



ESTATE DUTY (AMENDMENT) LAW,
No. 32 of 1974
OF
THE NATIONAL STATE ASSEMBLY

[Certified on 27th September, 1974]

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Estate Duty (Amendment) Law, No. 32 of 1974

L. D.—O. 16/74.

A LAW TO AMEND THE ESTATE DUTY ORDINANCE AND TO GIVE CERTAIN PROVISIONS OF THAT ORDINANCE RETROSPECTIVE EFFECT.

BE it enacted by the National State Assembly of the Republic of Sri Lanka as follows:—

1. This Law may be cited as the Estate Duty (Amendment) Law, No. 32 of 1974.

Short title.

2. The provision in paragraph (iv) of the proviso to paragraph (d) of section 6 of the Estate Duty Ordinance, hereinafter referred to as the "principal enactment", as amended by Act No. 15 of 1959 and Act No. 18 of 1962, whereby nothing contained in paragraph (d) of section 6 of that Ordinance shall apply to such gifts as are specified in subsection (1) of section 21 of the Personal Tax Act, No. 14 of 1959, other than any gifts specified in paragraph (b), paragraph (f), paragraph (h) or paragraph (i) of that subsection, shall be deemed for all purposes to have come into force on May 15, 1959, and accordingly every assessment or additional assessment of estate duty made prior to the date of commencement of this Law in respect of gifts made at any time before July 18, 1958, by any person whose death occurred on or after May 15, 1959, but before May 26, 1962, shall be deemed to have been made under the principal enactment as so amended, read with the foregoing provisions of this section, and to have been and to be valid and effectual for the purposes for which the assessment was made.

Certain provisions in section 6 of the Estate Duty Ordinance to be deemed to have come into force on May 15, 1959.

3. The following new section is hereby inserted immediately after section 13, and shall have effect as section 13A, of the principal enactment:—

Insertion of new section 13A in the principal enactment.

"Relief in respect of certain premises.

13A. Where the total estate of any person dying on or after the first day of November, 1973, does not exceed one hundred and fifty thousand rupees in value and where the property of which he was at the time of his death competent to dispose includes or comprises not more

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than one residential premises, then the estate duty payable upon the value of his Sri Lanka estate shall be reduced by a sum which bears to such estate duty the same proportion as the value of such residential premises bears to the value of his Sri Lanka estate.”.

Replacement of section 14 of the principal enactment.

4. Section 14 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“Exemption of objects of national, &c., interest given, &c., for public purposes.

14. It shall be lawful for the Commissioner to remit the estate duty, in respect of any such pictures, prints, books, manuscripts, works of art, or scientific collections as appear to the Commissioner to be of national, scientific, artistic or historic interest, and to be given or bequeathed to the Government of Sri Lanka, or to any University or public library in Sri Lanka, or to the Sri Lanka National Library Services Board, or to any local authority, and no property the duty in respect of which is so remitted shall be aggregated with any other property for the purpose of fixing the rate of estate duty.”.

Replacement of section 17A of the principal enactment.

5. Section 17A of the principal enactment (inserted therein by Act No. 15 of 1959) is hereby repealed and the following new section substituted therefor:—

“Relief on account of contributions to personal tax or gifts tax in respect of gifted property.

17A. (1) Where any contribution has been made or has to be made to the Personal Tax under the Personal Tax Act, No. 14 of 1959, in respect of any property which has been gifted by any person whose death occurs before the first day of November, 1973, the amount of such contribution, without deducting from that amount any sum allowed to be deducted under section 19 (3) of the Personal Tax Act, No. 14 of 1959, shall be set off against the amount of the estate duty payable on his Sri Lanka estate upon his death and where any gifts tax has been paid or has to be paid under the Inland Revenue Act, No. 4 of 1963, in respect of any property which has

been gifted by such person the amount of such gifts tax shall be set off against the amount of estate duty payable on his Sri Lanka estate upon his death, the amount of the gifts tax for the purposes of this section being computed without deducting any stamp duty which was paid in respect of the instrument by which the gift was made.

(2) Where any contribution has been made to the Personal Tax under the Personal Tax Act, No. 14 of 1959, or gifts tax has been paid under the Inland Revenue Act, No. 4 of 1963, in respect of any property gifted by any person whose death occurs on or after the first day of November, 1973, the estate duty payable on the Sri Lanka estate of such person shall be reduced by a sum which bears to such estate duty the same proportion as the value of the gifted property increased by the amount of such contribution or such gifts tax, as the case may be, bears to the value of the Sri Lanka estate of such person.”

6. Section 21 of the principal enactment, as amended by Act No. 6 of 1967, is hereby further amended as follows:—

Amendment of
section 21
of the
principal
enactment.

(1) by the substitution, for subsection (8) of that section, of the following new subsection:—

“(8) Where in the case of a person whose death occurs before the first day of November, 1973, the property to be valued is property in respect of which a contribution has been made, or has to be made, to the Personal Tax under Chapter IV of the Personal Tax Act, No. 14 of 1959, the value of such property for the purposes of this Ordinance shall be the value of such property for the purpose of the determination of such contribution increased by the amount of such contribution without deducting from that amount any sum allowed to be deducted under section 19 (3) of the Personal Tax Act, No. 14 of 1959, and where, in the case

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of such person, the property to be valued is property in respect of which gifts tax under the Inland Revenue Act, No. 4 of 1963, has been paid or has to be paid, the value of such property for the purposes of this Ordinance shall be the value of such property for the purpose of the determination of such tax increased by the amount of such tax, the amount of such tax for the purposes of this section being computed without deducting any stamp duty which was paid in respect of the instrument by which the gift was made.”; and

(2) by the addition, at the end of that section, of the following new subsection:—

“(9) Where in the case of a person whose death occurs on or after the first day of November, 1973, the property to be valued is property in respect of which a contribution has been made to the Personal Tax under Chapter IV of the Personal Tax Act, No. 14 of 1959, the value of such property for the purposes of this Ordinance shall be the value of such property for the purpose of the determination of such contribution increased by the amount of such contribution, without deducting from that amount any sum allowed to be deducted under section 19 (3) of the aforesaid Personal Tax Act, and where in the case of such person, the property to be valued is property in respect of which gifts tax under the Inland Revenue Act, No. 4 of 1963, has been paid, the value of such property for the purposes of this Ordinance shall be the value of such property for the purpose of the determination of such tax increased by the amount of such tax, the amount of such tax for the purposes of this section being computed without deducting any stamp duty which was paid in respect of the instrument by which the gift was made.”.

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Replacement
of section 28
of the
principal
enactment.

8. Section 28 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“Power to
raise estate
duty by
sale,
mortgage, or
terminable
charge.

28. (1) A person authorized or required to pay the estate duty in respect of any property shall, for the purpose of paying the duty, or raising the amount of the duty when already paid, have power, whether the property is or is not vested in him, to raise with the consent of the Public Trustee the amount of such duty and any interest and expenses properly incurred or paid by him in respect thereof, by the sale or mortgage of, or by a terminable charge on, that property or any part thereof.

(2) A person having a limited interest in any property, and a lessee or mortgagee of any property, who pays the estate duty in respect of that property, shall be entitled to the like charge as if the estate duty in respect of that property had been raised by means of a mortgage to him.”

Replacement
of section 30
of the
principal
enactment.

9. Section 30 of the principal enactment is hereby repealed and the following new section substituted therefor :—

“ Declaration
of property.

30. (1) The executor of every deceased person shall, within six months after the date of the death of the deceased, furnish to the Commissioner through the Public Trustee the declaration referred to in section 282 (1) of the Administration of Justice Law, No. 44 of 1973.

(2) Where the executor is not liable to pay estate duty in respect of any property passing on the death of a deceased person, the person liable to pay such duty shall, within six months after the date of the death of the deceased, furnish to the Commissioner through the Public Trustee the declaration referred to in section 282 (1) of the Administration of Justice Law, No. 44 of 1973.”

10. Section 34 of the principal enactment, as amended by Act No. 15 of 1959, is hereby repealed and the following new section substituted therefor:—

Replacement
of section 34
of the
principal
enactment.

**Additional
assessments.

34. (1) Where it appears to an Assessor that the amount which any person is liable to pay as estate duty has been assessed at less than the proper amount, the Assessor may—

(a) where such person has obtained probate or letters of administration under the Civil Procedure Code (Chapter 101), make at any time within a period of six years of the date of the notice of the original assessment or within a period of two years after the date of commencement of the Administration of Justice Law, No. 44 of 1973, whichever is the shorter period, an additional assessment of the amount which such person is in the opinion of the Assessor liable to pay; and

(b) where such person has obtained probate or letters of administration under the Administration of Justice Law, No. 44 of 1973, make within two years after the date of grant of such probate or letters of administration, an additional assessment of the amount which such person is in the opinion of the Assessor liable to pay:

Provided that—

(a) where the under-assessment is due to fraud or wilful evasion, such additional assessment may be made any time;

(b) an Assessor may, notwithstanding that the above-mentioned period of two years has expired, assess at any time any liability for additional duty which may

be brought to his notice by an executor or by any other person liable to pay estate duty under this Ordinance;

(c) an additional assessment made under this section shall not affect, or create a charge upon, any property mentioned in a certificate issued under section 53, except in the circumstances referred to in subsection (4) of section 53.

(2) Where an additional assessment of estate duty has been made under subsection (1), an executor shall not, except in the case of fraud, be personally liable for any estate duty under any such additional assessment by reason of having administered or distributed the estate of the deceased without retaining assets to satisfy the duty."

Replacement
of section 37
of the
principal
enactment.

11. Section 37 of the principal enactment is hereby repealed and the following new section substituted therefor:—

"Validity of
notice of
objection.

37. A notice of objection shall not be valid unless it sets out the particulars referred to in section 36 and is delivered to the Commissioner within the period mentioned in that section:

Provided that the Commissioner, upon being satisfied that owing to absence from Sri Lanka, sickness or other reasonable cause, the appellant was prevented from appealing within such period, may admit as valid a notice of objection made later than thirty days but not later than twelve months after the date of the notice of such assessment."