

ESTATE AND GIFT DUTIES AMENDMENT BILL

EXPLANATORY NOTE

This Bill amends the Estate and Gift Duties Act 1968.

The main amendment gives effect to the Budget proposal to make any personal chattels passing to the surviving spouse of a deceased person completely exempt from estate duty, and to increase the aggregate exemption in respect of personal chattels passing to other persons from \$4,000 to \$6,000. This amendment is deemed to have come into force on 1 June 1978.

Clause 1 relates to the Short Title, commencement, and application of the Bill. Except for the increased exemption for personal chattels and for the consequential amendment effected by *clause 2*, which are deemed to have come into force on 1 June 1978, the Bill comes into force on 1 January 1979.

Clause 2 amends a reference in section 17 (4) (aa) of the principal Act consequential on the passing of the Wool Industry Act 1977. This amendment is deemed to have come into force on 1 June 1978.

Clause 3: Section 22 of the principal Act provides that in valuing shares for estate duty purposes, no account is to be taken of restrictions imposed on the transferability of shares by the memorandum or articles of association of a company. This clause extends the prohibition to restrictions contained in any other instrument or imposed in any other manner, but also restricts the application of the section in those cases where the Commissioner is satisfied that the restrictions are reasonable after having regard to all relevant matters.

Clause 4: Section 23 of the principal Act provides that certain debts owing to the deceased and repayable at a future date are to be valued as if they were repayable immediately unless the Commissioner is satisfied the parties were at arm's length. This clause provides for the same rules to apply where a debt is owed to a controlled company (a company controlled by the deceased) as well as to the deceased.

Clause 5, which is deemed to have come into force on 1 June 1978, declares that the value of all personal chattels (as defined in section 2 of the principal Act) included in the dutiable estate of a deceased person is to be reduced in value—

- (a) By the total value of such of those chattels as pass to the surviving spouse of the deceased; and
- (b) By the value (up to \$6,000) of the chattels that pass to any other person or persons.

Hon. Mr Templeton

ESTATE AND GIFT DUTIES AMENDMENT

ANALYSIS

Title		4. Valuation of debt due to deceased or controlled company
1. Short Title, commencement, etc.		5. Exemption for certain personal chattels
2. Allowable debts		
3. Valuation of shares		

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
5 same, as follows:

1. **Short Title, commencement, etc.**—(1) This Act may be cited as the Estate and Gift Duties Amendment Act 1978, 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) Except as provided in section 2 (3) and in section 5 (4) of this Act, this Act shall come into force on the 1st day of January 1979, and shall apply to the estates of all persons dying on or after that date.

15 2. **Allowable debts**—(1) Section 17 (4) of the principal Act is hereby amended by repealing paragraph (aa) (as inserted by section 5 (1) of the Estate and Gift Duties Amendment Act 1976), and substituting the following paragraph:

*Reprinted 1976, Vol. 5, p. 3585
Amendment: 1977, No 58

“(aa) Any income tax payable by the administrator of the estate of the deceased in respect of the refund of any amount held on behalf of the deceased in the Wool Income Retention Account pursuant to the Wool Industry Act 1977 or any regulations made under it:” 5

(2) Section 5 (1) of the Estate and Gift Duties Amendment Act 1976 is hereby consequentially repealed.

(3) This section shall be deemed to have come into force on the 1st day of June 1978, and shall apply to the estates of all persons dying on or after that date. 10

3. Valuation of shares—The principal Act is hereby amended by repealing section 22, and substituting the following section: 15

“22. For estate duty purposes, in ascertaining the value of shares in a company, including a private company, no account shall be taken by the Commissioner of the effect upon that value of any restrictive provisions as to the alienation or transfer of those shares contained in the memorandum or articles of association of the company, or in any agreement, deed, or other writing, or in any other manner whatever, except to the extent that the Commissioner is satisfied that those restrictive provisions are reasonable having regard to all relevant matters, including, but without limiting the relevant matters to which the Commissioner shall have regard,— 20

“(a) The contribution to the company made by any relevant shareholder by way of services, management, capital, or otherwise: 25

“(b) The benefits received from the company by that shareholder.” 30

4. Valuation of debt due to deceased or controlled company—Section 23 (2) of the principal Act is hereby amended—

(a) By inserting, after the words “to the deceased”, the words “or to a controlled company”: 35

(b) By omitting from paragraph (a) the word “him”, and substituting the words “the deceased”:

(c) By inserting in the proviso, after the words “the deceased”, the words “or, as the case may be, the controlled company”. 40

5. Exemption for certain personal chattels—(1) Section 35B of the principal Act (as inserted by section 5 of the Estate and Gift Duties Amendment Act 1970 and amended by section 4 of the Estate and Gift Duties Amendment Act 1974) is hereby further amended by repealing subsection (2), and substituting the following subsection:

“(2) Where any personal chattels are included in the dutiable estate of the deceased under section 7 or section 13 of this Act, the total value, as ascertained under section 19 of this Act, of those personal chattels shall be reduced—

15 “(a) By the value of such of those personal chattels and by the value of such interest in those personal chattels as pass by survivorship or under the will or intestacy of the deceased to the surviving spouse of the deceased; and

20 “(b) By the value of such of those personal chattels and by the value of such interest in those personal chattels as pass by survivorship or under the will or intestacy of the deceased to any other person or persons or by \$6,000, whichever is the less.”

(2) The said section 35B is hereby further amended by omitting from subsection (3), and also from subsection (4), the words “subsection (2)” and the expression “\$4,000”, and by substituting respectively in each case the words “sub- section (2) (b)” and the expression “\$6,000”.

(3) Section 4 of the Estate and Gift Duties Amendment Act 1974 is hereby consequentially repealed.

(4) This section shall be deemed to have come into force on the 1st day of June 1978, and shall apply to the estates of all persons dying on or after that date.