of a charitable successor reduced in value by the estate duty which, in the opinion of the Commissioner of Inland Revenue, the succession is required to pay. "Charitable successor" includes charities and certain other bodies which are treated as charities under section 73 of the principal Act.

Clause 3 substitutes a new definition of the term "donee" to include persons who receive gifts of property for charitable purposes, and *clause 4* extends the definition of the term "successor" to include similar persons.

Clauses 5 and 6 in effect exempt charitable successions (as defined in *clause 2*) from estate duty where the total value of those successions in any one estate does not exceed \$25,000.

Clause 5 provides that where an estate includes charitable successions, the rate of estate duty is to be ascertained as if those charitable successions were excluded from the estate.

Clause 6 relieves the charitable successions from the proportion of estate duty otherwise payable under *clause 5* where the total value of those successions does not exceed \$25,000. Where the total value exceeds \$25,000, the relief is calculated on that amount, apportioned rateably amongst the charitable successions.

Clause 7 amends a transposition error in Table B to the Second Schedule.

Hon. Mr Muldoon

ESTATE AND GIFT DUTIES AMENDMENT

ANALYSIS

Title	5. Rates of estate duty
1. Short Title and commencement	6. Relief for succession of charitable successor
2. Meaning of "charitable succession" and "charitable successor"	7. Valuation of annuities and other interests for life or other periods, or expectant on death or other events
3. Definition of "donee" amended	
4. Definition of "successor" extended	

A BILL INTITULED

An Act to amend the Estate and Gift Duties Act 1968

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

1. Short Title and commencement—(1) This Act may be cited as the Estate and Gift Duties Amendment Act 1972, and shall be read together with and deemed part of the Estate and Gift Duties Act 1968* (hereinafter referred to as the
10 principal Act).

(2) This Act shall be deemed to have come into force on the 22nd day of June 1972, and shall apply to the estates of all persons dying on or after that date.

**2. Meaning of "charitable succession" and "charitable
15 successor"**—Section 2 of the principal Act is hereby amended

*1968, No. 35

Amendments: 1969, No. 26; 1970, No. 23; 1971, No. 26

by inserting in subsection (2), after the definition of the term “allowable debt”, the following definitions:

“‘Charitable succession’ means the succession of a charitable successor reduced in value by the estate duty (if any) which in the opinion of the Commissioner is required to be borne by that succession or that charitable successor: 5

“‘Charitable successor’, in relation to the estate of a deceased person, means a successor to a succession to which— 10

“(a) Section 73 of this Act applied on the making of any gift forming the whole or any part of that succession; or

“(b) Section 73 of this Act would have applied if the whole or any part of the property in that succession, being property included in the dutiable estate under any of the provisions of sections 7 to 9 and 11 to 16 of this Act, had been a gift made by the deceased whether it was possible for the property in that succession to have been the subject of a gift or not:” 15 20

3. Definition of “donee” amended—Section 2 of the principal Act is hereby further amended by repealing the definition of the term “donee” in subsection (2), and substituting the following definition: 25

“‘Donee’ means—

“(a) Any person becoming entitled to any beneficial interest under a gift; or

“(b) Any person to whom property passes under a gift to be held for the purpose of creating a charitable trust, or for the establishment of any society or institution exclusively for charitable purposes, or to aid any such trust, society, or institution; or 30

“(c) Any trust, society, or institution which receives a gift— 35

and includes a body corporate and, unless the context otherwise requires, the administrator of a deceased donee:”.

4. Definition of “successor” extended—Section 2 of the principal Act is hereby further amended by adding to the definition of the term “successor”, in subsection (2), the following paragraph:

- 5 “(f) Any person who is or who has become entitled to hold any property included in the dutiable estate for the purpose of creating a charitable trust, or for the establishment of any society or institution exclusively for charitable purposes, or to aid any
10 such trust, society, or institution:”.

5. Rates of estate duty—Section 4 of the principal Act is hereby amended by adding the following as subsection (2):

- 15 “(2) Notwithstanding subsection (1) of this section, where section 39A of this Act applies in respect of the succession of a charitable successor or, where there is more than one, in respect of the aggregate of the successions of all the charitable successors in the dutiable estate of any deceased, estate duty shall be charged and assessed upon the final balance of the estate of the deceased in accordance with the following
20 formula:

$$\frac{a}{b} \times c$$

where—

- 25 a is the final balance of the estate; and
b is the final balance of the estate reduced by—
“(i) The value of the charitable succession of the charitable successor or, where there is more than one, the value of the aggregate of all the charitable
30 successions of the charitable successors; or
“(ii) \$25,000—
whichever is the less; and
c is the estate duty on item ‘b’ of this formula at the rate set out in the First Schedule to this Act.”

- 35 **6. Relief for succession of charitable successor**—(1) The principal Act is hereby further amended by inserting, after section 39, the following section:

“39A. (1) There shall, in respect of the succession of a charitable successor or, where there is more than one, in
40 respect of the aggregate of the successions of all charitable

successors in the dutiable estate of the deceased, be deducted from the estate duty otherwise payable an amount calculated in accordance with the following formula:

$$\frac{a}{b} \times c \quad 5$$

where—

- a is—
- “(i) The value of the charitable succession of the charitable successor or, where there is more than one, the value of the aggregate of all the charitable successions of the charitable successors; or
 - “(ii) \$25,000—
whichever is the less; and
- b is the final balance of the estate; and
- c is the estate duty calculated in accordance with subsection (2) of section 4 of this Act.

“(2) Where there is more than one charitable succession in the dutiable estate, the relief calculated in accordance with subsection (1) of this section shall be allocated rateably amongst the charitable successions in proportion to their value.”

(2) The principal Act is hereby further amended by substituting the words “sections 36 to 39A” for the words “sections 36 to 39” in—

- (a) Section 35c (as inserted by section 3 of the Estate and Gift Duties Amendment Act 1971):
- (b) Subsection (2) of section 40:
- (c) The proviso to subsection (1) of section 54.

7. Valuation of annuities and other interests for life or other periods, or expectant on death or other events—The Second Schedule to the principal Act is hereby amended by omitting from that part of the column headed “Present Value of Income on Capital of \$1 for Life” in Table B that relates to a female 45 years of age the expression “0.78072”, and substituting the expression “0.78027”.